

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0032
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 17 DP 19657, 6 Stephen Street BEACON HILL NSW 2100
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:	Craig Anthony Willi Haack Leanna Stanley
Applicant:	Craig Anthony Willi Haack Leanna Stanley

Application Lodged:	19/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	01/02/2022 to 15/02/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 3.5%
Recommendation:	Approval

Estimated Cost of Works:	\$ 673,500.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for alterations and additions to a residential dwelling pursuant to the *Warringah Local Environmental Plan (WLEP) 2011*, including the following:

Lower ground floor:

- Garage extension
- Retaining wall

Ground floor:

- Internal reconfiguration of floor plan including increase to floor space
- Front and rear balconies
- New front entry stairs and internal foyer

First floor:

- New first floor addition
- Bedroom 1 with walk-in robe and ensuite and access to first floor balcony
- Bedrooms 2 and 3
- Family room with wet bar

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 - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - D10 Building Colours and Materials

SITE DESCRIPTION

Property Description:	Lot 17 DP 19657 , 6 Stephen Street BEACON HILL NSW 2100
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Detailed Site Description:

The subject site consists of one (1) allotment located on the northern of Stephen Street.

The site is regular in shape with a frontage of 15.24m along Stephen Street and a depth of 30.48m. The site has a surveyed area of 464.5m².

The site is located within the R2 Low Density Residential zone within the *Warringah Local Environmental Plan (WLEP) 2011* and accommodates a single storey residential dwelling with an attached garage located on the lower ground level.

The site has a southerly orientation to Stephen Street and is located on a cross-fall slope of approximately 5.3% (or 1.28m), falling from the rear yard toward the south-eastern front corner of the site.

The site is not known to have any threatened species. The survey provided indicates multiple trees are sited within the rear yard.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one (1) and two (2) storey residential dwellings.

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.

APPLICATION HISTORY

In accordance with Council's Community Participation Plan (CPP) (which can be found on Council's website) only the directly adjoining properties were formally notified of the proposed development. The subject site is located downhill from multiple properties and, due to the proposed first floor addition, Council raised concerns that this may result in adverse impacts to the views and amenity of the residents of 2 Stephen Street. 2 Stephen street, which is located two allotments up hill from the subject site, was not included in the formal notification. In this instance, the Applicant was requested to provide confirmation that the residents of 2 Stephen Street be informed of the proposed development and provide signed correspondence that they did not oppose to the proposed development. This information was requested by the Applicant on 23 March 2022, and it was provided to Council on 5 April 2022.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to a signed letter from the residents/owners of 2 Stephen Street, Beacon Hill confirming they do not object to the proposal. This information was requested on 23 March 2022, and was provided to Council on 5 April 2022.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <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 (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 Bushfire Planning & Design, dated 11/09/2021) 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.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 01/02/2022 to 15/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The letter from Complete Arborcare advising of no impacts to protected trees is noted.</p> <p>The plans also indicate that no significant landscape features are affected by the proposed works.</p> <p>No objections are raised with regard to landscape issues subject to conditions.</p>
NECC (Development Engineering)	<p>Applicant seeks approval for alteration and additions to existing dwelling including a new top floor. The existing garage is proposed to be extended with internal stairs. The driveway and vehicular crossing is to be retained. Stormwater is proposed to connect to the street drainage system.</p> <p>No Development Engineering objection subject to conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposed development was referred to Ausgrid. Ausgrid provided a response and indicated a decision was not required.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A438214_02, dated 1 November 2021).

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

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 who advised a decision was not required.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
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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	8.8m	3.5%	No

Compliance Assessment

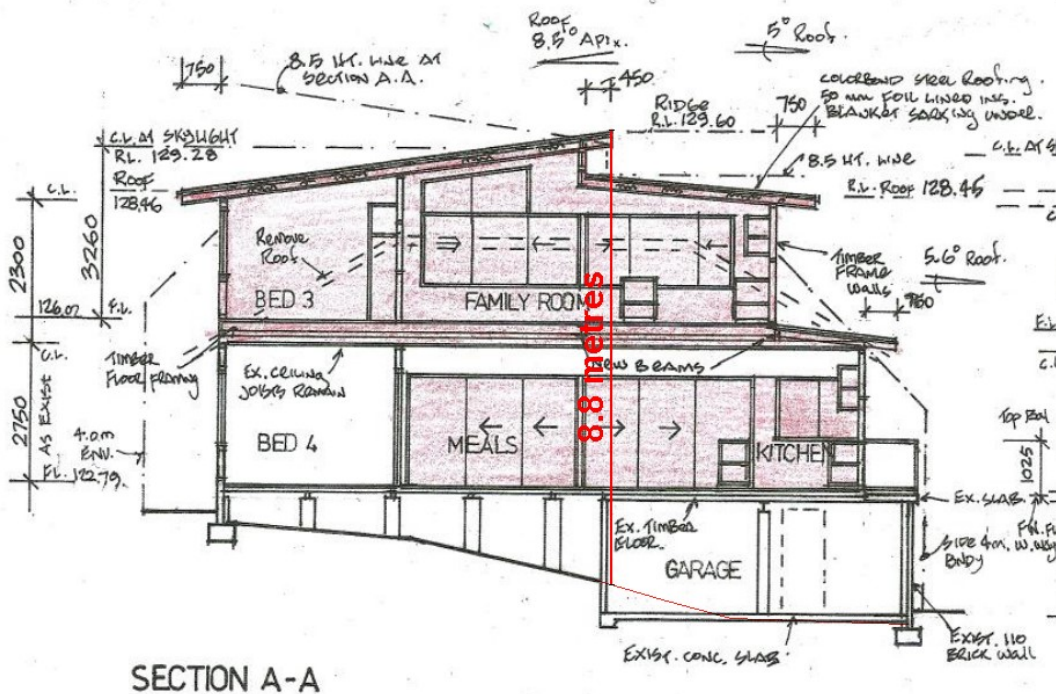
Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	8.8m
Percentage variation to requirement:	3.5%



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 proposal doesn't exceed the maximum building height across the entirety of the development. The degree of variation is due to the topography of the land, which includes an unusual recession in the centre of the site.*
- *The modest non-compliance would not be viewed as out of character in the surrounding residential environment. A two storey dwelling on the site is in keeping with neighbouring built form and the height and scale of the proposed development would be compatible with the surrounding and nearby development.*
- *The proposed development is permissible in the R2 Low Density Residential zone, and is consistent with the relevant objectives.*
- *The siting, bulk and scale and massing of the proposed development is appropriate in the setting of the subject site.*
- *The proposed development would not give rise to any harmful impacts on neighbouring amenity.*

Notwithstanding the numerical non-compliance to Cl. 43 of the *WLEP 2011*, the proposed first floor addition has been designed in such a way that ensures the resultant dwelling house will be a contemporary building that is commensurate with the other contemporary dwellings of Stephen Street, thus positively contributing to the character of the area. The proposed development will serve to increase the usability and amenity of the subject site. It must be noted that while the Cl. 4.6 prepared by Planning Progress indicates the maximum building height is 9.23m (exceeding the maximum building height by 730mm), Council's independent assessment concluded the maximum height breach is 8.8m (as measured from Section A-A, prepared by Newbuild Design and Drafting, dated September 2021). Thus, presenting a variation of 3.5%, and is sited centrally to the first floor addition, as a result of the skillion-style roof and pitch. As such, Council considers this to be a minor breach that does not give rise to any unreasonable amenity impacts upon adjoining properties, particularly privacy and overshadowing. Council can support the variation.

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 1979*.

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 - Clause 4.3 Height of Buildings.

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 development will result in a building whereby the height and scale (and generally building massing) is commensurate with surrounding and nearby dwellings.

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

Comment:

Notwithstanding the numerical non-compliance to Cl. 4.3, the proposed development is unlikely to remove views entirely, rather view sharing shall be achieved. Nor will the proposal create an unreasonable visual impact when viewed from adjoining and nearby public and private allotments. The proposed development was considered against the underlying outcomes of D8 Privacy of the WDCP (a discussion on this matter found elsewhere in this report). Council is satisfied the proposed development, as conditioned, will result in an acceptable level of privacy between the subject site and adjoining properties. Furthermore, the shadow diagrams provided with this application indicate that the subject site and adjoining properties will continue to experience at least 50% of solar access for at 3 hours during the winter solstice. As such, notwithstanding the non-compliant building height, the proposal achieves satisfactory levels of solar access, privacy and minimal disruption to views.

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

Comment:

The proposed development is generally sited over the existing building footprint. However, areas that extend beyond this do not require the removal of any significant or threatened fauna species. Further, the resultant dwelling house will be sited below the natural environment that surrounds the subject site. In this instance, the scenic quality of Warringah's coastal and bush environments will not be compromised.

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

Comment:

As detailed above, the proposed development is an acceptable development within the R2 Low Density Residential zone. In this instance, the visual impact will be commensurate with surrounding developments, particularly the more contemporary dwellings of Stephen Street, and those in the wider locality of Beacon Hill. It is unlikely that any community facilities will be unreasonably or adversely impacted as a result of the proposed development.

Zone objectives

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

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

Comment:

The proposed development will not negatively impact upon 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 proposed development maintains housing variety within the residential area.

- *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 continue the existing residential land use of the subject site, and adjoining allotments. Further, the proposed development does not require the removal of any substantial landscape treatments, thus being in harmony with the natural environment of Warringah.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of

the R2 Low Density Residential zone.

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

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

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

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	Western elevation: 6.1m Eastern elevation: 8.3m - 7.9m	N/A 13.8% (max.)	Yes No
B3 Side Boundary Envelope	4m (Eastern elevation)	Encroachment: 1.7m - 1.8m for a distance of 9.0m	N/A	No
	4m (Western elevation)	Encroachment: 770mm for a distance of 16.3m	N/A	No
B5 Side Boundary Setbacks	0.9m (Eastern boundary)	Front Balcony (GF): 200mm Front Balcony (FF): 1.4m Rear Balcony: 200mm Garage: 200mm Dwelling (GF): 1.4m Dwelling (FF): 2.9m, 6.6m & 10.0m	77.7% N/A 77.7% 77.7% N/A N/A	No (existing) Yes No No (existing) Yes Yes
	0.9m (Western boundary)	Dwelling (GF): 1.3m (Existing) Dwelling (FF): 1.3m	N/A N/A	Yes (As existing) Yes
B7 Front Boundary Setbacks	6.5m	Dwelling: 7.8m - 8.0m Balcony: 10.5m - 8.3m	N/A N/A	Yes Yes
B9 Rear Boundary Setbacks	6m	Dwelling: 6.5m Balcony: 6.7m	N/A N/A	Yes Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (185.8m ²)	40.1% (186.4m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	No	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

This Clause relies upon the objectives of Cl. 4.3 Height of Buildings under WLEP 2011.

An assessment of the proposal against the objectives of this clause has been provided in the section of this report relating to Cl. 4.3 of WLEP 2011. This assessment has found the proposal to be consistent with the objectives of Cl. 4.3 of WLEP 2011.

B3 Side Boundary Envelope

Description of non-compliance

This control requires development to be sited within a building envelope, which is measured from the side boundaries at a maximum height of 4.0m, then angled inward at 45 degrees.

The proposed development extends beyond the building envelope along both the eastern and western elevations (as identified in the images below - breach shown in yellow).

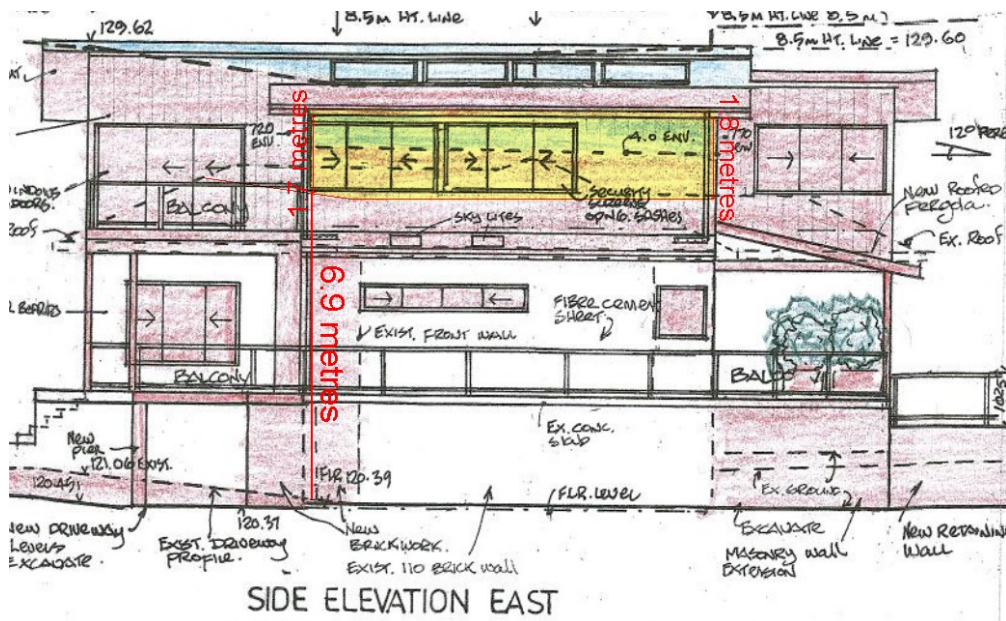


Image 1. East elevation building envelope breach.

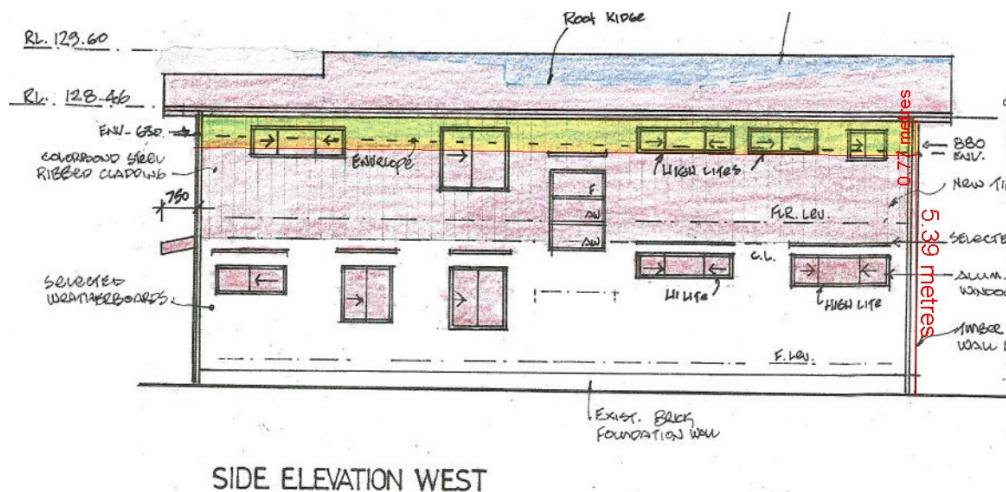


Image 2. West elevation building envelope breach.

Merit consideration

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

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

Comment:

The breach to the eastern elevation is sited only to a portion (about 50%) of the proposed first

floor addition. And the breach to the western elevation is for the entire length of the proposed first floor addition (approximately 16.0m.) However, the breach to the western elevation is not as severe (770mm) as the breach to the eastern elevation (1.8m, max.), which is due to the sloped nature of the site along the eastern boundary and the retention of the existing eastern side setback distance.

In this instance, and in conjunction with the proposed spatial separation between buildings (particularly to the dwelling at 8 Stephen Street), the non-compliance to this control is considered acceptable and is unlikely to give rise to visually bulky dwelling house.

It is also noted that Stephen Street has a variety of housing typologies on the street, ranging from two (2) storey contemporary dwellings with skillion roofs, to single storey weatherboard dwellings. In this instance, the proposed first floor addition and change to the roof style and pitch will be consistent with the more contemporary dwellings on Stephen Street.

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

Comment:

The proposed development is accompanied by shadow diagrams which indicate that the adjoining properties, being 4 and 8 Stephen Street, will receive a minimum of 3 hours of sunlight to 50% of their private open space. As discussed elsewhere in this report, the proposed development will result in adequate spatial separation between dwellings.

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

Comment:

The proposed development appropriately responds to the topography of the site.

Notwithstanding the numerical non-compliance to this control, the proposed development, as indicated in the above merit consideration, can achieve the underlying objectives of this control. As such, the variation can be supported on its merits.

B5 Side Boundary Setbacks

Description of non-compliance

This control requires development to be setback 0.9m from both side boundaries. The proposed development achieves compliance with this control to the western side boundary. However, the proposal is numerically non-compliant at two (2) points of the proposed development to the eastern side boundary: the front and rear balconies are both proposed at 200mm off the eastern side boundary. This presents a variation of 77.7%.

It is noted that these setbacks will align with the existing paved walkway along the ground floor eastern elevation, and front balcony along the southern elevation. Regardless, a merit consideration is conducted below.

Merit consideration

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

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

Comment:

The proposed front and rear balconies will retain the existing eastern side setback distance. The front balcony will be located over the existing driveway, and the rear balcony will create a hardstand surface over existing landscaped areas. However, the proposed development complies with the requirement as set out in D1 Landscaped Open Space and Bushland Setting of WDCP. As such, the non-compliant eastern side setback distance will not impact upon the opportunity for the site to provide deep soil landscape areas.

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

Comment:

The non-compliant eastern side setback is located on the ground level which, due to the slope of the land, is located 2.19m above the existing round level. Again, this is to align with the height and setback distance of the existing paved pathway along the ground floor eastern elevation and the front balcony along the southern elevation. When viewed from the adjoining property, being 8 Stephen Street, it is unlikely these balconies will create an unreasonable bulk and scale, nor will it become visually dominant.

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

Comment:

As above. It is unlikely these balconies will result in an unreasonable bulk and scale. Mitigation to minimise the bulk and scale of these balconies is not required in this instance.

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

Comment:

The plans indicate that the rear balcony, along the eastern elevation, will have planter boxes to comprise native plants that will reach a minimum height of 1.8m. Further, 8 Stephen Street has a white horizontal slatted privacy screen along the western elevation of their rear balcony. As such, the numerically non-compliant side setback to the rear balcony will not give rise to unreasonable privacy impacts.

A condition of consent, however, will be included within this report to ensure that the native plants within the planter box will be maintained, ensuring privacy is achieved between dwellings at all times. As identified elsewhere in this report, no submissions were received objecting to the proposed development.

Solar access has been addressed elsewhere in this report. However, to reiterate, the proposed development achieves compliance with the minimum requirement for solar access to the subject site and that of adjoining properties.

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

Comment:

The proposed ground floor balconies are not likely to give rise to unreasonable impacts upon views. As such, the balconies will continue to allow for a reasonable sharing of views to and from public and private properties.

Notwithstanding the numerical non-compliance to this control, it has been shown that the proposed front and rear balconies can achieve the underlying objectives of this control. The variation can be supported on its merits.

D7 Views

The owners of 2 Stephen Street have provided a signed letter which details they have no concerns over the proposed development, specifically stating that they are satisfied the proposal will not unreasonably impact upon their views and amenity across the eastern boundary.

A view loss assessment will not be conducted, in this instance.

D8 Privacy

Merit consideration

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The proposed plans show that efforts have been made to minimise any potential impacts to the visual and acoustic privacy of adjoining properties - such as highlight windows and privacy screen planting. To ensure the screen planting achieves privacy, a condition of consent has been included within this report to ensure the plants within the planter box are maintained for the life of the development.

The windows along the western elevation are considered acceptable.

As conditioned, the proposed development will result in an acceptable level of privacy for the occupants of the subject site, and those of adjoining properties. It is noted that the proposed development garnered no submissions from adjoining and nearby properties.

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

Comment:

The proposed development will result in an overall contemporary design that will successfully improve the existing urban environment, and be commensurate with other contemporary dwellings along Stephen Street.

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

Comment:

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

As conditioned, the proposed development will result in an acceptable level of privacy for the occupants of the subject site, and those of adjoining properties. As detailed above, the proposed development can achieve the underlying outcomes of this control. The merit consideration can be support on merit.

D9 Building Bulk

Merit consideration

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

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

Based on the slope of the land, the proposed development has displayed good design and articulation along the eastern elevation so as to minimise the built form and create a dwelling that is unobtrusive to the down-slope properties, particularly 8 Stephen Street. Furthermore, the skillion style roof provides innovative architecture that successfully translate to the urban environment.

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

Comment:

As discussed elsewhere in this report, the proposed development will not become visually obtrusive when viewed from adjoining properties and streets (the subject site is not located near a waterway or adjacent/adjoining land zoned for public recreation).

The proposed development will result in an acceptable built form that generally provides adequate spatial separation between buildings on adjoining allotments, with minimal unreasonable amenity impacts. In this instance, the proposal can be supported on it's merits.

D10 Building Colours and Materials

The proposed development is not accompanied by a detailed colour and material schedule. As such, a condition of consent has been included within this report, particularly to ensure the roof colour is within a medium-dark range.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$6,735 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$673,500.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

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

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

2) The proposed development will be in the public interest because it is consistent with the objectives of

the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

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

Accordingly Council as the consent authority grant Development Consent to DA2022/0032 for Alterations and additions to a dwelling house on land at Lot 17 DP 19657, 6 Stephen Street, BEACON HILL, 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
372-1: Plans - Site analysis, landscape, stormwater, sediment control	August 2021	Newbuild Design and Drafting
372-2: Floor plans & elevations	August 2021	Newbuild Design and Drafting
372-3: Sections & elevations	September 2021	Newbuild Design and Drafting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (A438214_02)	1 November 2021	Robert Geoghegan
Arboricultural Letter	25 December 2021	Complete Arborcare: Professional Consulting Arborists
Bushfire Risk Assessment	11 September 2021	Bushfire Planning and Design

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	12 November 2021	Rob Geoghegan

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

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

2. **Prescribed Conditions**

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

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

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

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

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

Reason: Legislative requirement.

3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety

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

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

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$6,735.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$673,500.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

5. **Security Bond**

A bond (determined from cost of works) of \$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 Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

6. Stormwater Disposal

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

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

7. 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.

8. Compliance with Standards

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

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

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

9. External Finishes to Roof

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

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

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

10. Sydney Water "Tap In"

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

12. 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.

13. 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.

14. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

15. **Installation and Maintenance of Sediment Control**

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

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

16. **Waste Management During Development**

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

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

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

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

17. **Stormwater Disposal**

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

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

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

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

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

Reason: To ensure bushland management.

19. **Waste Management Confirmation**

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

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

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

20. **Planter Box Maintenance**

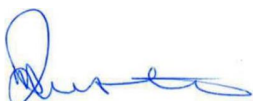
The native plants within the proposed planter box sited on the eastern elevation of the rear balcony shall be maintained for the life of the development so as to achieve adequate screen planting for privacy purposes between the subject site and adjoining property.

The plants are to be replaced if any part of it dies, or is destroyed.

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

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

Signed



Megan Surtees, Planner

The application is determined on 06/04/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager