

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2550
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 34 DP 12224, 29 Palomar Parade FRESHWATER NSW 2096
Proposed Development:	Alterations and additions to a dwelling house including a driveway and hardstand parking area
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:	Shane Flynn Cassia Regina Naza Flynn
Applicant:	Shane Flynn Cassia Regina Naza Flynn

Application Lodged:	06/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/01/2022 to 02/02/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 49,500.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the construction of a new driveway and an elevated single vehicle hardstand space, pursuant to the *Warringah Local Environmental Plan (WLEP) 2011*.

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 - D1 Landscaped Open Space and Bushland Setting

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 34 DP 12224 , 29 Palomar Parade FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Palomar Parade.</p> <p>The site is irregular in shape with a total frontage of 12.5m along Palomar Parade and a maximum depth of 39.445m. The site has a surveyed area of 496.5m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two (2) storey residential dwelling within a landscaped setting.</p> <p>The site has an easterly orientation and experiences a significant drop from the street frontage/parking arrangement toward the ground floor level of the dwelling.</p> <p>The site is not known to have any threatened species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one (1) and two (2) storey residential dwellings within the R2 zone, and residential flat buildings within the nearby and adjoining R3 Medium Density Residential zone.</p>

Map:



SITE HISTORY

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

- **PLM2016/0075** seeking advice from Council for alterations and additions to a dwelling house and construction of a secondary dwelling.
- **DA2016/1347** seeking consent for alterations and additions to a dwelling house. This application was approved on 2 May 2017, subject to conditions.
- **Mod2017/0116** seeking consent to modify DA2016/1347. This application was approved on 18 May 2017.
- **Mod2018/0576** seeking consent to modify DA2016/1347. This application was approved on 25 January 2019.
- **PLM2020/0182** seeking advice from Council for alterations and additions to a dwelling house.

APPLICATION HISTORY

Council detailed areas of concern relating to unacceptable light spill into the windows and deck area of the adjoining property to the north, being 27 Palomar Parade. As such, on 7 February 2022 Council informally requested amended plans to address these concerns. Amended plans were provided to Council on 23 February 2022. In accordance with Council's Community Participation Plan (CPP), there was no need to formally renotify the amended plans. As such, on 24 February 2022, the owners of 27 Palomar Parade (who provided a submission) were advised of the amendments and were given seven (7) days to review the amended plans and either provide updated comments or withdraw their submission. As of 4 March 2022, no further submission or withdrawal of submission was communicated by the owners of 27 Palomar Parade. Council's response to the concerns raised in the submission have been addressed under section 'Submissions' of this report.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans to mitigate unreasonable amenity impacts to the adjoining property. This information was informally requested on 7 February 2022. Amended plans were provided to Council on 23 February 2022.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia</p>

Section 4.15 Matters for Consideration	Comments
	(BCA). This matter has been addressed via a condition of consent. Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 19/01/2022 to 02/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Shannon Harvey	27 Palomar Parade FRESHWATER NSW 2096

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

- **Proximity of hardstand space to adjoining property**

The matters raised within the submissions are addressed as follows:

- *The owners of 27 Palomar Parade have raised concern with regards to the proposed hardstand space. Of particular concern is the proximity of the hardstand space to the front deck, dwelling entry, and bedrooms. The submission requested multiple amendments to the design of the hardstand space to alleviate the concerns, these included:*
 - *the corner of the hardstand space closest to the boundary be setback to at least 200mm from the fence line to encourage screen planting for both privacy and to shield the living room and bedroom windows from car headlights when vehicles ingress/egress the subject site,*
 - *increase the balustrade along the northern elevation of the hardstand space to at least 1200mm to provide a greater barrier to headlights when vehicles ingress/egress the subject site, and*
 - *assurances that greenery will be planted between the fence and the hardstand space to provide some barrier to headlights when cars ingress/egress the subject site.*

Comment:

Council was of the agreed opinion that the hardstand space required an increased setback to the northern boundary line and the balustrade along the northern elevation be increased. As such, amended plans were provided which shows a northern side setback distance, at it's closest point, of 200mm and the balustrade along the northern elevation has been increased from 900mm to 1.2m. Council is satisfied these amendments, in junction with additional screen planting, will mitigate any unreasonable light spill from vehicle headlights.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for the proposed construction of a new driveway and off-street parking.</p> <p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed Vegetation <p>The proposed works involve an elevated concrete slab supported on piers to provide for the parking structure. In association with the new concrete works will be additional retaining walls and landscaping to enhance the soft appearance of the site. No Landscape Plan is submitted and the architectural Ground Floor Plan indicates the extent of landscape works including retaining walling, stairs and landscape gardens. Standard condition of consent shall be imposed for landscape works in accordance with the submitted plans.</p>

Internal Referral Body	Comments
	<p>No existing trees are proposed for removal and the Statement of Environment Effects notes that a Arboricultural report is to be provided to support development where impacts to trees are presented. No Arboricultural Impact Assessment report is submitted and standard condition of consent shall be imposed for the protection of trees and vegetation.</p>
NECC (Coast and Catchments)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Coastal Management) 2018 (clauses 13 & 15); and • Relevant LEP and DCP clauses. <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies.</p> <p>The application is supported subject to conditions:</p> <ul style="list-style-type: none"> • Stormwater management (prior to construction certificate) • Installation and maintenance of erosion and sediment controls (prior to commencement)
NECC (Development Engineering)	<p>Applicants seeks approval for the construction of a new driveway and off street suspended open carparking area and waste storage area. The car parking is proposed to contain within the development site. A full design for construction for the proposal under S138 Road Act approval is required as conditions of approval.</p> <p>No Development Engineering objection subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>As this site drains into Manly Lagoon, the development must not significantly impact on the biophysical, hydrological or ecological integrity of these waters, or on the quantity and quality of surface and ground water flows to creeks or the lagoon.</p> <p>This application is supported as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of Manly Lagoon and its surrounding environment.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The rear of the property is affected by the Medium Flood Risk Precinct.</p> <p>The proposed driveway and carparking area are outside this area.</p>
Road Reserve	<p>The proposed parking is wholly located within the property boundary. As such there is no impact on existing road infrastructure assets.</p> <p>As part of a Road Act Application, Development Engineering Team to require civil and structural designs of the driveway crossing structure, supporting structures and any adjustments to any landscape retaining</p>

Internal Referral Body	Comments
	walls associated with the former parking area within the road reserve.
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who advised that a decision was not required.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who advised that a decision was not required.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

This Clause is not relevant to the subject site.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

This Clause is not relevant to the subject site.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*

- (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
- (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

This Clause is not relevant to the subject site.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

Council's Coast and Catchments Officer has reviewed this application and raised no concerns with the

proposed development. As such, Council (being the consent authority) has considered the proposed development against the characteristics as outlined in (a) - (g), inclusive, and is satisfied the proposal will not cause an adverse impact on those characteristics.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

Council's Coast and Catchments Officer has reviewed this application and raised no concerns with the proposed development. As such, Council (being the consent authority) can be satisfied that the proposed development achieves compliances with (a) - (c), inclusive.

14 Development on land within the coastal use area

- (1)
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment:

This Clause is not relevant to the subject site.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of

coastal hazards on that land or other land.

Comment:

It is unlikely the proposed development will increase the risk of coastal hazards.

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	4.1m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
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
B5 Side Boundary Setbacks	0.9m (Northern boundary)	200mm - 1.4m	77.7%	No & Yes
	0.9m (Southern boundary)	Parking platform: 4.2m	N/A	Yes
		Stairs: 1.5m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Nil	100%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (198.6m ²)	30% (148.8m ²) + 7.5% (37.2m ²)** Total: 37.5% (186.0m ²)	6.25%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide

the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation).

****D1 Landscaped Open Space and Bushland Area of the Warringah Development Control Plan (WDGP) stipulates that, to be included within the landscaped open space calculations, a landscaped area must have a dimension of no less than 2 metres. In the instance, there are areas of the site that are, by definition within the Warringah Local Environmental Plan 2011, 'landscaped areas' but are less than 2 metre dimensions. A further discussion on this can be found under section D1 of this report.**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	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	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D20 Safety and Security	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
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

This control requires development to be setback 900mm from both side boundaries.

The proposed development will result in a compliant setback distance to the southern boundary but will, however, result in a non-compliant side setback to the northern boundary with a proposed 200mm - 1.4m side setback. This presents a maximum variation of 77.7%.

Amended plans were provided which increased the side setback from nil to 200mm, at the development's closest point. Notwithstanding the amended plans, the proposed development continues to remain numerically non-compliant with this control.

Merit consideration

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

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

Comment:

It is unlikely the proposed 200mm setback distance will provide for deep soil landscape areas. However, the area of the site between the proposed carparking structure and northern side boundary does not currently provide opportunities for deep soil landscape areas. As the proposed development will not worsen this, Council can be satisfied that the existing landscape areas throughout the site will continue to suffice and provide for deep soil landscape areas.

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

Comment:

Due to the steeply sloping nature of the site, carports and hardstand parking spaces located directly off the street level are common along Palomar Parade (refer to the images below of adjoining properties). As such, the proposed hardstand space will be visually consistent with the immediate streetscape and will be visually acceptable in terms of bulk and scale.



Image 1. Adjoining property's carport.



Image 2. Adjoining property's hardstand parking space.

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

Comment:

Notwithstanding the numerical non-compliance to this control, the retention of the existing vegetation between the proposed hardstand space and side boundary will provide a visual buffer between properties, and subsequently visually minimising the bulk and scale of the elevated structure.

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

Comment:

Amended plans were provided which increased the northern side setback from nil to 200mm, at its closest point. Included as part of the amendments was an increased height of the balustrade to 1.2m. As amended, the proposed hardstand space will provide a reasonable level of privacy, amenity and solar access to the subject site and adjoining properties.

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

Comment:

The numerical non-compliance does not give rise to any unreasonable impacts upon existing views to and from public and private properties.

The proposed development can achieve the underlying outcomes of this control. As such, Council can support the proposed non-compliance on its merits.

B7 Front Boundary Setbacks

Description of non-compliance

This control requires development to be sited 6.5m from the front boundary line. The proposed development will result in a nil front setback. This presents a variation of 100%.

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 proposed hardstand space will not include a roof structure. As such, the proposed hardstand parking space will maintain a sense of openness.

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

Comment:

As detailed under section B5 Side Boundary Setbacks of this report, the proposed development will be visually consistent with adjoining properties along Palomar Parade. In addition, the retention of existing vegetation, and the proposed additional landscape treatments within the front yard, will maintain the visual continuity and pattern of buildings and landscape elements along Palomar Parade.

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

Comment:

As detailed, the proposed hardstand space and associated landscaping works will protect and enhance the visual quality of Palomar Parade.

- *To achieve reasonable view sharing.*

Comment:

Due to the nature of the proposed development, being a hardstand space, and notwithstanding the numerical non-compliance to this control, a reasonable sharing of views will be achieved.

The proposed development can achieve the underlying outcomes of this control. As such, Council can support the proposed non-compliance on its merits.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

This control requires development to result in a minimum landscaped area of 40% (being 198.6m²). The proposed development will result in a landscaped area of 148.8m² (being 30%). This presents a variation of 25%.

There are, however, areas within the site that are considered '*landscaped area*' as it appears in the definition under the *WLEP 2011*. Including these areas, which are less than the specified dimension of

2 metres, the landscaped area will be increased to 37.5% (being 186.0m²) - remaining numerically non-compliant.

As such, a merit assessment of the proposed development against the objectives of this control is conducted below.

Merit consideration

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

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

Comment:

The proposed development involves landscaping works beneath the proposed hardstand space (due to the steep slope from the street frontage), which will be terraced and staggered. As discussed elsewhere in this report, the proposed development will maintain and enhance the existing streetscape of Palomar Parade.

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

Comment:

The site is not known to have Indigenous vegetation or significant topographical features. The proposed development does not involve the removal of any canopy trees or significant vegetation. In this instance, the retention of existing vegetation will provide habitat for wildlife.

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

Comment:

The proposed location of the new vehicle hardstand space is sited over the existing hardstand space. In this instance, the proposed development does not unreasonably or adversely impact upon the landscape open space dimensions of the site. As such, the site will continue to be afforded opportunities for sufficient establishment of low lying shrubs, medium high shrubs and canopy trees in order to mitigate the bulk and scale of the development.

- *To enhance privacy between buildings.*

Comment:

As amended and conditioned, the proposed development will result in an acceptable level of privacy between the hardstand space and the adjoining property to the north, being 27 Palomar Parade.

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

Comment:

As discussed above, the proposed hardstand space is sited over the existing hardstand space. As such, the existing outdoor areas of the site will continue to provide recreational opportunities that meet the needs of the occupants of the site.

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

Comment:

The proposed development will not impact upon the existing service function arrangements on the site.

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

Comment:

This application has been reviewed by Council's Development Engineer who raised no objection to the proposal, subject to conditions. Adherence to the conditions prescribed under this consent will ensure appropriate stormwater management.

The proposed development can achieve the underlying outcomes of this control. As such, Council can support the proposed non-compliance on its merits.

D8 Privacy

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:

Amended plans were received which indicated the following changes:

- Increased balustrade to the northern elevation of the hardstand surface from 900mm to 1.2m.
- Increase northern side setback distance from nil (at it's closest point) to 200mm.

As amended and conditioned, the proposed hardstand space will provide an acceptable level of visual and acoustic privacy for the occupants of the subject site, and those of the adjoining property at 27 Palomar Parade.

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

Comment:

The proposed development includes a concrete hardstand parking space with balustrading along the eastern, western and northern elevations, as well as terracing and steps within the front setback area to provide safe access to the subject site for pedestrians. Planter beds are also proposed along the terracing. In this instance, the proposal results in a contemporary design that will successfully improve the existing urban environment that is commensurate with the dwelling on the subject site.

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

Comment:

The proposed development ensures an acceptable level of person and property security is maintained for the occupants of the subject site, as well as for any visitors to the site.

In this instance, the proposed development can achieve an acceptable level of privacy for the occupants of the subject site, and those in adjoining and nearby properties.

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 2021

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

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs

- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/2550 for Alterations and additions to a dwelling house including a driveway and hardstand parking area on land at Lot 34 DP 12224, 29 Palomar Parade, FRESHWATER, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 Site Analysis Plan (Issue A)	16 February 2022	Brianna Emily Design
DA02 Ground Floor Plan (Issue A)	16 February 2022	Brianna Emily Design
DA03 First Floor Plan (Issue A)	16 February 2022	Brianna Emily Design
DA04 Roof Plan (Issue A)	16 February 2022	Brianna Emily Design
DA06 Elevations - Sheet 1 (Issue A)	16 February 2022	Brianna Emily Design
DA07 Elevations - Sheet 2 (Issue A)	16 February 2022	Brianna Emily Design
DA08 Sections (Issue A)	16 February 2022	Brianna Emily Design

Engineering Plans		
Drawing No.	Dated	Prepared By
DA09 Erosion and Sediment Control Plan (Issue A)	12 August 2021	Brianna Emily Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment (Ref: J3954)	26 November 2021	White Geotechnical Group

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

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

Waste Management Plan

Drawing No/Title.	Dated	Prepared By
Waste Management Plan	12/8/21	Vaughan Milligan

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.

FEES / CHARGES / CONTRIBUTIONS

2. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

3. Construction, Excavation and Associated Works Security Bond (Road works)

The applicant is to lodge a bond with Council of \$10,000.00 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

4. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's "WATER MANAGEMENT for DEVELOPMENT POLICY". Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction

Certificate.

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

5. **Traffic Management and Control Plan**

The Applicant is to submit an application for Traffic Management and Control Plan to Council for approval prior to issue of the Construction 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.

6. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of retaining wall, structural slab, piers, driveway and vehicular crossing which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. Retaining wall or Piers supporting the vehicular crossing must be located within the property. No pier or retaining wall is permitted with the road reserve.
2. The design plan shall show all public utility services affecting the proposed driveway. Any relocation and/or adjustment, requires written approval from the public authority. All cost associated with the relocation or adjustments are to be borne by the property owner.
3. Submission of a full Structural details of the driveway, retaining wall or piers and associated works.
4. The provision of extra low vehicle crossing 6.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/5 and specifications unless approved by Council.
5. The vehicular crossing within the public road shall be in plain concrete.
6. Restore the existing redundant layback and crossing to grass verge.
7. Pedestrian access shall be incorporated within the driveway and any steps required shall be located within the private property.
8. The parking area and driveway must comply with AS/NZS 2890.1: 2004
9. Detail driveway levels and Civil plans, which must include cross-sectional details of existing and proposed levels taken from the center line of Palomar Road.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

7. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

8. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

9. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

10. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **Installation and Maintenance of Sediment and Erosion Control**

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 TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages and the street tree fronting the development site shall be protected in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

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

Reason: Street tree protection.

13. **Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site not approved for removal, 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 Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on

Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees.

The Certifying Authority must ensure that:

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

Reason: Tree and vegetation protection.

14. 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.

15. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

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

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

16. Waste Management During Development

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

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

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

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

17. Landscape Completion

Landscaping including retaining walling and stairs is to be implemented in accordance with the approved Plans.

Prior to the issue of any Occupation Certificate details shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

18. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian

Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

19. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility was constructed in accordance within this development consent, S138 Road Act Approval and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, including Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

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

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

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

Reason: To ensure bushland management.

21. **Waste Management Confirmation**

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

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

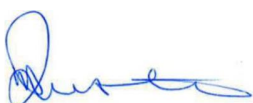
22. **Landscaped Screening for Visual Privacy**

Screen planting with a minimum height of 4.0m is to be provided between the vehicle hardstand space and northern boundary, for a length of at least 2.5m . Species selection is to incorporate locally native species. This screen planting is to be maintained for the life of the development and is to be replaced if any part of it dies, is destroyed or removed.

Reason: To ensure visual privacy is maintained between adjoining properties.

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

Signed



Megan Surtees, Planner

The application is determined on 09/03/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager