

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2640
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 64 DP 18880, 35 Coles Road FRESHWATER NSW 2096
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Mark David Lindon Tennille Amy Bignell
Applicant:	Anna Williams - Your Beautiful Home

Application Lodged:	17/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	28/01/2022 to 11/02/2022
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	4.3 Height of buildings: 8.2%
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,140,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of alterations and additions to an existing dwelling including the following works:

- Demolition of existing carport and driveway and construction of a new single garage and driveway.
- Lower ground floor: new entry and storage area, new internal stair access to upper level
- Ground floor: new master bedroom with walk-in robe and ensuite and small front terrace, two bedrooms, rumpus room, study, laundry, bathroom and internal stair access to new first floor level.
- First floor: new kitchen, living and dining area with entertaining terrace and a new study.

The original proposal consisted of a pitched roof form with an excessive height breach and impacts to view sharing. Amended plans were submitted, altering the roof form to a flat roof in order to improve view sharing and reduce the building height. The proposal was not formally re-notified as it is not required under the Northern Beaches Community Participation Plan as it is a lesser environmental impact. Adjoining neighbours who lodged submissions were contacted and they provided comments in response to the amended plans.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

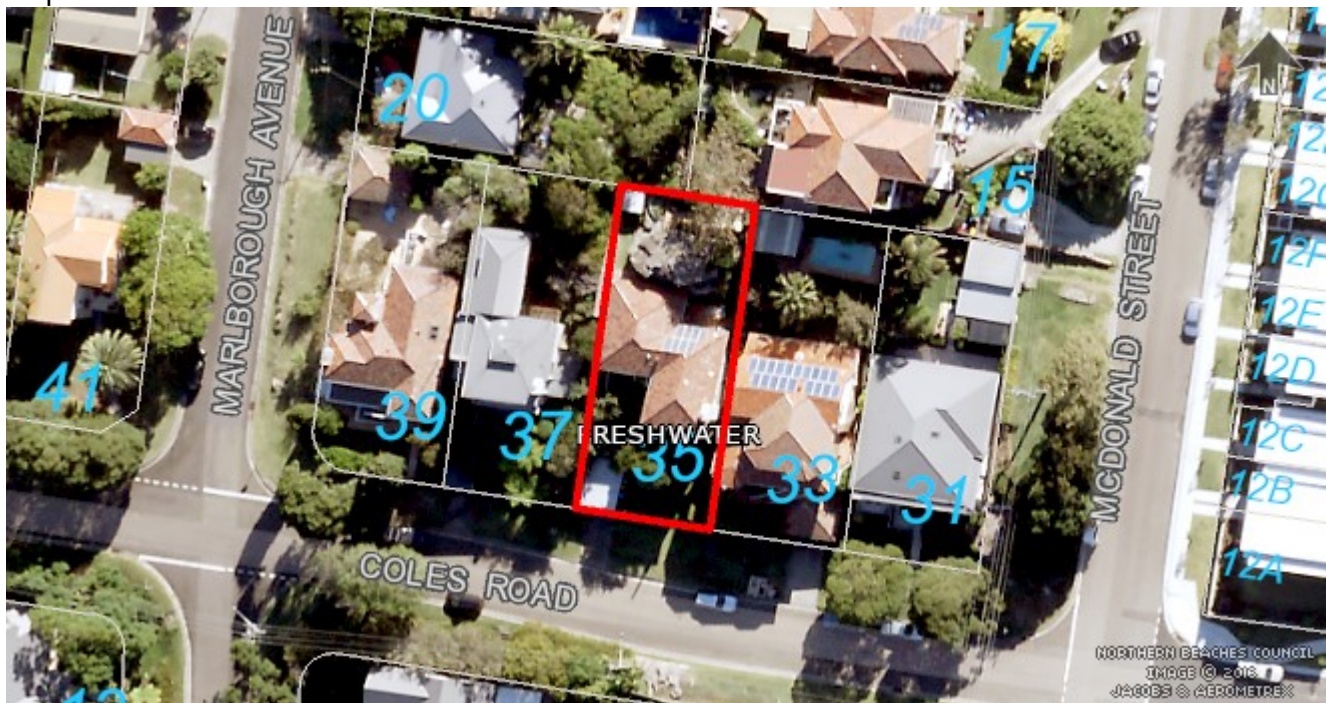
Property Description:	Lot 64 DP 18880 , 35 Coles Road FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern, higher side of Coles Road. The site is a regular shaped lot with a frontage of 15.24m and a depth of 36.58m and site area of 557.3sqm.</p> <p>The site slopes down steeply towards the southern frontage to Coles Road.</p> <p>The site is located within a Landslip Risk Area and a</p>

Geotechnical Report has been submitted with the application.

The site is currently occupied by a one to two storey rendered dwelling with a tile roof. There is a single carport at the front of the site and two metal sheds are located in the rear yard.

The surrounding development is characterised by a mix of single detached dwellings of varying sizes and styles. The adjoining properties to the east and west include garages located on the front boundary.

Map:



Section 4.15 Matters for Consideration	Comments
instrument	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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to building height and roof form to address view loss.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>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 matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and</p>

Section 4.15 Matters for Consideration	Comments
	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 28/01/2022 to 11/02/2022 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 2 submission/s from:

Name:	Address:
May Elizabeth Tindall David John Puckeridge	1 / 15 McDonald Street FRESHWATER NSW 2096
Mrs Nancy Elizabeth-Jean Davis	3 / 15 McDonald Street FRESHWATER NSW 2096

The following issues were raised in the submissions:

- View loss
- Privacy

The above issues are addressed as follows:

- **View Loss**

The submissions raised concerns that the proposed development would completely eliminate the southern view from neighbouring property 3/15 McDonald Street. The view is of Freshwater, Balgowlah, Seaforth and extends to the Sydney Tower, Crown Casino, and the Sydney City and North Sydney Skylines and can be seen from the living areas and kitchen. Neighbours from 1/15 McDonald Street also raised concerns over view loss of the district, green space and beyond from their living area.

Comment:

Amended plans were requested to reduce the roof pitch of the proposed development in order to regain the views. The objectors were contacted and provided the opportunity to respond to the amended plans. The comments received in response to the amended plans remain in objection to the proposal. A more detailed assessment is provided under Clause D7 Views.

- **Privacy**

The submissions raised concerns that the new dwelling would look directly into the living room and garden of 3/15 McDonald Street. The proposed development would also look directly into the living area of 1/15 McDonald Street.

Comment:

The northern windows of the first floor addition that face 1/15 and 3/15 McDonald Street are from a stairwell and a study and are not considered to be high use areas. As such, there are minimal opportunities for overlooking and no unreasonable privacy impacts are expected to result.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	Applicant seeks approval for alteration and addition to the existing dwelling, demolishing front car port and construction of a garage. The vehicular crossing is to be removed and widened. Stormwater runoff from the proposed development can be discharged to the street drainage system. No Development Engineering objection subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that their decision is 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A440143 dated 7 May 2021).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.2m	8.2%	No

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.2m
Percentage variation to requirement:	8.2%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of

this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- The objectives of the standard are achieved.
- The non-compliance of up to 0.7m is a result of the site's fall towards the south-west.
- The proposal incorporates a modest roof form and earthy external finishes which suitably reduce the visual bulk of the dwelling.
- Further, the modulation of the building elevations, together with the varied side setbacks and recessive external finishes will ensure the development minimises the visual impact when viewed from the surrounding public and private areas.
- The view of the dwelling from Coles Road will be that of a compatible two storey height above the street level, which is consistent with the prevailing height of other buildings in the near vicinity that have been altered and been added to or constructed in order to provide increased floor area and off street parking facilities.
- The proposal will be consistent with and complement the existing detached style single dwelling housing within the locality and the wider Warringah area.
- The site will maintain a generous soft landscaped area, which will maintain the balance between landscaping and built form. No significant vegetation requires removal.
- The proposal has been well designed to complement the streetscape. The desired future character is not defined in the planning controls, but the proposal is consistent with the existing streetscape and with recent works in the area.
- The proposal presents a compatible height and scale to the surrounding development and the articulation to the building facades and the modest roof form will suitably distribute the bulk of the new floor area.
- There are sufficient environmental planning grounds to justify contravening the development standard. The aspect of the development which contravenes the development standard is a

minor element of the roof form to the southern extent of the first-floor addition. Where the roof form exceeds the height control, any views past that element along the side and rear boundaries for the neighbours will be maintained.

- The proposal seeks to provide for the construction of a first floor addition, which manages the site's challenges of falling site levels towards the south-west.

Comment

The applicant's request is well-founded and effectively argues sufficient reasons for varying the development standard. The steep slope of the site does make compliance with the standard difficult and the height breach has been restricted to the south-western extremity of the dwelling. The proposal can still meet the objectives of the standard and is supported by sufficient environmental planning grounds.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The surrounding development consists of predominantly one and two storey developments, often located over basement garages and service rooms. The proposal seeks to construct a first floor addition which is in keeping with the characteristics of the surrounding environment. The overall building height respects the surrounding character and the design seeks to minimise the visual height by providing increasing and varied setbacks to the first floor.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The proposal does result in some disruption of views, however this is located at the northern rear of the site where the building is compliant with the maximum height of buildings. The area breaching the maximum height of buildings is isolated to the front south-western corner of the site and is not the cause of view loss. The proposal provides appropriate setbacks to allow reasonable privacy and solar access.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The proposal is located within an established residential zone and will not further detract from the scenic quality of Warringah's coastal and bush environments.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

The proposal is compatible with the existing scale and form of the surrounding development and reflects a similar visual appearance when viewed from public places. As such, the proposal will not create adverse visual impacts when viewed from public places.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development is for alterations and additions to an existing dwelling and maintains the low density residential use of the site. As such, the proposal provides an appropriate level of family accommodation and meets the housing needs of the community.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal complements surrounding land uses and appreciates the provision of facilities and services that support the day to day needs of residents.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposed development is consistent with the detached single dwelling style within Warringah and maintains the low density residential character. The proposal maintains ample landscaping throughout the site which complements the natural environment.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020 issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.7m	6.9%	No
B3 Side Boundary Envelope	West - 4m	Encroachment between nil and 2.4m for a length of 4.8m	0%-60%	No
	East - 4m	Encroachment between 1.5m and 2.6m for a length of 8.0m	37.5%-65%	No
B5 Side Boundary Setbacks	West - 0.9m	Lower Ground Floor: 1.7m Ground Floor: 1.7m First Floor Terrace: 1.0m	N/A N/A N/A	Yes Yes Yes

	East - 0.9m	Lower Ground Floor: 6.7m Existing Ground Floor: 0.85m First Floor: 0.85m	N/A 5.6% 5.6%	Yes No Change No
B7 Front Boundary Setbacks	6.5m	Garage: Nil Dwelling: 10.2m	100% N/A	No Yes
B9 Rear Boundary Setbacks	6m	11.5m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	41.2% (229.4)	N/A	Yes

Compliance Assessment

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

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

Detailed Assessment

B1 Wall Heights

Description of non-compliance

This control stipulates that walls are not to exceed a height of 7.2m from ground level. The proposed development has a maximum wall height of 7.7m and does not comply with the control.

Merit consideration:

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

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

Comment:

The visual impact of the development has been minimised through the varying setbacks that ensure the bulk of the dwelling is reduced as height increases. The first floor addition incorporates a terrace wrapping around the southern and western edge which helps to break up the bulk of the built form when viewed from the street. The proposal provides ample landscaped areas in compliance with the control which complement the design of the dwelling and visually soften the appearance of the development. Additionally, the proposed development aligns well with the adjoining properties which are of a similar height and size. As such, the visual impact of the development when viewed from adjoining properties and streets has been minimised.

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

Comment:

The proposed development exceeds the maximum height of buildings in a small portion of the front of the dwelling due to the steep topography of the site. Notwithstanding this breach, the development is generally beneath the existing tree canopy level and aligns well with the surrounding properties.

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

Comment:

The proposal does result in a level of view loss to the adjoining northern properties. A further view loss assessment is provided under Clause D7 Views deeming the proposal acceptable.

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

Comment:

The impact of the development on adjoining properties has been minimised through the addition of a flat roof which has reduced the bulk and scale of the dwelling and retained a reasonable level of view sharing. The proposal provides appropriate front, side and rear setbacks with ample landscaped area to ensure that privacy and amenity is maintained to adjoining properties. The use of varied materials and articulation will not give rise to unreasonable impacts to adjoining properties.

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

Comment:

The proposed development has been appropriately designed in response to site topography through the stepping in of each level and the inclusion of a terrace on the first floor. Excavation is required to accommodate the proposed garage, however excavation is kept to a minimum throughout the site.

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

Comment:

The original proposal incorporated a steep roof pitch which caused significant impacts to view loss and bulk and scale of the dwelling. Amended plans were submitted which included a flat roof form which allows a reasonable level of view sharing and innovative roof design.

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

B3 Side Boundary Envelope

Description of non-compliance

This control requires development to be sited within a building envelope determined by projected planes at 45 degrees from a height of 4m above ground level at the side boundaries.

The proposed development encroaches both the eastern and western side boundary envelopes. On the eastern elevation, the encroachment is between 1.5m and 2.6m for a length of 8.0m. On the western elevation, the encroachment is between nil and 2.4m for a length of 4.8m.

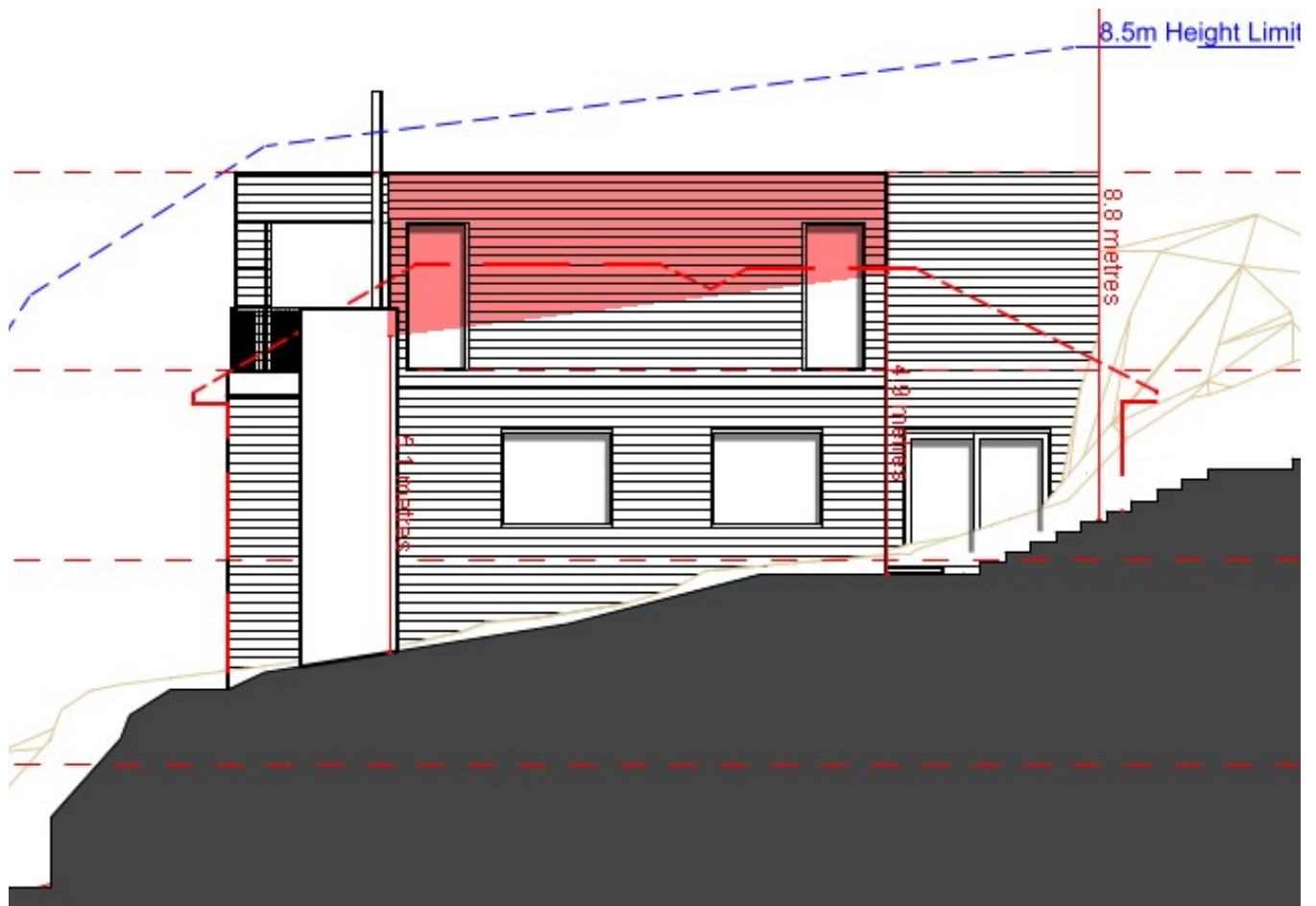


Figure 1 - Eastern Elevation showing Envelope Breach

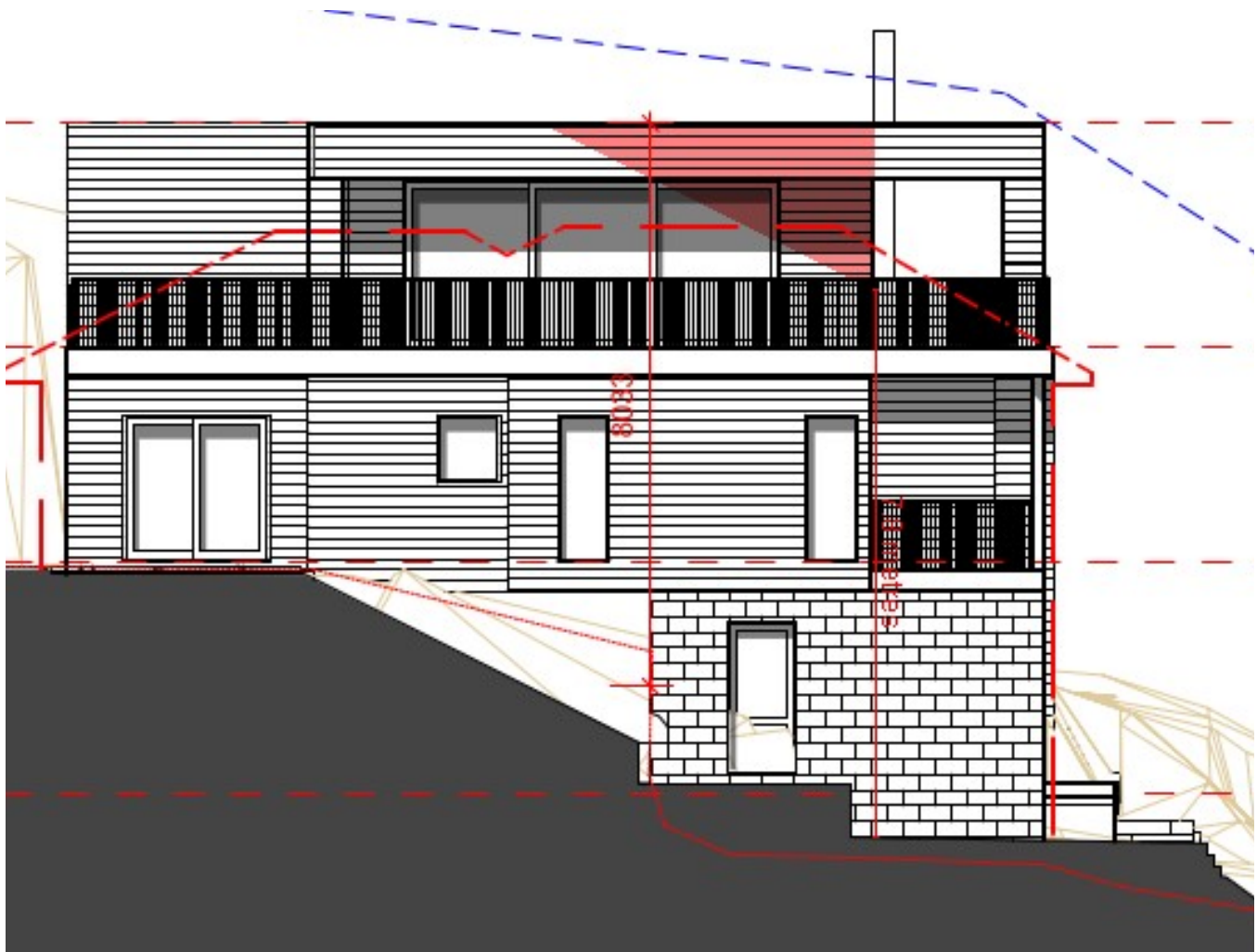


Figure 2 - Western Elevation showing Envelope Breach

Merit consideration

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

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

Comment:

Notwithstanding the height breach as a result of the steep topography, the proposed development is of an appropriate height that aligns well with the surrounding development. The proposal is for a two to three storey dwelling which is commensurate with the scale of the surrounding dwellings. The side setbacks are predominantly compliant and incorporate variation in the upper floors to mitigate the visual bulk and scale of the development. As such, the proposal ensures that the development does not become visually dominant by virtue of its height and bulk.

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

Comment:

The proposal provides appropriate front, side and rear setbacks for the dwelling which ensure adequate spatial separation is achieved between buildings. The submitted shadow diagrams indicate that adequate light and solar access will be provided to the site and adjoining properties. The proposed terrace on the first floor will predominantly overlook the roof of the western neighbour and is also oriented to the street. As such, there will be no unreasonable impacts to privacy.

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

Comment:

The proposed development has been appropriately designed in response to site topography through the stepping in of each level and the inclusion of a terrace on the first floor. Excavation is required to accommodate the proposed garage, however is kept to a minimum throughout the site.

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

B5 Side Boundary Setbacks

Description of non-compliance

This control requires development to be setback 0.9m from both side boundaries. The proposed development complies with the western side boundary setbacks but not does not comply with the eastern side boundary setbacks. The existing ground floor is setback 0.85m from the eastern side boundary which is an existing non-compliance with the control. The first floor addition adopts this 0.85m eastern side setback as well and as such is slightly under the 0.9m required setback. It is noted that the eastern side setbacks are only non-compliant for a small portion as the eastern boundary is splayed. The first floor eastern side setback varies from 0.85m-1.2m.

Merit consideration

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

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

Comment:

The proposal provides ample opportunities for deep soil landscape areas in the front and rear yard of the site. Landscaped open space is provided in excess of the requirement and the proposal retains substantial vegetation throughout the site.

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

Comment:

Notwithstanding the height breach as a result of the steep topography, the proposed development is of an appropriate height that aligns well with the surrounding development. The proposal is for a two to three storey dwelling which is commensurate with the scale of the surrounding dwellings. The side setbacks are predominantly compliant and incorporate variation in the upper floors to mitigate the visual bulk and scale of the development. As such, the proposal ensures that the development does not become visually dominant.

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

Comment:

The scale and bulk of the development has been minimised through the varying setbacks that provide articulation to soften the built form. The first floor addition incorporates a terrace wrapping around the southern and western edge which helps break up the bulk of the built form when viewed from the street. The proposal provides ample landscaped areas in compliance with the control which complement the design of the dwelling and visually soften the appearance of the development. Additionally, the proposed development aligns well with the adjoining properties which are of a similar height and size. As such, the scale and bulk of buildings is minimised.

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

Comment:

The proposal provides appropriate front, side and rear setbacks for the dwelling which ensure adequate spatial separation is achieved between buildings. The submitted shadow diagrams indicate that adequate light and solar access will be provided to the site and adjoining properties. The proposed terrace on the first floor will predominantly overlook the roof of the western neighbour and is also oriented to the street. As such, there will be no unreasonable impacts to privacy.

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

Comment:

The proposal will impact on view sharing for the properties to the north. A further view loss assessment is provided under Clause D7 Views which deems the proposal acceptable.

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

B7 Front Boundary Setbacks

Description of non-compliance

This control requires development to be setback at least 6.5m from the front boundary. The proposed garage presents a nil setback to the front boundary and does not comply with this control. It is noted that there is no change to this front setback as the proposed garage is sited over an existing single carport with a nil setback.

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 site is steeply sloping towards the southern front of the property with minimal opportunities to create a sense of openness. The proposal maintains the appearance of the existing front yard with a parking structure at the low front portion of the site and steps up to the dwelling surrounded by landscaping.

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

Comment:

The proposal maintains visual continuity and pattern of building as the adjoining properties to the east and west both have garages with a nil front setback. Additionally, both adjoining properties consist of two to three storey dwellings with a similar scale and size to the proposed development. As such, the proposal maintains the visual continuity and pattern of buildings and landscape elements.

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

Comment:

The proposed garage is of an appropriate size and provides for one off-street parking space. This reduces the need for occupants of the site to park on the street, thus enhancing the visual quality of streetscapes. As above, the siting of a garage in the front setback is consistent with the surrounding development and will not detract from the visual quality of the street.

- *To achieve reasonable view sharing.*

Comment:

The proposed garage is of low elevation and does not impact on view sharing.

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

D7 Views

Merit consideration

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

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

Comment:

Views will be lost from two properties: 1/15 McDonald Street and 3/15 McDonald Street. In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

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

Comment to Principle 1:

1/15 McDonald Street

The property enjoys district views to the south, of Freshwater, Balgowlah and Seaforth including the green space provided by Nolan Reserve. These views are obscured by vegetation. The views extend to the Sydney Tower, Sydney City and North Sydney skyline. The property also enjoys district views to the east, of Curl Curl, Freshwater, Manly and North Head.



Figure 1 - Standing view from living room of 1/15 McDonald Street looking south-west

3/15 McDonald Street

The property enjoys district views to the south, of Freshwater, Balgowlah and Seaforth. These views are obscured by vegetation and existing development. The views extend to the Sydney Tower, Sydney City and North Sydney skyline. The property also enjoys district views to the east, of Curl Curl, Freshwater, Manly and North Head.



Figure 2 - Standing view from living room of 3/15 McDonald Street looking south-west.

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

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

Comment to Principle 2:

1/15 McDonald Street

The views are obtained from the living room through large windows which can also be viewed from the kitchen. The views are obtained from both sitting and standing positions in the living room. The views are obtained across the southern side boundary.

3/15 McDonald Street

The views are obtained from the living room through large glass sliding doors. The views are obtained from both sitting and standing positions in the living room. The views are also obtained through the kitchen window. This unit is sited on the bottom floor of the building, and views are obtained from a lower elevation and are more susceptible to view impacts. The views are obtained across the southern side boundary.

3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".

Comment to Principle 3:

1/15 McDonald Street

A relatively small portion of the total views enjoyed from the property will be affected. Amended plans were requested to reduce the height of the roof to improve view sharing. Accordingly, the roof has been amended to a flat roof with a lower height in order to retain views. The views of the green space provided by Nolan Reserve will be affected minimally. There will also be a minimal impact to the southern district views. The view loss is considered to be minor.

3/15 McDonald Street

A sizeable portion of the total views enjoyed from the property will be affected. The southern district views will be lost as well as the views of Sydney Tower and the city. The amended roof design has enabled a reduction in view impacts by lowering the overall roof height. The property will retain views of the tops of the trees and the skyline. The view loss is considered to be moderate.

4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A

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

Comment to Principle 4:

The critical controls relating to view loss are height and the building envelope encroachment particularly on the eastern elevation. Whilst, the proposal breaches the maximum building height requirement, the area where this occurs is isolated to the south-western corner of the site which does not impact on views. The northern rear of the dwelling which is the cause of the view impacts is compliant with the height and rear setback controls. Additionally, it is noted that the proposed development be of a lower height at the rear than the adjoining property to the east which is already obstructing views. The envelope encroachment is exacerbated by the steep topography of the site and is isolated to the middle portion of the eastern elevation. As such, it is considered that design changes to reduce the envelope non-compliance will have minimal impact on the retention of views.

The pitched roof design contributed to the bulk and issues of view loss. Amended plans were submitted which incorporate a flat roof design that achieves the same development potential and retains more views for 1/15 and 3/15 McDonald Street. Also, the views obtained from 3/15 McDonald Street are obtained over a side boundary, which are acknowledged under the Planning Principle as being more problematic to retain, and this is the case with the subject development. Therefore, on balance, a more skilful design has been achieved which minimises view impacts and demonstrates a considered and reasonable response to view sharing.

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

Comment:

The proposal is an innovative design solution that incorporates a modern flat roof form that retains views.

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

Comment:

The surrounding canopy trees, some of which already impact on the views from the affected properties will retain their priority over views.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$11,400 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,140,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed

to be carried out.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2021/2640 for Alterations and additions to a dwelling house on land at Lot 64 DP 18880, 35 Coles Road, 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
DA100 RevF - Site and Roof Plan	23 May 2022	Your Beautiful Home
DA110 RevF - Street Access Garage Plan	23 May 2022	Your Beautiful Home
DA120 RevF - Lower Ground Floor Plan	23 May 2022	Your Beautiful Home
DA130 RevF - Ground Floor Plan	23 May 2022	Your Beautiful Home
DA140 RevF - First Floor Plan	23 May 2022	Your Beautiful Home
DA200 RevF - North Elevation	23 May 2022	Your Beautiful Home
DA210 RevF - South Elevation	23 May 2022	Your Beautiful Home
DA220 RevF - East Elevation	23 May 2022	Your Beautiful Home
DA230 RevF - West Elevation	23 May 2022	Your Beautiful Home
DA300 RevF - Sections	23 May 2022	Your Beautiful Home

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A440143	7 December 2021	Efficient Living Pty Ltd

Geotechnical Investigation	22 November 2021	White Geotechnical Group
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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	30 October 2021	Your Beautiful Home

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.

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$11,400.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$1,140,000.00.

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 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

5. **Security Bond**

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

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

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

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

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

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

6. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to street drainage system.

Details demonstrating compliance 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 the development.

7. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. 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 facilitate suitable vehicular access to private property.

8. **Compliance with Standards**

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to

the Certifying Authority prior to the issue of the Construction Certificate.

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

9. External Finishes to Roof

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. 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.

11. 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:

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

12. Geotechnical Requirements

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

13. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

14. 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.

15. Vehicle Crossings

The Applicant is to construct one vehicle crossing 3.0 metres wide and splayed to the boundary in accordance with Northern Beaches Council Drawing No A4-3330/1 and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

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. 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.

18. 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.

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

19. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

Signed



Olivia Ramage, Planner

The application is determined on 04/08/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments