

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1363
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Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 2 DP 1082108, 24 A Hay Street COLLAROY NSW 2097
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
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Gail Philippa Donaldson Gary James Donaldson
Applicant:	Gail Philippa Donaldson Gary James Donaldson

Application Lodged:	29/11/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	16/12/2019 to 21/01/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 19.5%
Recommendation:	Approval

Estimated Cost of Works:	\$ 529,465.00
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EXECUTIVE SUMMARY

The application seeks consent for Alterations and additions to a dwelling house.

The subject dwelling has an existing height of 8.975m and therefore breaches the permissible Height development standard by 5.6%. The development proposes to increase the height by an additional 1.185m creating an overall height of 10.16m which will equate to an overall breach of 19.5%

Notification of the application resulted in no submission to the proposed development.

The application has been referred to the Development Determination Panel (DDP) as the development

has a non-compliance with the height in excess of 10% for a single dwelling house (Class 1 Building).

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The subject development application proposes the following works:

Garage

A new double garage is proposed off Bedford Crescent. A new crossing and driveway is proposed in the south eastern corner of the site. The garage will be supported on concrete piers and will have a colorbond pitched roof and finished in rendered brick to match the existing dwelling.

Lower Ground Floor

The development proposes to utilise the existing single garage as additional floor area with a new staircase providing access to the existing ground floor. An addition to the eastern elevation of the lower ground floor is proposed to create a rumpus room. External access to the rumpus room is provided along the eastern elevation via sliding doors. An entry door to the rumpus room is provided along the northern elevation.

Ground Floor

At ground floor level, the development proposes to extend the existing terrace over the proposed rumpus room along the eastern elevation. The terrace will be increased in size from 13.5m² to 41m² and will sit directly over the rumpus room. A new door is proposed along the eastern elevation providing access to the terrace from the existing bedroom located along the southern side of the site. A new staircase is proposed between two (2) existing bedrooms along the eastern elevation.

First Floor

New internal staircase to proposed second floor. Access into kitchen from proposed external staircase and lift.

Second Floor Level

The application proposes a bedroom, ensuite and balcony along the eastern elevation. The proposed bedroom will be accessible by and internal staircase and the proposed lift which is located along the western elevation of the dwelling.

ASSESSMENT INTRODUCTION

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

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

determination);

- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

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

SITE DESCRIPTION

Property Description:	Lot 2 DP 1082108 , 24 A Hay Street COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Hay Street.</p> <p>The site is irregular in shape with the northern boundary measuring 45.63m and the south eastern boundary measuring 27.885m. The site does not have a traditional street frontage with the northern and south eastern side boundaries meeting at a point along the northern boundary fronting Hay Street. The south western boundary of the site has a secondary frontage to Bedford Crescent measuring 33.785m. The site has a surveyed area of 694.8m².</p> <p>The site is located within the R2 Low Density Residential zone from WLEP 2011 and accommodates a two/three storey rendered dwelling with vehicular access provided from Hay Street along the northern side of the site. An ground swimming pool is located in the backyard of the site along northern side of the site. The rear of the site is heavily vegetated and has been landscaped with garden beds bed and retaining walls stepping up the site to Bedford Crescent due to the slope of the site.</p> <p>The site falls approximately 10.0m from the south western corner of the site fronting Bedford Crescent to the north eastern corner of the site fronting Hay Street. The site currently enjoys extensive northern and eastern ocean views towards Long Reef and Collaroy Beach.</p> <p>Adjoining and surrounding development is characterised by residential dwellings of a similar size and scale to the subject site.</p>

Map:



SITE HISTORY

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

- DA2005/887 Approved on 4 November 2005 for Upper storey addition, new deck and stairs.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires</p>

Section 4.15 Matters for Consideration'	Comments
	<p>the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>The applicant proposed a new driveway crossing and garage on Bedford Crescent.</p> <p>The proposed driveway will be built on Council's road embankment. In general, the driveway shall be a self supported structure which does not add any additional load on the existing embankment. Also, an additional geotechnical information shall be required on the embankment before any commencement of work.</p> <p>Development Engineering has no objection to the application subject to the conditions of consent. However, the application may be sent to Transport & Civil Infrastructure Assets for assessment.</p> <p><u>Planner Comment</u></p> <p>The development application was referred to Transport & Civil Infrastructure Assets for assessment on 4 March 2020 with the following comments received on 4 March 2020.</p> <p><i>The Development Engineers need to condition the DA approval ensure the driveway crossing and associated structures on the road reserve meet Council requirements. This has been done with</i></p>

Internal Referral Body	Comments
	<p><i>condition relating to Road Act application.</i></p> <p><i>As such, no specific objection to the proposed DA.</i></p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A356376, 15 November 2019).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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	10.16m	19.5%	Yes

Compliance Assessment

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

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

The development proposes to increase the height of the dwelling to 10.16m. The development standard for the site is 8.5m. The proposed development will create a 19.5% variation to the Height development standard.

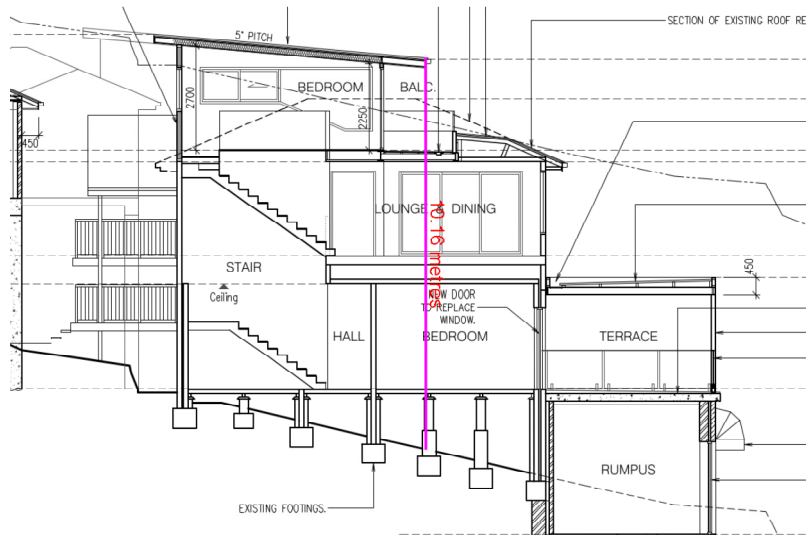


Image 1: Calculation of Height

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

- *"The proposed addition will not result in any unreasonable impacts upon adjoining properties in terms of views, privacy or overshadowing.*
- *When viewed from Bedford Crescent, the proposed addition will present as a single storey height above the street level which is compatible with the prevailing and surrounding development which has been constructed to provide off street parking for a dwelling.*
- *The modulation of the front facade along with the compliant side setbacks will ensure the development minimises the visual impact when viewed from the surrounding public and private areas.*
- *The proposed low height skillion roof will reduce the overall building height and will significantly reduce the bulk of the dwelling.*
- *The addition has been located on the southern side of the dwelling to minimise the overall height and bulk of the dwelling to the northern side of the dwelling."*

The proposed alterations and additions to the existing residential dwelling have been designed in a way that minimises the visual bulk and scale of the structure, as well as achieving consistency with the visual continuity of the existing streetscape of both Hay Street and Bedford Crescent. The proposed development is unlikely to impact upon amenity of adjoining properties and will serve to increase the usability and amenity of the subject site.

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

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

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

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

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

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

Comment:

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

Objectives of development standard

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

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

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

Comment:

The proposed alterations and additions to the existing dwelling house are contained towards the southern side of the dwelling. Along the northern side of the site, the existing dwelling presents as a three (3) storey structure towards the front of the dwelling with the southern side presenting as a two (2) storey dwelling. The site slopes down from Bedford Crescent towards Hay Street with the site also falling from the south to the north by approximately 2.0m across the middle portion of the dwelling. The location of the second storey addition along the southern elevation will ensure the development is proposed in a position which will not create a development which is of a bulk and scale out of character with the surrounding streetscape of Hay Street and Bedford Crescent, and due to the non-compliant portion of the development being located towards the secondary frontage (Bedford Crescent), the building breach is not considered to impact on the desired character of the locality.

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

Comment:

The proposed second storey addition to the dwelling will have no impact on existing views enjoyed by adjoining and surrounding properties. The location of the second storey addition is located along the southern side of the site and will sit behind the rear building line of 24 Hay Street and will not disrupt any northern views obtained from the second floor of 24 Hay Street. The properties to the south and south west of the subject site are located at a higher level due to the topography of the surrounding locality and therefore will retain extensive views towards the ocean. No windows are proposed along the southern elevation of the second storey addition. A balcony is proposed along the eastern elevation of the second storey addition, however due to the orientation of the site and the use of the

balcony off a bedroom, no privacy issues are anticipated towards adjoining properties. Whilst the addition is proposed along the southern side of the dwelling, the overshadowing impacts are not considered to have a significantly greater impact than the existing situation which and is compliant with the solar access controls outlined in the WDCP.

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

Comment:

The proposed second level addition is generally compliant with setbacks and has proposed a low form skillion roof to minimise the bulk and scale of the overall development when viewed from a public place. The proposed materials and finishes are of a darker nature which will be more compatible with the surrounding scenic quality of the bush and coastal environment.

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

Comment:

The siting of the second floor addition will not be overly visible when viewed from Bedford Crescent due to the natural topography of the site and the location of the double garage which will present as the main built form element along the south western elevation. Whilst the site does not form a traditional street frontage to Hay Street, the location of the second storey addition will be set significantly behind the front building line of the subject dwelling and in particular the adjoining dwellings of 24 Hay Street and 26 Hay Street. The skillion roof over the proposed addition will contribute to a building form which is more compatible with the natural topography of the site and will not impact on the development when viewed from public places.

The underlying objectives of the R2 Low Density Residential zone:

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

Comment:

The subject site will continue to provide for the housing needs of the community.

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

Comment:

The subject site will continue to be used as a single dwelling and will not impact on other surrounding land uses.

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

Comment:

The proposed development will maintain the existing residential land use.

Conclusion:

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

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

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

Planning Circular PS 18-003 dated 21 February 2018, issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Height of building Development Standard associated with a single dwelling house (Class 1 building).

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.2m	13.8%	No
B3 Side Boundary Envelope	N: 4m	Within envelope	N/A	Yes
	SE: 4m	Breach of 177mm in height for a length of 100mm	1%	No
B5 Side Boundary Setbacks	N: 0.9m	0m - stairs	100%	No
	SE: 0.9m	0m - stairs	100%	No
B7 Front Boundary Setbacks - Secondary	3.5m	820mm	N/A	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (277.92m ²)	42.8% (297.9m ²)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Requirement

The maximum wall height control allows 7.2m.

Description of non-compliance

8.27m along the southern boundary.

Merit consideration:

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

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

Comment:

The second floor addition is located on the southern side of the dwelling and proposes a skillion roof. The highest part of the wall is located centrally within the site and is behind the rear building line of 24 Hay Street which is located to the south of the subject site. As a result of the irregular shaped site and the siting of the subject dwelling, this wall will not have a visual impact on the neighbouring property and will not impact on any views currently enjoyed from 24 Hay Street and other surrounding properties.

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

Comment:

The proposed development will sit generally beneath the existing tree canopy. The development proposes to retain some large canopy trees along Bedford Crescent which will ensure the proposed works will not dominate the existing streetscape.

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

Comment:

The proposed second floor addition to the dwelling will ensure existing views are maintained for the surrounding properties and reasonable view sharing is maintained.

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

Comment:

The proposed development will have a minimal impact on the amenity of adjoining and nearby properties. The subject site is located on a sloping site with Bedford Crescent (secondary frontage) located along the south western boundary. Due to the existing topography of the immediate vicinity, the proposed works will not be overly visible and will have a minimal impact on the character of the streetscape when viewed from Bedford Crescent. The second storey addition will not create any adverse overshadowing towards adjoining properties.

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

Comment:

The second storey addition is proposed along the southern side of the dwelling and results in a minimal excavation of the natural landform. Due to the natural fall of the site, the location of the second storey addition responds more positively to the overall topography of the site with the development being located on the southern side of the dwelling. The location of the second storey along the southern side results in a lesser overall building height and wall height and will also be located behind the proposed new garage off Bedford Crescent reducing the overall bulk on the secondary frontage.

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

Comment:

The development proposes a skillion roof which is in keeping with the natural slope of the site and will reduce the overall height of the development when viewed from both Bedford Crescent and Hay Street.

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

B3 Side Boundary Envelope

Description of non-compliance

The development proposes a breach to the required building envelope of 177mm in height for a length of 100mm within the eastern corner of the second storey addition along the south eastern elevation.

Merit consideration

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

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

Comment:

The minor breach to the building envelope control does not create a development which is visually dominant by virtue of its height and bulk. The addition responds positively to the topography of the site, is adequately setback from the south eastern boundary and incorporates a skillion roof which assists in reducing the overall height of the development when viewed from a public place.

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

Comment:

The development proposes a generous setback of 4.09m - 4.19m from the south eastern boundary where the non-compliance with the building envelope occurs. The setback from the south eastern boundary increases as a result of the irregular shaped site. This generous separation along with the siting of the second storey addition within the site ensures the amenity of the surrounding buildings is maintained and not compromised as a result of the minor non-compliance with the building envelope control.

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

Comment:

The breach to the building envelope control is located within the eastern corner of the second storey addition. The breach is considered a minor non-compliance in relation to the slope of the site, with the location of the addition having the least impacts in regard to the amenity of neighboring properties and the appearance of the development when viewed from both Hay Street and Bedford Crescent.

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

B5 Side Boundary Setbacks

Description of non-compliance

The WDCP requires a minimum 900mm setback to side boundaries. Due to the irregular shape of the subject site, the side boundaries are identified as the south eastern side and northern side of the site. The development proposes stairs along the south eastern and northern side boundaries creating a nil setback to both. The development proposes to extend the dwelling at ground level towards Hay Street and utilise the existing garage for additional floor area and an internal staircase.

The development proposes the following setbacks for the lower ground floor addition:

South eastern side: 1.66m

Northern side: 900mm

Merit consideration

The WDCP allows for a variation to the side setback control for structures no greater than 1.0m in height. The proposed stairs within the side setbacks are less than 1.0m in height on both the south eastern and northern boundaries. The stairs will not impact on the appearance of the dwelling when viewed from Hay Street and due to the slope of the site are considered necessary to be able to access the rear of the site. The development has been assessed against the objectives of the Side Boundary Setback controls in the WDCP and is considered acceptable.

B7 Front Boundary Setbacks

Description of non-compliance

The WDCP allows a site with a double street frontage where the minimum front building setback is 6.5 metres to both frontages, the front building setback may be reduced to 3.5m for the secondary frontage. The subject site is unique in that it does not provide a traditional front building setback due to the irregular shape of the site. However as the existing dwelling does front Hay Street and has vehicular access from Hay Street, Bedford Crescent is considered the secondary frontage of the site. Whilst it is difficult to ascertain an exact front building setback of the existing dwelling to Hay Street, the existing dwelling does sit behind the front building line of both neighbouring properties at 24A Hay Street and 26 Hay Street.

The proposed setback of the new garage to Bedford Crescent is 821mm - 5.7m creating a maximum 76% variation to the secondary frontage control.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The proposed garage will maintain a sense of openness for the site as the setback of the garage to Bedford Crescent will increase due to the irregular shape of the site. The proposed garage complies with the maximum 8.5m height standard for the site and is located within the widest part of the site where the site is densely vegetated therefore maintaining an area which remains predominantly open when viewed from Bedford Crescent.

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

Comment:

A similar development has been constructed south of the subject site at 24 Bedford Crescent. The proposed garage will be of a similar size and scale as the adjoining garage and with a generous separation between the two (2) structures will not ensure a visual continuity of structures along Bedford Crescent is attained without creating development which dominates the street.

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

Comment:

The proposed garage will be located on concrete piers which will result in the structure being visible from Bedford Crescent. However due to the slope of the site falling away from Bedford Crescent towards Hay Street, the floor level of the garage will sit slightly lower than street level. The garage roof has been designed as to minimise any visual impact on the street and due to the siting of the garage, the setback to Bedford Crescent increases from 820mm to 5.7m and with the location of substantial canopy trees along Bedford Crescent, the garage does not present as a dominant structure to the street.

- *To achieve reasonable view sharing.*

Comment:

The proposed garage will not impact on any existing views enjoyed by the surrounding dwellings. This is due to the topography of the subject site and adjoining sites. Properties located on the western side of Bedford Crescent are accessed from Lancaster Crescent which runs parallel to Bedford Crescent with a nature strip separating the two (2) streets. The dwellings located to the west of the site along Lancaster Crescent are located substantially higher than the subject site and therefore will not be impacted at all by the proposed garage therefore retaining their ocean views.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$5,295 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$529,465.

CONCLUSION

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

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

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

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

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

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the

proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

Council is satisfied that:

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

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

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

Accordingly Council as the consent authority grant Development Consent to DA2019/1363 for Alterations and additions to a dwelling house on land at Lot 2 DP 1082108, 24 A Hay Street, COLLAROY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
1 Rev A - Site Plan / Site Analysis Plan	November 2019	Michael Airey
9 Rev A - Proposed Lower Ground Floor	November 2019	Michael Airey
10 Rev A - Proposed Ground Floor Plan	November 2019	Michael Airey
11 Rev A - Proposed First Floor Plan	November 2019	Michael Airey
12 Rev A - Proposed Loft Floor Plan	November 2019	Michael Airey
13 Rev A - Proposed Roof Plan	November 2019	Michael Airey
14 Rev A - Proposed South Elevation	November 2019	Michael Airey
15 Rev A - Proposed West Elevation	November 2019	Michael Airey
16 Rev A - Proposed North Elevation	November 2019	Michael Airey

17 Rev A - Proposed East Elevation	November 2019	Michael Airey
18 Rev A - Section A-A	November 2019	Michael Airey
20 Rev A - Proposed Landscaped Area	November 2019	Michael Airey

Engineering Plans		
Drawing No.	Dated	Prepared By
25 Rev A - Proposed Driveway Longitudinal Section - Centreline Parking 1	November 2019	Michael Airey
26 Rev A - Proposed Driveway Longitudinal Section - Left Hand Edge	November 2019	Michael Airey
27 Rev A - Proposed Driveway Longitudinal Section - Right Hand Edge	November 2019	Michael Airey

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A356376	15 November 2019	Michael Airey Building Design & Drafting
Geotechnical Report	26 July 2019	White Geotechnical Group

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Northern Beaches Waste Management Plan	26 November 2019	Vaughan Milligan

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

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

2. **Prescribed Conditions**

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

a telephone number on which that person may be contacted outside working hours, and

- (iii) stating that unauthorised entry to the work site is prohibited.

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
- A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$5,294.65 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$529,465.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or

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

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

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

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

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

5. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

6. Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)

The applicant is to lodge a Bond of \$ 20000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

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

Reason: Protection of Council's Infrastructure.

CERTIFICATE

7. **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 WARRINGAH WATER MANAGEMENT POLICY PL850.

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

8. **Boundary Identification Survey**

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

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

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

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

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

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

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

- The width and location of the access driveway at Bedford Crescent must be designed in accordance with section 3.2 of Australian/New Zealand Standard AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.
- A turning path is to be submitted to demonstrate the accessibility from Bedford crescent to the access driveway.
- Safety devices must be installed on the proposed driveway.
- No load bearing on the existing wall from the proposed slab/ structure. Alternative, the design must either replace existing retaining wall to maintain support of road or reinforce existing wall to extend life (100 years)
- The crossing slab between the kerb and gutter and the existing retaining wall must be on ground slab
- The design must demonstrate that the kerb and gutter system along Bedford crescent

has sufficient capacity to cater for the 1 in 20 year ARI stormwater event. The proposed driveway layback and vehicle crossing in Bedford Crescent does retain the gutter flow within the road carriageway.

The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess the existing retaining wall and the related area between the retaining to the property boundary along Bedford Crescent. The report must include:

- a full assessment of the existing retaining wall including the stability assessment of the wall
- a proposal either to replace the existing sandstone wall to maintain support for road or reinforce the existing wall to extend the design life to 100 years. Any structural design must be prepared by a qualified structural engineer.
- the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation
- the provision of appropriate protection for the retaining wall during and after completion of construction works.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

10. Structural Adequacy and Excavation Work

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

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

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

Reason: To provide public and private safety.

11. Pre-commencement Dilapidation Report

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's Infrastructure during construction.

12. **Compliance with Standards**

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

15. **Civil Works Supervision**

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

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

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

16. **Traffic Control During Works**

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

Reason: Public Safety.

17. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5 metres wide in accordance with Northern

Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

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

18. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

19. **Post-Construction Road Reserve Dilapidation Report**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.