

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1147
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<b>Responsible Officer:</b>	Rebecca Englund
<b>Land to be developed (Address):</b>	Lot 1 DP 171852, 44 Kooloora Avenue FRESHWATER NSW 2096
<b>Proposed Development:</b>	Demolition works and construction of a dwelling house
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Adrian Paul Stewart Nicole Margaret Stewart
<b>Applicant:</b>	Larry Melocco

<b>Application Lodged:</b>	18/09/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	25/09/2020 to 09/10/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 3,745,930.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the demolition of the existing dwelling and the construction of a new two storey dwelling at the subject site.

### 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 - B3 Side Boundary Envelope

Warringah Development Control Plan - D8 Privacy

Warringah Development Control Plan - D10 Building Colours and Materials

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 171852 , 44 Kooloora Avenue FRESHWATER NSW 2096
<b>Detailed Site Description:</b>	<p>The site is rectangular in shape, with a 10.06m wide frontage to Kooloora Avenue, a depth of 57m and a total area of 573.2m<sup>2</sup>. The site contains an existing two storey dwelling, with two established canopy trees located within the front setback. The site experiences a slight fall of approximately 2m, with a slope of approximately 3%. The frontage of the site is dissected by stormwater drainage and associated easements, and the site is subject to overland flow, with a 1% AEP flood level of 5.05m AHD.</p> <p>The site is surrounded by low density residential development, including a dwelling of local heritage significance at 46 Kooloora Avenue. The site is located in close proximity to Freshwater Beach.</p>

Map:



## SITE HISTORY

On 17 December 2019, a prelodgement meeting was held with respect to the proposed development.

On 18 September 2020, the subject application was lodged with Council.

On 11 November 2020, additional information was requested with respect to:

- Visual privacy
- Building colours and materials
- Glare and reflectivity
- Overshadowing
- Side boundary envelope

On 8 December 2020, amended plans were received to demonstrate the following amendments:

- 200mm height reduction and 200mm increase to side setback, to reduce building envelope non-compliance,
- revised material schedule
- increased setback of clerestory window
- screening on side windows

## 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 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&amp;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 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic</p>

Section 4.15 Matters for Consideration'	Comments
	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 25/09/2020 to 09/10/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:
Mrs Alison Walker-Powell	42 Kooloorra Avenue FRESHWATER NSW 2096

The submission received raised concerns with regard to the following:

- **Loss of morning sun**

Comment: The submission received raises concern with regard to the loss of morning sun to the rear of the adjoining dwelling at 42 Kooloorra Avenue. Whilst the proposal will result in the loss of morning sun to this area in summer, the application has been supported by shadow diagrams that confirm that the proposal will not overshadow the adjoining site to the west at all between 9am and 3pm in midwinter.

- **Length of side elevation**

Comment: The submission received objects to the length of the north-western side elevation, and its dominance over the adjoining dwelling to the west. The elevation is broken into two distinct parts by virtue of the central recessed stairwell and features varied materiality to break down the apparent size of the development. Furthermore, existing mature hedging along the side boundary at 42 Kooloorra Avenue will act to screen the wall as viewed from 42 Kooloorra Avenue.



- **Materiality**

Comment: The submission received objects to the proposed use of white brick along the north-western side elevation. In response to these concerns, the application has been amended to feature timber paneling along the upper floor elevation.

- **Impacts associated with stairwell**

Comment: Concern has been raised in the submission received regarding light spill associated with the glazed double storey stairwell along the north-western side elevation. In response to these concerns, vertical louvres have been incorporated into the facade of the upper floor, noting that the lower floor will be somewhat screened by the boundary fence. Landscaping is also proposed adjacent to the stairwell, which when mature, will soften any light spill from the glazed stairwell.

- **High-level windows**

Comment: Concern has been raised in the submission received regarding light spill from highlight windows associated with the kitchen on the lower floor and the clerestory window above the upper floor living room. Light spill associated with the kitchen highlight windows will be ameliorated by the existing hedge along the side boundary of 42 Kooloora Avenue. The clerestory window above the upper floor living room is setback from the boundary and will not result in unacceptable impacts upon the amenity of the adjoining dwelling.

- **Impacts upon beach views from master bedroom**

Comment: The submission received raises objection with regard to the proposed obstruction of a beach view currently enjoyed from a side window of the master bedroom at 42 Kooloora Avenue. An inspection of said property confirmed that the beach is not visible from the master bedroom, and the impact upon the outlook to the street and reserve is not unreasonable.

- **Privacy adjacent to master bedroom**

Comment: Concern has been raised in the submission received regarding both visual and acoustic privacy in relation to the upper floor master bedroom of 42 Kooloora Avenue. In response to concerns relating to visual privacy, the proposal has been amended to include a privacy screen to restrict any direct line of sight between the upper levels of the adjoining dwellings. A blade wall extends forward of the proposed front door, and any acoustic impacts associated with the proposed entrance is not considered to be unreasonable in a residential setting.

- **Impacts associated with excavation**

Comment: The submission received raises concerns regarding impacts associated with the excavation proposed. The extent of excavation proposed is not considered to be excessive or unreasonable, and a condition of consent is recommended to require the production of pre and post construction dilapidation reports.

The submission received does not raise any issue that would warrant the refusal of the subject application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is for the construction of a new dwelling including associated landscape works.</p> <p>The application is assessed by Landscape Referral against Warringah Development Control Plan 2011, including but not limited to the following clauses:</p> <ul style="list-style-type: none"> <li>• D1 Landscaped Open Space and Bushland Setting</li> <li>• E1 Preservation of Trees or Bushland Vegetation</li> </ul> <p>The existing landscape character of the site is a typical suburban lot with extensive lawn area, pavements, and trees within the frontage. A valuable Norfolk Island Pine is located within the road carriage fronting the site that conditions of consent shall be imposed for the protection of this tree.</p> <p>A Landscape Plan is provided with the application and includes identification of existing trees to be retained within the frontage, as well as additional landscape works to satisfy Warringah DCP clause D1.</p> <p>Landscape Referral raise no objection to the development proposal and the landscape outcomes of clauses D1 and E1 are achieved.</p>
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following conditions of consent.
NECC (Stormwater and Floodplain Engineering – Flood risk)	Refer to Development Engineering referral response for commentary on the management of overland flows and stormwater.
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS</b>
	Discussion of reason for referral
	<p>This proposal has been referred to Heritage as the subject site adjoins two heritage items</p> <p><b>170 - House known as 'Felicita' - 46 Kooloora Avenue</b></p> <p><b>169 - Street Trees - Kooloora Avenue</b></p>
	Details of heritage items affected
	<p>Details of the items as contained within the Warringah heritage inventory is as follows:</p> <p><b>House known as Felicita</b></p> <p><u>Statement of significance:</u> A rare example of a post-war functionalist dwelling in the Harbord area. Displays high integrity with much original fabric &amp; detailing. Historically indicates the variety of post-war beach-side development.</p> <p><u>Physical description:</u></p>

Internal Referral Body	Comments																		
	<p>Two storey dwelling, brick on ground floor &amp; fibro to 1st floor (?). Garage on ground floor with original decoration. Skillion roof. Front facade of extensive glazing with low projecting balcony with inclined handrails and posts.</p> <p><b>Street Trees</b></p> <p><u>Statement of significance:</u> Socially significant as plantings by the local school. Although some are in poor health they are a prominent visual element in the Freshwater Beach area &amp; are representative of seaside plantings &amp; associated with recreation/holiday themes.</p> <p><u>Physical description:</u> Norfolk Island Pines (22) along both sides of Kooloora Avenue, with an average height of 15 - 20 metres. Those in the western section of the street are in poorer condition, however most are not very healthy. Some have been removed. Planting is not regular</p> <p><b>Other relevant heritage listings</b></p> <table border="1" data-bbox="520 1021 951 1563"> <tr> <td data-bbox="520 1021 852 1167">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="852 1021 951 1167">No</td> <td data-bbox="951 1021 1439 1167"></td> </tr> <tr> <td data-bbox="520 1167 852 1238">Australian Heritage Register</td> <td data-bbox="852 1167 951 1238">No</td> <td data-bbox="951 1167 1439 1238"></td> </tr> <tr> <td data-bbox="520 1238 852 1310">NSW State Heritage Register</td> <td data-bbox="852 1238 951 1310">No</td> <td data-bbox="951 1238 1439 1310"></td> </tr> <tr> <td data-bbox="520 1310 852 1382">National Trust of Aust (NSW) Register</td> <td data-bbox="852 1310 951 1382"></td> <td data-bbox="951 1310 1439 1382"></td> </tr> <tr> <td data-bbox="520 1382 852 1489">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="852 1382 951 1489">No</td> <td data-bbox="951 1382 1439 1489"></td> </tr> <tr> <td data-bbox="520 1489 852 1563">Other</td> <td data-bbox="852 1489 951 1563">N/A</td> <td data-bbox="951 1489 1439 1563"></td> </tr> </table> <p><b>Consideration of Application</b></p> <p>The proposal seeks consent for a new dwelling on the subject site. The heritage listed Norfolk Island Pine street trees are located to the south and west of the property, with one located in the road reserve adjacent to the property's driveway crossover. Heritage notes the proposal includes the retention of the existing crossover and this is worthy of Heritage's support though it would prefer it be moved to the west away from the Norfolk Island Pine. Heritage will condition that this Norfolk Island Pine tree be protected during demolition and construction works.</p> <p>Felicita is located immediately to the east of the property at 46 Kooloora Avenue. The proposed dwelling has larger side setbacks to Felicita including 1.1m on the front pavilion and 2m on the rear pavilion. Heritage strongly supports this increased setback. This larger setback allows more room for the heritage house to be read</p>	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register			RAIA Register of 20th Century Buildings of Significance	No		Other	N/A	
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No																		
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RAIA Register of 20th Century Buildings of Significance	No																		
Other	N/A																		



Internal Referral Body	Comments
	<p>and understood from the street. Additionally Heritage supports the proposed courtyard as it breaks up the mass of the new dwelling and provides relief to the heritage item.</p> <p>Therefore Heritage raises no objections and requires one condition.</p> <p>Consider against the provisions of CL5.10 of WLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No            Has a CMP been provided? No            Is a Heritage Impact Statement required? No            Has a Heritage Impact Statement been provided? No</p> <p><b>Further Comments</b></p> <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 28 September 2020</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

#### SEPP 55 - Remediation of Land

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

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1129753S\_02).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	50

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

### SEPP (Infrastructure) 2007

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.

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.

### Warringah Local Environmental Plan 2011

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.6m	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	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
B1 Wall height	7.2m	7.2m	-	Yes
B3 Side Boundary Envelope	5.9m (North-West)	7.6m	1.7m	No
	6.3m (South-East)	7.6m	1.5m	No
B5 Side Boundary Setbacks	0.9m (North-West)	1.3m	-	Yes
	0.9m (South-East)	0.9m	-	Yes
B7 Front Boundary Setbacks	6.5m	18.6m	-	Yes
B9 Rear Boundary Setbacks	6m	7.9m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	229m <sup>2</sup> 40%	230m <sup>2</sup> 40%	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **B3 Side Boundary Envelope**

The frontage of the proposed new dwelling protrudes beyond the prescribed side boundary envelope along elevations. However, the protrusions of the side boundary envelope occur where existing ground level is below the flood planning level (5.55m AHD), and where the building is required to be elevated to protect against flood waters. The proposal has been amended to minimise the height of the proposal at the frontage of the site (well below the 8.5m height limit) and the side setbacks are considered to be reasonable with regard to the narrow nature of the site. With this in mind, and noting the character and scale of buildings within the immediate locality, the apparent size of the proposal presenting to the street is acceptable.

Further, a variation to the prescribed envelope is supported, as the proposal is consistent with the objectives the control:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment: The proposed new dwelling is setback 18.6m from the front boundary, with existing and proposed landscaping within the setback to soften the visual impact of the proposal. Furthermore, the scale of the proposal is consistent with that of surrounding built form, such that the resultant dwelling will not be dominant in the streetscape.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment: The non-compliant elements of the proposal do not attribute to any unreasonable impacts upon adjoining properties with regard to light, solar access or privacy. The elevations are well articulated with central recesses to ensure adequate spatial separation between dwellings on the narrow allotments.

- *To ensure that development responds to the topography of the site.*

Comment: The proposed development strikes an appropriate balance between responding to the topography of the site and the flood affectation of the land.

## **D8 Privacy**

In response to concerns raised by Council and from the adjoining property owners to the west, the application has been amended to incorporate screening measures on upper floor side windows.

The amended proposal retains an unscreened window on the eastern side elevation associated with the front lower floor living area. The window in question is located 1.3m from the common side boundary, and as the window and respective floor level is elevated above ground, the boundary fence does not mitigate any overlooking of the front yard of the adjoining dwelling at 46 Kooloora Avenue. The adjoining property, which is an item of local heritage significance, has an area of private open space at the rear of the property that will be protected from overlooking, and an elevated deck at the front of the dwelling is located in excess of 9m from the window in question. Noting the exposed nature of the front setback area of the adjoining dwelling, the overlooking arising from the proposed new dwelling is not considered to be unreasonable.

## **D10 Building Colours and Materials**

There are slight inconsistencies between the architectural drawings and the schedule of finishes provided to support the application. A condition of consent is recommended to correct these inconsistencies, prior to the issue of a construction certificate.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

A monetary contribution of \$37,459 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,745,930.

## **CONCLUSION**

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

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

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

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

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

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

**RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2020/1147 for Demolition works and construction of a dwelling house on land at Lot 1 DP 171852, 44 Kooloora Avenue, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA01 Demolition Plan and Construction Waste Management	8 December 2020	Brewster Hjorth Architects
DA03 Site Plan and Roof Plan	8 December 2020	Brewster Hjorth Architects



DA04 Basement and Level 1 Plan	8 December 2020	Brewster Hjorth Architects
DA05 Level 2 Plan	8 December 2020	Brewster Hjorth Architects
DA06 North-East and South-East Elevation	8 December 2020	Brewster Hjorth Architects
DA07 South-West and North-West Elevation	8 December 2020	Brewster Hjorth Architects
DA08 Sections	8 December 2020	Brewster Hjorth Architects
Landscape Plan LP01-D1220, revision E	8 September 2020	Dangar Barin Smith
Ground Landscape Plan LP02-D1220, revision E	8 September 2020	Dangar Barin Smith
Rear Ground Landscape Plan LP03-D1220, revision E	8 September 2020	Dangar Barin Smith

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Proposed Driveway C01 to C07 (7 pages), all issue B	6 September 2020	NB Consulting Engineers
Stormwater Management Plans D01 to D04 (4 pages), all issue A	9 September 2020	NB Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Flood Risk Management Report, Issue A	8 September 2020	NB Consulting Engineers
Geotechnical Risk Management Report J2618	25 March 2020	White Geotechnical Group
BASIX Certificate 1129753S_02	2 September 2020	Energy Rating Australia Pty Ltd

- 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:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	11 September 2020	Nicole and Adrian Stewart

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. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost

of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

### 3. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

waste/recycling centres.

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

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

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

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

- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

4. **No Authorisation for Swimming Pool**

For the avoidance of doubt, a swimming pool is not authorised by this consent.

Reason: To provide clarification of the approved development, noting inconsistencies in technical reports.

## FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$37,459.30 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$3,745,930.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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

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

6. **Security Bond**

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

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

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

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

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

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

The applicant is to lodge a bond of \$ 33,000 as security against any damage or failure to complete the construction of stormwater drainage 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

8. **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 POLICY FOR DEVELOPMENT.

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.

9. **Flood Mitigation Measures**

Drainage plans detailing the provision of flood mitigation measures including flood compensation as recommended in the Flow Risk Management report 200273 by NB consulting Engineers dated 08/09/2020. Proposed void flood storage under the building for flood compensation must be designed to be self draining and accessible for maintenance purposes.

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be located above the level of 5.05m AHD on the void areas.

Details demonstrating compliance are to be submitted to the Principal 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.

10. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**



All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure

11. **Boundary Identification Survey**

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

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

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

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

12. **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.

13. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

14. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

15. **Compliance with Standards**

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

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

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

16. **Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

17. **Consistency with Geotechnical Recommendations**

Prior to the issuance of a construction certificate, a suitably qualified geotechnical engineer is to provide written confirmation that the plans submitted with the construction certificate application are consistent with the recommendations of the Approved Geotechnical Report, referenced in Condition 1 of this consent.

Reason: To ensure that geotechnical hazards are appropriately mitigated.

18. **Consistency with Flood Recommendations**

Prior to the issuance of a construction certificate, a suitably qualified engineer is to provide written confirmation that the plans submitted with the construction certificate application are consistent with the recommendations of the Approved Flood Risk Management Report, referenced in Condition 1 of this consent.

Reason: To ensure that risks associated with flooding are appropriately mitigated.

19. **Schedule of Colours and Finishes**

The Approved Schedule of Colours and Finishes referenced in Condition 1 of this consent is to be amended to confirm the following:

- The vertical lines marked '7' on the North-West Elevation represent natural timber paneling
- The horizontal lines marked '9' on the North-West Elevation represent brickwork

The Amended Schedule of Colours and Finishes is to be provided to the Certifying Authority prior to the issuance of the construction certificate.

Reason: To ensure that the finishes are consistent with those communicated to Council.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation):

- 42 Kooloora Avenue, Freshwater
- 46 Kooloora Avenue, Freshwater

The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

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

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

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

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

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

21. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising

from works on public land.

**22. Protection of existing Norfolk Island Pine street tree**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the Norfolk Island Pine located within the road carriage fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites, and specifically the following works shall be undertaken:

- i) temporary fencing shall be installed around the Norfolk island Pine, consisting of 1 standard 2.4m panel length to four sides, located to allow for unrestricted and safe pedestrian access upon the road verge footpath,
- ii) tree trunk boarding shall be erected to a height of at least 3 metres, and installed in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

Details including photographic evidence shall be provided to the Certifying Authority at completion of the works.

The trunk boarding and temporary fencing shall be in place until all building and utility works are completed.

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

Reason: tree protection.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

**23. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

**24. Demolition Works - Asbestos**

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

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

disposed to a lawful waste disposal facility.

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

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

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

25. **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.

26. **Property Boundary Levels**

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

27. **Traffic Control During Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

28. **Heritage Listed Street Tree**

The heritage listed Norfolk Island Pine located in the road reserve adjacent to the driveway crossover is to be protected at all times during demolition and construction works

Reason: Protection of heritage listed tree

29. **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), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

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

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

Reason: tree and vegetation protection.

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



**30. Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plan LP01-D1220, LP02-D1220 and LP03-D1220, all issue E, prepared by Dangar Barin Smith.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: environmental amenity.

**31. Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: tree protection.

**32. Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

**33. Consistency with Flood Recommendations**

Prior to the issuance of a construction certificate, a suitably qualified flood engineer is to provide written confirmation that the as-built development has been constructed in accordance with the recommendations of the Approved Flood Risk Management Report, referenced in Condition 1 of this consent.

Reason: To ensure that risks associated with flooding are appropriately mitigated.

**34. Consistency with Amended Schedule of Colours and Finishes**

Prior to the issuance of the occupation certificate, the project architect is to provide confirmation to the Principal Certifying Authority that the as-built development is consistent with the Amended Schedule of Colours and Finishes required by this consent.

Reason: To ensure the finishes of the as-built development are consistent with those approved by Council.

35. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**  
All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

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

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for Flood Mitigation Measures as to user is to be submitted.

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

Reason: To ensure the Flood Mitigation Measures is maintained to an appropriate operational standard.

37. **Post-Construction Stormwater Assets Dilapidation Report**  
The Applicant is to submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The post-construction dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

38. **House / Building Number**  
House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

39. **Consistency with Geotechnical Recommendations**

Prior to the issuance of the occupation certificate, a suitably qualified geotechnical engineer is to provide written confirmation that the development was constructed in accordance with the recommendations of the Approved Geotechnical Report, referenced in Condition 1 of this consent.

Reason: To ensure that geotechnical hazards are appropriately mitigated.

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

40. **Landscape maintenance**


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

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

Reason: to maintain local environmental amenity.

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

**Signed**



**Rebecca Englund, Principal Planner**

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



**Anna Williams, Manager Development Assessments**