

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0398
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Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 623 DP 217209, 9 Hyde Avenue KILLARNEY HEIGHTS NSW 2087
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:	Samantha Victoria Boyd Matthew Elliott MacLennan
Applicant:	Rapid Plans Pty Ltd

Application Lodged:	24/04/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	02/05/2023 to 16/05/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 473,000.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks development consent for the alterations and additions to a dwelling house.

Specifically, the works comprise of the following:

- Construction of a first floor addition and various ground floor internal alterations;
- Alterations to the existing garage to accommodate two (2) vehicles, with new concrete driveway;
- Excavation and construction of a part in-ground swimming pool and courtyard area with pergola;
- Landscaping works including new retaining walls, rainwater tank and front entrance stepping stones; and
- Various window amendments and additions.

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 - 5.21 Flood planning
 Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks

SITE DESCRIPTION

Property Description:	Lot 623 DP 217209 , 9 Hyde Avenue KILLARNEY HEIGHTS NSW 2087
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Hyde Avenue.</p> <p>The site is irregular in shape with a street frontage of 19.49m and an average depth of 38.96m. The site has a surveyed area of 698.6m².</p> <p>The site is located within the R2 Low Density Residential zone under the provisions of the Local Environmental Plan 2011 and accommodates a dwelling house.</p> <p>The site topography is relatively flat and consists of various vegetation types ranging from grass, shrubs to small trees.</p> <p>Detailed Description of Adjoining/Surrounding</p>

Development

Adjoining and surrounding development is characterised by residential development to the north and east. Council Reserve is located to the west and south.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

Current Application History

The development application was notified for a period of fourteen (14) days, as stated within Council's Community Participation Plan, which resulted in no submissions.

Council requested amended plans and additional information to address the following:

- Clause D1 Landscaped Open Space and Bushland Setting:** It was suggested that the proposed swimming pool be relocated closer to the dwelling house (subject to any requirements requested by Council's Development Engineer), with the swimming pool fencing to be located closer to the swimming pool to provide for compliant landscape open space.
- Development Engineer:** Proposed works within close proximity to Council's drainage easement. The construction of buildings or other permanent structures over or under constructed public drainage systems is not permitted.

The amended plans were received on 1 June 2023 and acceptably addressed the above. Re-notification was not required as the amended proposal results in a lesser environmental impact.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 (WDCP 2011) 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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Clause D1 Landscaped Open Space and Bushland Setting of the WDCP 2011 and requests made by Council's Development Engineer.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a</p>

Section 4.15 Matters for Consideration	Comments
	condition of consent.
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 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Building Code & Bushfire Hazard Solutions Pty Limited, dated 16 February 2023) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent. The proposal is assessed as being satisfactory with regard to Section 4.14 of the Act.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 02/05/2023 to 16/05/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><i>Supported, subject to conditions.</i></p> <p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation <p>One tree is proposed to be removed and the replacement tree shown on the Landscape Plan is supported. The replacement tree will help offset any canopy loss and help satisfy the WDCP controls, and shall be installed in accordance with the requirements outlined in the conditions of consent. All trees and vegetation shown to be retained shall be protected in accordance with the requirements outlined in the conditions of consent.</p> <p>Existing physical encroachment within Hyde Avenue Reserve is noted, including retaining walls, stairs, fences and lawn area, as shown on the Survey Plan. Furthermore, the picket fence along the front boundary has been constructed in the road reserve. No prior application nor approval to encroach upon public land is found and any approval of this development application does not grant approval for the existing encroachments. Council reserves the future right to seek removal of any encroachment for public safety or for any other public capital works.</p>
NECC (Coast and Catchments)	<p><i>Supported, subject to conditions.</i></p> <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021, Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Warringah LEP and DCP.</p> <p><u>Coastal Management Act 2016</u> The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p><u>State Environmental Planning Policy (Resilience & Hazards) 2021</u> The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA. Clauses 2.10 (coastal environment area) and 2.11 (coastal use area) do not apply as the site is also located within the Sydney Harbour</p>

Internal Referral Body	Comments
	<p>catchment area. Hence, only Clause 2.12 of the SEPP R & H apply for this DA.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Rapid Plans, the DA satisfies requirements under clause 2.12 of the SEPP R&H. As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021</p> <p><u>Foreshores & Waterways Area</u> The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 6.3 of the Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021 will apply in assessing this DA. Development consent, among others, must consider clause 6.28. On internal assessment, it is determined that the relevant clauses of the Part 6.3 including the clause 6.28 have been followed.</p> <p><u>Zoning of Foreshores & Waterways Area</u> The subject site is located adjacent to the Zone 2 (Environment Protection). On internal assessment, it is determined that the objectives and assessment criteria of the zone have been met.</p> <p><u>Rocky Foreshores & Significant Seagrasses Area</u> The subject site is located directly upstream of land identified as a rocky foreshore or significant seagrass area on the Rocky Foreshores and Significant Seagrasses Map. On internal assessment, it is determined that the assessment criteria specified in clause 6.32 of the Part 6.3 have been met.</p> <p><u>Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005</u> The subject site is located within a foreshore area identified on the map and therefore the DCP applies to the proposed development. On internal assessment the proposed development satisfies the requirements of the DCP.</p> <p><u>Landscape character Assessment</u> The subject site is located within the Landscape Character Type 1. On internal assessment the proposed development within the landscape satisfies the relevant criteria.</p> <p><u>Warringah LEP 2011 and Warringah DCP 2011</u> No other coastal related issues identified.</p>

Internal Referral Body	Comments
	<p>As such, it is considered that the application complies with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</p>
NECC (Development Engineering)	<p>Supported, subject to conditions.</p> <p>02/06/2023: Amended plans with amended position of swimming pool are provided, pool is proposed to be 5.338 m away from SW boundary. Applicant still requires to accurately locate Council pipe present within site and this has been conditioned. No objections to approval subject to conditions as recommended.</p> <p>11/05/2023: Development Application is for alterations and additions to existing dwelling house including addition of first floor, swimming pool & pergola at rear and modification of existing garage.</p> <p>The existing dwelling encroaches over Council's drainage easement and proposal is to built stairs over easement. It is not clear what kind of stairs are proposed on existing stormwater easement, applicant to clarify same. It is to be noted that construction of buildings or other permanent structures over or under constructed public drainage systems is not permitted.</p> <p>Excavations: Excavation of around 1.5m deep are proposed for swimming pool within 1m of Council pipe, as result the proposed development will have compounding detrimental impact on Council drainage infrastructure. As result Development Engineers cannot support the proposal due to the following reason:-</p> <p>1) Applicant has not located Council's drainage system traversing the site in accordance with clause 6.7 Northern Beaches Council's "Water Management for Development Policy". In this regard Council's piped drainage system must be accurately located, confirming dimensions and plotting any Council's stormwater drainage assets and associated infrastructure to scale on the DA plans, which must include all existing and proposed building works and foundations. The location of Council pipe and drainage system should be carried out by a registered surveyor and accurately plotted on the survey plan including the location of Council's drainage easement.</p> <p>2) Applicant to show Council pipe on architectural plans and sections with setbacks from the pipe to the proposed pool foundations.</p> <p>Access: Internal driveway is proposed to be resurfaced from brick paved to concrete, vehicle crossing within road reserve to be reconstructed as</p>

Internal Referral Body	Comments
	<p>well, this can be conditioned.</p> <p>Stormwater: Proposal is to connect stormwater discharge from new additions to existing approved system.</p> <p>For planner: The picket fence along the front boundary has been constructed in the road reserve. No prior application nor approval to encroach upon public land is found and any approval of this development application does not grant approval for the existing encroachments.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Supported, subject to conditions.</i></p> <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>
Aboriginal Heritage Office	<p><i>Supported, subject to conditions.</i></p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs),

Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A483346_03 dated 31 May 2023).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment

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

SEPP (Biodiversity and Conservation) 2021

Chapter 6 – Water catchments

The subject property is located within the Sydney Harbour Catchment and Sydney Harbour Foreshores and Waterways Area therefore the provisions of Chapter 6 Water catchments of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* apply to this development. Accordingly, an assessment under Chapter 6 has been carried out as follows:

Part 6.2 Development in regulated catchments - Division 2 Controls on development generally

6.6 Water quality and quantity

(1) *In deciding whether to grant development consent to development on land in a regulated catchment, the*

consent authority must consider the following—

- (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
- (b) whether the development will have an adverse impact on water flow in a natural waterbody,
- (c) whether the development will increase the amount of stormwater run-off from a site,
- (d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,
- (e) the impact of the development on the level and quality of the water table,
- (f) the cumulative environmental impact of the development on the regulated catchment,
- (g) whether the development makes adequate provision to protect the quality and quantity of ground water.

(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—

- (a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
- (b) the impact on water flow in a natural waterbody will be minimised.

Comment

The proposal has been reviewed by Council's Coastal Officer and Development Engineer who have raised no objection to the works and their impacts to the adjoining waterway, subject to recommended conditions.

6.7 Aquatic ecology

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—

- (a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,
- (b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—
 - (i) a controlled activity approval under the Water Management Act 2000, or
 - (ii) a permit under the Fisheries Management Act 1994,
- (c) whether the development will minimise or avoid—
 - (i) the erosion of land abutting a natural waterbody, or
 - (ii) the sedimentation of a natural waterbody,
- (d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,
- (e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,
- (f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.

(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following:

- (a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,
- (b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,
- (c) if a controlled activity approval under the Water Management Act 2000 or a permit under the Fisheries Management Act 1994 is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,
- (d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,
- (e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.

Comment

The proposal has been reviewed by Council's Coastal Officer who have raised no objection to the works and their impacts to the surrounding natural environment.

6.8 Flooding

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.

(2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—

(a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or

(b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems

Comment

The subject site is not located within a flood prone area.

6.9 Recreation and public access

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider—

(a) the likely impact of the development on recreational land uses in the regulated catchment, and

(b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.

(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—

(a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,

(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,

(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.

Comment

The proposed development is considered minor in nature, relating to residential type development only. The works will not alter or disrupt the existing recreation and/or public access within the catchment area.

6.10 Total catchment management

In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.

Comment

The proposal has been reviewed by Council's Coastal Officer who have raised no objection to the

works and their impacts to the surrounding natural environment. Based on the expert advice provided and conditions recommended, the proposed works are not considered to have an adverse environmental impact. As such consultation with adjoining local government areas was not undertaken in this instance.

Part 6.3 Foreshores and Waterways Area

Division 3 Development in Foreshores and Waterways Area

6.28 General

(1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—

(a) whether the development is consistent with the following principles—

- (i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good*
- (ii) the public good has precedence over the private good,*
- (iii) the protection of the natural assets of Sydney Harbour has precedence over all other inter*

(b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,

(c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,

(d) whether the development promotes water-dependent land uses over other land uses,

(e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,

(f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,

(g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,

(h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.

(2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—

(a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,

(b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,

(c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,

(d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,

(e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—

- (i) the Foreshores and Waterways Area, and*
- (ii) public places, landmarks and heritage items.*

Comment

The above has been considered as part of the assessment of this application. The subject site is located adjacent to the Zone 2 (Environment Protection). The proposed works are for residential type development only and will not impact the Foreshores and Waterways Area. Nor will the works be seen from the Foreshores and Waterways Area. The foreshores and waterways area will continue to be protected and maintained, in relation to its unique visual qualities.

The proposal is satisfactory when considered against the matters for consideration as prescribed within SEPP BC.

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

The Sydney Harbour Foreshores and Waterways Area Development Control Plan, continues to apply to the foreshores and waterways area as identified in Part 6.3 of the Biodiversity and Conservation SEPP 2021. The development control plan includes design guidelines for development and criteria for natural resource protection.

Chapter 2 Ecological Assessment

The overall aims of this chapter is to conserve biological diversity within and around Sydney Harbour and its tributaries.

- *Ecological communities, particularly those which form wildlife habitats, are protected and where feasible enhanced;*
- *Development is sited to retain native vegetation, wetlands and natural foreshores;*
- *Development is accompanied by revegetation and rehabilitation of degraded foreshores, where appropriate; and*
- *development does not impact adversely on water quality.*

Comment

The proposed works have been considered against the aims and criteria of Chapter 2. The works will not impact the ecological communities or the water quality of the area. The works does not necessitate any significant vegetation removal, or impacts on the natural foreshore. The proposal complies with Chapter 2 of the Sydney Harbour Foreshores and Waterways Area DCP 2005.

Chapter 3 Landscape Assessment

The overall aims of this chapter is to consider the visual impact of development from the waterway and foreshores. The chapter stipulates that 'Landscape Character Type 1' applies to the subject site and surrounds. These areas have been subject to minimal development pressure and generally the shoreline and vegetation are well conserved.

Comment

Given that the subject site is located behind the National Park which consists of canopy trees and rock outcrops ,the proposed works will not be easily viewed from the Foreshores and Waterways Area. No impact to the natural environment will occur, subject to conditions.

Chapter 5 Design Guidelines for Land-Based Developments

Chapter 5 contains guidelines for specific types of development that are Land-Based Developments.

Comment

The proposed works under this application have been considered against the relevant design guidelines of this chapter. This includes the overall built form of the development. The proposed physical works will complement the existing character of the area and will not impact the natural environment of the Foreshores and Waterways Area.

Council is satisfied that the proposal is consistent with all relevant requirements and objectives of the SEPP (Biodiversity and Conservation) 2021.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

Comment

The site is located within the Foreshores and Waterways Area. Section 2.10 (3) stipulates that *"This section does not apply to land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6"*.

Division 4 Coastal use area

Comment

The site is located within the Foreshores and Waterways Area. Section 2.11 (2) stipulates that *"This section does not apply to land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6"*.

Division 5 General

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

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

Comment

The proposal is not likely to increase the risk of coastal hazards within the locality.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment

The proposal is not inconsistent with relevant coastal management programs.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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	7.5m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

5.21 Flood planning

5.23 Public bushland

The subject site adjoins a public reserve that is owned, managed or reserved for open space by Council, and includes natural vegetation of the land. Council as the consent Authority must consider the following:

- (1) *The objective of this clause is to protect and ensure the ecological viability of bushland, including rehabilitated areas in urban areas, by—*
- (a) *preserving biodiversity, habitat corridors and links between public bushland and other near*
 - (b) *preserving bushland as a natural stabiliser of the soil surface, and*
 - (c) *preserving existing hydrological landforms, processes and functions, including natural drain*
 - (d) *preserving the recreational, educational, scientific, aesthetic, environmental, ecological and*
 - (e) *mitigating disturbance caused by development.*

Comment

The proposed development is not located in an area of biodiversity significance, or wildlife habitat corridors. The proposed works will be wholly located within the boundaries of the subject site, as recommended via condition. A recommended condition has also been included that does not approve works or site access on or through land owned or managed by Council. The natural drainage of the subject site and surrounding properties are unlikely to be detrimentally impacted.

- (3) *Development consent must not be granted to development that will disturb, or is reasonably likely to disturb, public bushland unless the consent authority is satisfied of the following—*
- (a) *the disturbance of the bushland is essential for a purpose in the public interest,*
 - (b) *there is no reasonable alternative to the disturbance,*
 - (c) *the development minimises the amount of bushland to be disturbed,*
 - (d) *the development includes measures to remediate the disturbed bushland.*

Comment

A noted above, the proposed works will be wholly located within the boundaries of the subject site and will not disturb, or is reasonably unlikely to disturb the adjoining public reserve.

(7) In deciding whether to grant development consent to development on land adjoining public bushland, the consent authority must consider the following—

- (a) the need to retain public bushland adjoining the site of the development,*
- (b) the likely effect of the development on public bushland, including the following—*
 - (i) the erosion of soil,*
 - (ii) the siltation of streams and waterways,*
 - (iii) the spread of weeds and non-native plants within public bushland.*

Comment

A noted above, the proposed works will be wholly located within the boundaries of the subject site and will not detrimentally impact the adjoining reserve. A recommended condition has been included for sediment and erosion controls.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and***
- (b) to allow earthworks of a minor nature without requiring separate development consent.***

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality***

Comment

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

- (b) the effect of the proposed development on the likely future use or redevelopment of the land***

Comment

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

- (c) the quality of the fill or the soil to be excavated, or both***

Comment

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties***

Comment

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties.

Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

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

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment

The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment

The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment

The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	7.2m	West: 5.3m East: 6.2m	-	Yes
B3 Side Boundary Envelope	4.0m Eastern Elevation	Within Envelope	-	Yes
	4.0m Western Elevation	Outside Envelope	Max: 5.0%	No
B5 Side Boundary Setbacks	0.9m Eastern Boundary	First Floor: 2.0m Ground Floor: 1.8m	-	Yes
	0.9m Western Boundary	Garage: 0.5m Rear Paved Area: 0.3m Retaining Wall: Nil First Floor: 7.7m - 11.1m Ground Floor: 1.4m	44.4% 66.7% 100.0% - -	No No No Yes "
B7 Front Boundary Setbacks	6.5m Northern Boundary	Garage: 8.8m Dwelling House > 6.5m Stepping Stones: 0.1m Retaining Wall: Nil	- - 98.5% 100.0%	Yes " No No
B9 Rear Boundary Setbacks	6.0m Southern Boundary	Swimming Pool Area: 2.8m Dwelling House: > 6.5m	53.3% -	No Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40.0% (279.4m ²)	41.8% (291.8m ²)	-	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	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	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
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
D16 Swimming Pools and Spa Pools	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
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of Non-Compliance

Clause B5 Side Boundary Setbacks requires a setback of 0.9m to each side boundary to sites located within the R2 Low Density Residential zone.

The proposal includes a retaining wall with a side setback of 0.0m, a paved courtyard with a side setback of 0.3m and a garage with a side setback of 0.5m from the western boundary. The remainder of the proposed works are compliant with the numerical requirements of this clause.

It is noted that the paved courtyard and garage are situated in generally the same location as the existing works that are to be replaced.

The clause consists of an exception for R2 zoned areas, which stipulates that structures not more than 1.0m above ground level (existing) may encroach beyond the minimum side setback. The non-conforming elements are less than 1.0m in height.

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 exhibits a compliant landscape open space calculation, therefore maintaining acceptable dimensions for future opportunities for deep soil landscape and the retention of significant vegetation.

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

Comment

The proposed garage is located in a similar location to that of the existing garage, and is not considered to be a visually dominant design. The retaining wall and courtyard elements are not excessive, and will complement the overall dwelling house design appropriately.

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

Comment

Any perceived visual dominance of the build will be mitigated by the surrounding vegetation. Overall the dwelling house is proposed to be well-articulated.

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

Comment

The side boundary setbacks are consistent with the surrounding dwelling houses and is compliant with the relevant solar access and privacy requirements.

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

Comment

The encroachment into the side setback area will not result in any unacceptable view loss from surrounding private properties or the public domain.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

Clause B7 Front Boundary Setbacks prescribes a front boundary setback requirement of 6.5m for all built structures, other than driveways and fencing.

The proposed development includes the construction of a retaining wall and the addition of stepping stones with a minimum front setback of 0.0m - 0.1m.

The remainder of the proposed works exhibit compliance with the 6.5m minimum front boundary 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 elements of non-compliance will not impinge upon the sense of openness along streetscape. The front setback area will maintain an acceptably sized vegetated lawn area.

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

Comment

The bulk of the built form will remain consistent with the overall building line pattern of the streetscape. The elements causing the encroachment are minor in nature, are ancillary to the dwelling house and are considered landscaping components.

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

Comment

The addition of the retaining wall and stepping stones are associated with the landscaping elements of the subject site, and will aid in the visual quality of the streetscape, and will not impact the adjoining public space area to the west.

- ***To achieve reasonable view sharing.***

Comment

The encroachment into the front setback area is not considered to result in any unreasonable view loss from surrounding private properties or the public domain

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

B9 Rear Boundary Setbacks

Description of Non-Compliance

Clause B9 Rear Boundary Setbacks requires development to comply with a rear setback of 6.0m.

An exception is provided within the Clause for land zoned R2 Low Density Residential, where the minimum rear building setback is 6.0m, exempt development such as swimming pools and access stairs that in total, do not exceed 50.0% of the rear setback area can be supported, provided that the objectives of this provision are met.

The proposed development consists of a swimming pool and associated courtyard located 2.8m from the southern rear boundary line, however does not exceed 50.0% of the rear setback area. It is noted that the remainder of the proposed works is compliant with the numerical requirements.

Merit Consideration

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

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

Comment

The dimensions of the landscaped open space area is sufficient in accommodating for new and existing vegetation and is capable of providing future deep soil landscaping opportunities.

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

Comment

The non-conforming element is a part in-ground swimming pool and courtyard area. On this basis the presence of these works will not detract from a sense of openness within the rear yard. The remainder of the rear yard will accommodate for an open lawn area.

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

Comment

The swimming pool is centrally located and is not substantially elevated in nature, with the new courtyard to be situated within a similar location to that of the existing. It is therefore considered that the existing boundary fencing will provide for acceptable privacy.

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

Comment

The visual continuity will not be disrupted due to the variation of rear setbacks within the immediate vicinity. Several dwelling houses to the southern side of Hyde Avenue consist of swimming pools with similar rear setbacks and location. Therefore, the swimming pool is considered consistent with other swimming pools and courtyard areas, within the area.

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

Comment

As mentioned above, the proposed development provides appropriate opportunities to maintain

privacy between dwellings.

Having regard to the above assessment, it is concluded that the outcomes of the control have been achieved. Therefore, the application is supported on merit 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 \$4,730 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$473,000.

CONCLUSION

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

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

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

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

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

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 DA2023/0398 for Alterations and additions to a dwelling house on land at Lot 623 DP 217209, 9 Hyde Avenue, KILLARNEY HEIGHTS, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA1003, Site Plan, Revision 1	9 December 2022	Rapid Plans
DA1006, Demolition Ground Floor Plan, Revision 1	9 December 2022	Rapid Plans
DA1007, Demolition Roof Plan, Revision 1	9 December 2022	Rapid Plans
DA1008, Excavation & Fill Plan, Revision 1	9 December 2022	Rapid Plans
DA2002, First Floor, Revision 1	9 December 2022	Rapid Plans
DA2003, Roof, Revision 1	9 December 2022	Rapid Plans
DA3000, Section 1, Revision 1	9 December 2022	Rapid Plans
DA3001, Section Drive, Revision 1	9 December 2022	Rapid Plans
DA3002, Section Pool, Revision 1	9 December 2022	Rapid Plans
DA4000, Elevations 1, Revision 1	9 December 2022	Rapid Plans
DA4001, Elevations 2, Revision 1	9 December 2022	Rapid Plans
DA4002, Elevations 3, Revision 1	9 December 2022	Rapid Plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment (Ref. AG 22539)	14 December 2022	AscentGeo Geotechnical Consulting
Bushfire Assessment Report (Ref. 230694)	16 February 2023	Building Code & Bushfire Hazard Solutions Pty Limited.
BASIX Certificate (No. A483346_03)	31 May 2023	Rapid Plans

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement

Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA1011, Landscape Plan, Revision 1	9 December 2022	Rapid Plans

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	-	-

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	3 May 2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been

completed.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

structures or appliances are to be removed within 7 days.

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$4,730.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$473,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with

the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

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

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

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

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

7. Construction, Excavation and Associated Works Security Bond(s)

The applicant is to lodge a bond with Council for the following:

Drainage Works

As security against any damage to Council's stormwater infrastructure as part of this consent a bond of \$15,000.00.

Details confirming payment of the bond(s) are to be submitted to the Principal Certifier 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 for Development Policy. Details by an appropriately qualified and practicing Civil or Hydraulic Engineer demonstrating that the existing approved stormwater system can

accommodate the additional flows, or compliance with Council's policy are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

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

9. **Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Standard Normal profile in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

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

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

10. **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). Structural details prepared by a suitably qualified Civil Engineer by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG).

Details demonstrating compliance should be submitted to Council for acceptance and the acceptance in writing is to be submitted to the Certifier prior to the issue of the Construction Certificate

Reason: Protection of Council's infrastructure

11. **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/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.1>

Applicant is also advised to accurately locate, confirm dimensions including depth, and plot to scale Council's stormwater pipeline including the location of Council's drainage easement and associated infrastructure on the survey and master plans that outline the proposal. This should be carried out by a service locating contractor and registered surveyor (evidence of methodology used for locating stormwater system should be provided).

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

Reason: Protection of Council's infrastructure.

12. **Erosion and Sediment Control Plan**

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

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

13. **Compliance with Standards**

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

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

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

14. **External Finishes to Roof**

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

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

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

15. **Sydney Water "Tap In"**

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

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

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

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

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

16. Works located within site boundary

All parts of the approved works are required to be wholly located within the boundaries of the subject property (Part Lot 623 DP 217209 - No. 9 Hyde Avenue, Killarney Heights) and shall not encroach onto any lot boundary lines.

Reason: To ensure works are located within site boundary

17. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. Tree Removal Within the Property

This consent approves the removal of existing trees on the subject site as listed below:

- a) the one tree in the northern corner of the property (as shown on the Survey Plan),
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

19. Installation and Maintenance of Sediment and Erosion Control

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
 - ii) all trees and vegetation located on adjoining properties,

- iii) all trees and vegetation within the road reserve.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project 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/Project Arborist to the Principal Certifier,
 - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
 - ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 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 Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

21. **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.

22. **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.

23. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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 Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

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

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

25. **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 Certifier when the external structure of the building is complete.

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

26. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

27. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

28. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

29. **No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

30. **Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

31. **Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters,

crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993. Existing trees shall be protected in accordance with AS4970-2009

Protection of trees on development sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Reason: To protect and/or restore any damaged public asset.

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

32. Required Tree Planting

Trees shall be planted in accordance with the following:

- a) one small locally native tree shall be planted within the front setback to achieve at least (6) metres height at maturity, and in accordance with the following:
 - i) tree planting shall be a minimum pre-ordered planting size of 75 litres; generally selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
 - ii) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.
- b) Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

33. Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)

The Applicant shall 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 in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

34. 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 Certifier prior to the issue of an Occupation Certificate.

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

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.

Details demonstrating compliance should be submitted to Council for acceptance and the acceptance in writing is to be submitted to the Certifier prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure

36. Removal of All Temporary Structures/Material and Construction Rubbish

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

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

Reason: To ensure bushland management.

37. Waste Management Confirmation

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

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

38. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in

rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

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

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

Reason: To protect human life.

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

39. **Landscape Maintenance**

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

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

Reason: To maintain local environmental amenity.

40. **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.

41. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

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

Signed



Brittany Harrison, Planner

The application is determined on 05/06/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments