

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0092
<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 20 DP 16081, 30 Lancaster Crescent COLLAROY NSW 2097
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including conversion of an existing garage into secondary dwelling
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Christopher James Kelly Susan Elizabeth Kelly
<b>Applicant:</b>	Christopher James Kelly
<b>Application lodged:</b>	06/02/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New second occupancy
<b>Notified:</b>	18/02/2019 to 06/03/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 488,500.00

### 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 - 6.4 Development on sloping land  
 Warringah Development Control Plan - B1 Wall Heights  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - B9 Rear Boundary Setbacks  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - D8 Privacy

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 20 DP 16081 , 30 Lancaster Crescent COLLAROY NSW 2097
<b>Detailed Site Description:</b>	<p>The property is legally identified as Lot 20 in Deposited Plan 16081, and known as 30 Lancaster Crescent. The site is located within the R2 Low Density Residential zone.</p> <p>The property is an irregular shaped lot with an area of 550.1sqm. The property has a frontage that measures 18.29 metres, a splayed rear boundary of 19.875 metres and side boundaries of 26.215 metres (eastern) and 34.085 metres (western).</p> <p>The site is located on the northern side of Lancaster Crescent and drains to the street. The site has a fall from the rear to the front of the street of over 8.0 metres.</p> <p>A large bush rock sits on the frontage of the site adjacent the north western side of the garage.</p> <p>The site is currently occupied by a two storey dwelling house, a detached double garage at the front of the site within a landscaped setting.</p> <p>Surrounding properties consist of one, two and three storey dwelling houses, of varying ages, within landscape settings.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed the following:

- Development Application DA2000/4494 for alterations additions was approved by Council 30 August 2000.
- A pre-lodgement meeting, PLM2018/0196, was held on 20 September 2018 for the alterations and additions to the primary dwelling house and for the conversion of the existing garage to a secondary dwelling.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks the approval for alterations to the existing dwelling house with the ground floor being altered and extended, the addition of a first floor, a new level parking area and the conversion of the existing disused garage to a secondary dwelling with associated landscape works.

The proposed works include the following:

### Existing garage

- To be refit as a secondary dwelling with pedestrian access from the street frontage
- New windows on southern street front elevation
- Replacement of roller door with external wall and entrance door
- New sliding door on western elevation
- Bathroom, kitchen and lounge area
- Roof top paving and a turfed area accessible from main dwelling.

### Driveway

- Top section extended and leveled to provide parking platform for 2 vehicles with setback of 5.4m.
- Driveway renewed and improved to provide access to the new parking platform.

#### Ground floor

- Front deck with new access stairs
- Balcony on southern elevation accessed from the lounge
- Decking and covered vergola at rear
- Addition proposed at the rear eastern corner of the site
- Internal modification to the dwelling to provide two (2) bedrooms, a bathroom, study, access stairs, and lounge/dining/kitchen.

#### First floor

- Master bedroom with ensuite, WIR and balcony
- Bedroom with a balcony
- Bathroom
- Access stairs

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

<b>Section 4.15 Matters for Consideration'</b>	<b>Comments</b>
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&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic 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 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 process council is in receipt of 2 submission/s from:

Name:	Address:
Mrs Lucia Biasi	3 Lincoln Avenue COLLAROY NSW 2097
Mr Antony Biasi	3 Lincoln Avenue COLLAROY NSW 2097

Whilst there were two (2) separate submissions received, these are considered as one submission as the objections are from the same property address, 3 Lincoln Ave, Collaroy.

Therefore, there is only one submission received overall.

The following issue was raised in the submissions and have been addressed below:

- ***Concern was raised in regards to the view loss from the stairwell window***

Comment:

Concern has been raised that the view loss from the stairwell is unreasonable. This issue has been addressed in detail elsewhere in this report (refer to Clause D7 - Views).

In summary, the assessment found that the extent of view loss was minor for 3 Lincoln Ave, Collaroy and that the extent of view loss was not sufficient grounds to refuse the application.

However, it was determined that the view corridor could be improved with the removal of the western first floor privacy screen. This will open an area of the view corridor to the south-east area and will improve the view sharing between the sites. The privacy screen will be removed via an imposed condition.

In summary, the assessment found that the development complied with the requirements of view sharing did not warrant the refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The plans indicate retention of rock outcrops in the front and rear of the site. No trees are affected by the works as indicated on the plans.  No objections to approval subject to conditions as recommended.
NECC (Bushland and Biodiversity)	The proposal has been assessed against the relevant Warringah DCP E controls. The proposed works are primarily within the existing building footprint. No trees are proposed for removal. Landscaping should incorporate species from the Coastal sandstone heath vegetation type. Biodiversity raises no further issues.
NECC (Coast and Catchments)	The proposed development is supported without condition and has been assessed to comply with SEPP Coastal Management. It is not likely to alter coastal processes to the detriment of the environment or other land and is not likely to reduce public amenity or existing access to and use of the foreshore.
NECC (Development)	Development Engineering has no objection to the application subject

Internal Referral Body	Comments
Engineering)	to the following conditions of consent.
NECC (Riparian Lands and Creeks)	The proposed development is elevated above and more than 170m from Dee Why Lagoon so a Waterways Impact Statement is not required. However, as the site does drain into Dee Why Lagoon sediment laden stormwater and soil erosion on the site must be managed to minimize sediment transport into the lagoon. For the earthworks proposed , appropriate sediment and erosion control measures must be installed and maintained for the duration of the works. Therefore the application is approved subject to conditions.

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.
Aboriginal Heritage Office	<p>A referral response was received from the Aboriginal Heritage Office on the 20 March 2019. The referral response had the following recommendations:</p> <p><i>"If areas of in situ sandstone outcrop are in the proposed development area or revealed during works (i.e.platforms over 2m square), the Aboriginal Heritage Office would recommend a preliminary inspection by a qualified Aboriginal heritage professional prior to any further development. If there are no existing sandstone outcrops present (or if any outcrops that were present were properly excluded from future impacts), then no further assessment is required and the Aboriginal Heritage Office would not foresee any further Aboriginal heritage constraints on the proposal."</i></p> <p>If any Aboriginal site or object is, or is thought to have been found, it has been conditioned that the Aboriginal Heritage Office and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC) is be to contacted.</p> <p>Therefore, there is no objection to the proposal subject to conditions.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

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

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

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

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

## (SREPs)

### SEPP 55 - Remediation of Land

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

### SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

### Division 2: Secondary dwellings

#### Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

**Note:** The standard instrument defines secondary dwelling as follows:

**"secondary dwelling means a self-contained dwelling that:**

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

#### Comment:

The proposed use is defined under WLEP 2011 as "secondary dwelling " and satisfies this definition.

#### Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	<b>Consistent.</b> The site is located within the R2 Low Density zone and, as such, the proposed use is permissible with consent under WLEP 2011.



Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	<b>Consistent.</b> The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The site contains a single dwelling house and the proposed secondary dwelling is detached to the dwelling house.
(3) A consent authority must not consent to development to which this Division applies unless:  (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and  (b) the total floor area of the secondary dwelling is no more than 60m <sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	The floor area is approximalty 30sqm, which is the figure required to comply for a secondary dwelling.  There is two (2) parking spaces to be provided on the site.
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:  (a) site area if:  (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres.  (b) parking if no additional parking is to be provided on the site.	The secondary dwelling is attached to the principal dwelling and the site exceeds 450sqm (being 550.1sqm).  There is two (2) parking spaces to be provided on the site.

**Note:** A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a	<b>Consistent.</b>

development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	This application does not propose any subdivision of the existing allotment.
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### Conclusion

The proposal satisfies the assessment criteria and requirements for approval under SEPP ARH.

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

A BASIX certificate has been submitted with the application for the primary dwelling house (see Certificate No. A338160 and 31 January 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A338160 and 31 January 2019).

A BASIX certificate has also been submitted with the application for the secondary dwelling house (see Certificate No. 988945S and 31 January 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 988945S and 31 January 2019).

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

<b>Commitment</b>	<b>Required Target</b>	<b>Proposed</b>
<b>Water</b>	40	Pass
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	50	Pass

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	Complies
Height of Buildings:	8.5m	8.5m	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	
6.4 Development on sloping land	Yes

### Detailed Assessment

#### **4.6 Exceptions to development standards**

The application was initially lodged on the basis that it does not comply with the Height of Buildings development standard under Clause 4.3 of the Pittwater LEP 2014 and a Clause 4.6. Variation request was submitted for Council's consideration.

However, the review and assessment of the application has determined that the building height complies with the 8.5m height control. Therefore, a Clause 4.6 Variation is not required and the Applicants Clause 4.6 Variation is not required to be addressed within this report.

#### Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	8.5m (Note : Initial application as lodged states height is 8.8m)
Percentage variation to requirement:	NIL

#### Comments:

The site is subject to an 8.5m height control which is the vertical distance from Australian Height Datum (AHD) to the highest point of the building pursuant to the definition of building height under Clause 4.3 WLEP 2011. In the circumstances of this assessment, it is important to note that the site has been excavated to a depth of up to approximately 0.3m below AHD.

In this regard, it is noted that the building height definition in the standard instrument states as follows:

***building height (or height of building)***

means:

*(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*

*(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The definition was amended by in the Standard Instrument LEP by adding (b), as a result of caselaws in the LEC Court, including the case *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 and *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189 where it is made apparent that the measure of existing building height should relate to the levels and natural topography of the site, and not relate to artificially modified levels (such as those achieved through excavation).

Therefore, in measuring the "natural" ground level of the site (AHD levels), reliance must be placed on the Site Survey and also upon known levels of the site which can be used to interpolate the natural slope of the land.

In the circumstances of this case, it is evident that the natural landform in the center portion of the site would be naturally slightly higher. This is further evidenced by the gradient and levels of the surrounding properties.

Therefore, for the purpose of this assessment, the relevant ground levels to accurately determine the height of the building are extrapolated from survey points around the perimeter of the site as detailed on the architectural plans accompanying the application. In measuring the building height utilising this methodology, the development would comply with the building height standard of 8.5m.

## **6.4 Development on sloping land**

A Preliminary Geotechnical Assessment has been prepared by Martens Consulting Engineering, dated 19 December 2018. The preliminary geotechnical assessment listed recommendations during construction and concluded that the works are suitable for the site. This report has been included as a condition of consent to ensure good engineering and building construction practice is undertaken.

## **Warringah Development Control Plan**

### Built Form Controls

<b>Built Form Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation*</b>	<b>Complies</b>
B1 Wall height	7.2m	7.9m Dwelling House 3.4m Secondary Dwelling	9.7% -	No Yes
B3 Side Boundary Envelope	4m East	No encroachment	-	Yes
	4m	No encroachment	-	Yes
B5 Side Boundary Setbacks	0.9m East	1.084m Ground floor pantry 5m First Floor 5.9m - 6.3m Secondary	- - -	Yes Yes Yes

		Dwelling		
	0.9m West	3.3m First Floor 6.5m - 6m Secondary dwelling	- -	Yes Yes
B7 Front Boundary Setbacks	6.5m	12.9m First Floor Balcony 14.5m First Floor 10.5m Retaining Wall 1.9m -2.7m Secondary Dwelling	- - - 81%	Yes Yes Yes No
B9 Rear Boundary Setbacks	6m	1.5m - 9.3m Ground Floor 5.4m - 11.5m First Floor	75% 10%	No No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	40.5% (207.6sqm)	-	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
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

Clause	Compliance with Requirements	Consistency Aims/Objectives
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **B1 Wall Heights**

##### Description of non-compliance

The subject development exceeds the maximum wall height of 7.2m by up to 9.7% (being 7.9m).

The development remains beneath the prevailing Height of Buildings control in Clause 4.3 of the WLEP 2011 at 8.5m (RL70.58)

##### 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 variation in wall height pertains to the proposed first floor. The proposed first floor addition is generally compatible with the existing streetscape and lay of the adjacent properties by virtue of height, scale and setbacks. The architecture and overall building height (RL70.58) of the proposal allows for a transitional height between No. 3 Lincoln to the west which has a higher roof ridge (RL72.55) to No. 28 Lancaster Crescent to the east which has a lower roof ridge (RL67.95).

Given the architecture of the development and the consistency with the existing pattern of buildings, it is considered that the proposal will not create any unreasonable visual impact that differ from that of surrounding developments.

It is considered that the proposal satisfies this objective.

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

##### Comment:

Given the location and topography of the subject sites and the views enjoyed over the subject and adjacent dwellings, trees with substantial canopy levels are seldom present as they would severely impact upon the views enjoyed from the properties on Lancaster Crescent.

Notwithstanding the above, it is considered that any future trees could obtain a canopy level greater than that of the proposed first floor.

It is considered that the proposal satisfies this objective.

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

Comment:

The proposed wall height will not result in any unreasonable nor detrimental view loss from surrounding properties and public spaces given the height and setbacks of the development. Further to this, elsewhere in this report are detailed assessments on View Loss (see Cl. D7 of the WDCP 2011).

As a result of the sloping topography and the orientation of the site, wide viewing angles towards the Dee Why coastal area are retained over the front setback of the subject site, and over the rear boundary of the adjoining sites. It is considered that a reasonable sharing of views to and from public and private properties will be achieved.

It is considered that the proposal satisfies this objective.

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

Comment:

The proposed development will not result in any unreasonable nor detrimental impacts upon surrounding properties by virtue of visual impact, privacy, overshadowing or view loss.

It is considered that the proposal satisfies this objective.

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

Comment:

The subject area (first floor addition) of encroachment is located wholly over the existing footprint of the dwelling and is not impacted upon by any excavation.

It is considered that the proposal satisfies this objective.

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

Comment:

The development proposes a relatively low pitched roof. It is considered that the proposed has

been designed to have minimal impact on surrounding properties by virtue of height and glare.

It is considered that the proposal satisfies this objective.

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

## **B7 Front Boundary Setbacks**

### Description of non-compliance

The control requires development to be setback a minimum of 6.5m from the Lancaster Crescent frontage.

The proposed secondary dwelling is utilising the existing garage front setbacks of 1.9m to 2.7m.

This represents a variation of up to 81% (2.7m) to Lancaster Crescent.

The proposal also provides a new hardstand area for two car spaces within the front setback area (5.4m). Whilst this is not compliant with the front setback requirement of 6.5m, the location of the existing dwelling house prohibits the car spaces to be provided at a further distance within the subject site. It is considered that the setbacks of the new hardstand area as 5.4m provides greater compliance than the existing garage that exhibited a front setback of 1.9m to 2.7m.

### 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 front setback area along Lancaster Crescent is dominated by buildings and/or car parking structures of dwellings that have a frontage or rear area that presents to the street. Therefore, the sense of openness along this street frontage has been severely compromised by existing development.

The proposed secondary dwelling maintains the existing garage setbacks of 1.9m to 2.7m. This allows for the maintenance of the current level of openness to the Lancaster Crescent frontage.

Due to the change of use from a garage to a secondary dwelling, and the creation of a new carparking hardstand the landscaping will be improved within the front setback area, including the existing roof area of the proposed secondary dwelling.

This will ensure a sense of openness is maintained and improved across the front boundary of the site.

The proposal, as conditioned, satisfies this objective.



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

Comment:

The proposal maintains the existing setback to Lancaster Crescent, and the landscaping on the subject site is to be improved by the proposed increase in landscaped areas. These additional landscaped areas, particularly on the roof of the secondary dwelling, will soften and screen the built.

Therefore the proposed front setback is considered to maintain the visual continuity and pattern of buildings and landscape elements. Further, areas of landscaping are able to be provided along the frontage to Lancaster Crescent.

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

Comment:

As detailed throughout this Clause, the proposed secondary dwelling maintains the existing garage setbacks that intrude into the front setback area along Lancaster Crescent. This element of the building is consistent with the neighbouring built form as there are existing structures within the front setback of No. 28 Lancaster and the secondary dwelling in the rear of No. 3 Lincoln. This rear boundary presents to Lancaster Crescent.

Therefore the modernisation of the garage to a secondary dwelling will enhance the visual quality of the Lancaster Crescent streetscape.

The proposal, as conditioned, satisfies this objective.

- *To achieve reasonable view sharing.*

Comment:

As detailed elsewhere within this report (refer to Clause D7 Views), the use of the existing garage as a secondary dwelling will have no impact on the reasonable level of view sharing.

The proposal, as conditioned, satisfies this objective.

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

## **B9 Rear Boundary Setbacks**

### Description of non-compliance

The development exhibits a non-compliance at the ground level (additional pantry) and Level 1 due to the irregular shape of the property at the rear boundary. The non-compliance occurs in a triangle and equates to a variation of between 10% and 75%.

#### Merit consideration:

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

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

#### Comment:

The development provides 40.5% landscaped open which satisfies the requirement of Clause D1 in the WDCP 2011.

The non-compliance is located at the rear of the site where the provision of additional deep soil landscaped area is limited by the shape of the allotment.

The open triangular portion between the pantry and the rear boundary has an appropriate area which can accommodate a reasonable level of planting. In this respect, and in conjunction with the provision of considered front and side setback areas, the development ensures opportunities for deep soil landscape areas are maintained.

The development satisfies this objective.

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

#### Comment:

The existing dwelling house on the site currently exhibits a variation to the rear setback, being located approximately 3.4m from the rear boundary.

As the site rear boundary transitions to a larger setback, it provides increase separation from the built form, i.e. from 1.5m to 9.4m and introduces a sense of openness in the rear yard. The area between the pantry and rear boundary is not considered necessary to fulfil a recreational purpose, and therefore does not impact on the use of the rear of the site. Therefore, a sense of openness in the rear yard, will continue to be maintained.

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

#### Comment:

The matters of privacy and solar access are addressed elsewhere in this report (refer to Clause D8 of the WDCP 2011).

In summary, it has generally been found that the development does not result in any unreasonable impact to privacy. However, for the purposes of addressing this particular objective, the following details are provided with regard to the non-compliance in question:

#### Privacy

The non-compliance occurs at the rear part of the site at the ground level and for the first floor.

It is considered that the non-compliance does not have an unreasonable impact upon the privacy of the rear neighbouring dwelling at No.1 Lincoln Ave or the eastern neighbouring property of No.28 Lancaster Crescent, due to the lower topography of the subject site, combined

with design features of window treatments, and first floor large side setbacks restricting any potential overlooking into the the private open space areas of the neighbouring properties.

The development satisfies this objective.

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

Comment:

Despite the non-compliance, the proposed setback achieves a visual continuity and pattern of buildings with other development in the local area due to the constraints of the topography and irregular lot shapes.

The development satisfies this objective.

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

Comment:

As detailed above, the non-compliance does not have an unreasonable impact upon the privacy of the neighbouring dwellings at No.1 Lincoln at No.28 Lancaster Crescent in that it does not create additional overlooking into the private open space areas of the neighbouring properties due to the lower topography of the subject site.

The development satisfies this objective.

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

## **D7 Views**

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

One submission was received, of which raised concern regarding view loss. The submission was received from the following adjoining western property:  
3 Lincoln Ave, Collaroy.

The relevant sections of the submission that related to view loss reads as follows:

*"The proposed design as is, will severely impact our South/ South East aspect (view) in an area of our house that was specifically built to capture this outlook."*

A site visit for view loss was undertaken on Friday 5th April, 2019, and again on the 31st May, 2019.

A portable pole was erected to demonstrate the approximate building line, and therefore visually see the potential view loss impact.

## Merit consideration

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

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

### Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

### **1. Nature of the views affected**

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

### Comment to Principle 1:

Due to the elevated position on the Collaroy escarpment, the objector's property currently enjoys views to the south-east, south and south-west. As determined from the objector's property, the views that are subject to be affected consequent of this development are Dee Why Lagoon, Dee Why headland, Dee Why Beach, the wave zone, ocean and horizon views.

The land/water views from the key rear vantage points (on the rear balcony, dining area, kitchen and in the Living Room) consist of uninterrupted and sweeping water views from the south - east (Dee Why Headland), water/land views to the south-east (Dee Why Lagoon, Dee Why Beach, Dee Why district outlook, Sydney city skyline) and water/land views to the south-west (Dee Why Lagoon and district outlook).

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

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

### Comment to Principle 2:

Views are primarily obtained from all rear areas of the dwelling house. The unobstructed views are from the lower terrace area, the rear windows and doors from the lower floor, the kitchen, dining, lounge area, adjacent rear balcony and large stairwell of the mid floor, and from all rear windows and doors of the upper floor.

The views are across the rear boundary (to the east) and both side boundaries (to the south-east and south-west).

The views are unobstructed from both a standing and sitting position.

### 3. Extent of impact

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

#### Comment to Principle 3:

Given the architecture of the Objector's home, water and district views are obtained from all rear facing windows, doors and balcony/terrace areas. Most predominantly, the views are enjoyed from the living room, the dinning room and kitchen. When looking over the side south-east boundary there is an impact on the ocean and horizon views. However the expansive view over the eastern rear boundary is unaffected.

The extent of impact from these areas is considered negligible to minor.



Figure 1. View of subject property and viewline. retained.



Figure 2. Expansive views that will be retained.



Figure 3. Expansive views that will be retained.

The affected views from the large stairwell window are the most affected to the south-east and consists of a views that sweep uninterruptedly (with the exception of the roofline of 30 Lancaster) from the south-east, and south.



Figure 4. Large stairwell window

The views are obtained from both a standing and sitting position within the stairwell. However, this area is a transitional area for access between the mid and upper floor levels, therefore this is not an area sitting would be undertaken. The most affected area is the first landing area as you transition to the upper floor. The affected views from the proposal within this area will be of the Dee Why Headland, the wave zone and Dee Why Lagoon. As you move up the access stairs the view impact changes to impacts on Dee Why Lagoon only. The headland, and Dee Why beach views are unaffected by the proposal within this area.

The extent of impact is considered to be moderate.





Figure 5. First Landing of the stairwell (view to the south-east) Figure 6. Upper landing of the stairwell (view to the south-east).

#### 4. Reasonableness of the proposal that is causing the impact

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than*

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

#### Comment to Principle 4:

Of relevance to view sharing, the development has been found to exhibit non-compliance with only the wall height built form control. The element of non-compliance have been found to be minor and achieve consistency with the objectives of the Standard and control and have subsequently been supported.

With regards to building height, the development meets the Height of Buildings Development Standard and also provides generous side setbacks of 3.3m to the western boundary (objectors boundary), and 5.0m to the eastern boundary.

However, it is determined that the view line from the lounge, dining and stairwell could be improved with the removal of the western first floor privacy screen. This privacy screen will be removed via imposed conditions.

Therefore, the conditioned change in the roof pitch provides a reduction in the overall height that reduces the impact on the view sharing corridors.

#### Conclusion

Given that the most impacted area is the stairwell windows, and that an extensive range of available views is retained from all primary living areas, the view impact is considered acceptable and the view sharing reasonable.

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

#### Comment:

The proposed development is considered to be a modest addition which enhances the urban environment, is sympathetic with the existing architecture of the dual occupancy dwelling, and comparative to other recent developments along Victor Road.

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

#### Comment:

The subject site contains no significant trees.

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

## **D8 Privacy**

Having regard to this localised situation, the assessment of privacy is to be based on the principle of not creating additional unreasonable impacts on the existing level of privacy between neighbours.



The proposed dwelling is elevated above ground such that additional overlooking could occur.

However, the development has been generally designed to satisfactorily address overlooking by undertaking the following privacy mitigation measures:

- The use of high sill windows on the first floor and ground floor of both the eastern and western elevation.
- Privacy screens on the western elevation of the ground floor deck that extends the along the full width of the deck.

The existing boundary fencing/walls and proposed landscaping will assist in obscuring the direct line of site to the windows proposed for the lower ground floor.

It is considered that the first floor louvered windows on the west elevation directly face the neighbouring property and could lead to overlooking in to the western adjoining property. Therefore, a condition will be imposed to ensure this window be obscure louvers to minimise overlooking.

The additional windows on the eastern elevation will overlook the roof line of the eastern neighbouring house. Therefore, no mitigation measures are required for this area.



Figure 7. Adjoining eastern site.

The windows at the rear are not considered to cause any overlooking impacts due to the higher topography of the rear neighbouring site.

The western privacy screen adjoining the first floor front balcony area will be removed via conditions to create a larger view sharing corridor. This removal will not impact the privacy for the occupants or the neighbours as the existing view lines are all orientated to the south-east and east area, the balcony is

adjoining a bedroom which is considered a low usage room and it is not anticipated the balcony would be utilised as a primary recreational area.

Subject to conditions of consent, the proposal is considered to optimise privacy through good design and provide a sense of territory and safety for residents, consistent with the outcomes of this development control.

### **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 inconsistent with the principles of Crime Prevention Through Environmental Design.

### **POLICY CONTROLS**

#### **Northern Beaches Council Contributions Plan 2018**

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 488,500		
<b>Contributions</b>	<b>Levy Rate</b>	<b>Payable</b>
Total Section 7.12 Levy	0.95%	\$ 4,641
Section 7.12 Planning and Administration	0.05%	\$ 244
Total	1%	\$ 4,885

### **CONCLUSION**

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

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

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

In consideration of the proposal and the merit consideration of the development, the proposal is

considered to be:

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0092 for Alterations and additions to a dwelling house including conversion of an existing garage into secondary dwelling on land at Lot 20 DP 16081, 30 Lancaster Crescent, 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
Site Plan 1.2	15/01/2019	Davis Architects
Studio Floor Plan 2.1	15/01/2019	Davis Architects
Storage Floor Plan 2.2	15/01/2019	Davis Architects
Ground Floor Plan 2.3	15/01/2019	Davis Architects
First Floor Plan 2.4	15/01/2019	Davis Architects
Roof Plan 2.5	15/01/2019	Davis Architects
Studio Floor Demolition 2.10	15/01/2019	Davis Architects
Storage Plan Demolition 2.11	15/01/2019	Davis Architects
Ground Floor Demolition 2.12	15/01/2019	Davis Architects
First Floor Demolition 2.13	15/01/2019	Davis Architects
South Elevation 3.1	15/01/2019	Davis Architects
East Elevation 3.2	15/01/2019	Davis Architects
North Elevation 3.3	15/01/2019	Davis Architects
West Elevation 3.4	15/01/2019	Davis Architects
Sections 4.1	15/01/2019	Davis Architects
Sections 4.2	15/01/2019	Davis Architects
Section 4.3	15/01/2019	Davis Architects

Sections 4.4	15/01/2019	Davis Architects
Sections 4.5	15/01/2019	Davis Architects
Section 4.615/01/2019	15/01/2019	Davis Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Preliminary Geotechnical Assessment	19/12/2018	White Geotechnical Group

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

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. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- a) Window W13 on the western elevation of the first floor, adjoining the walk in robe, is to be translucent (frosted) glazing.
- b) The privacy screen on the western elevation of the the first floor, is not approved and is t

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

## 3. **Prescribed Conditions**

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

#### 4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 488,500.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 4,640.75
Section 7.12 Planning and Administration	0.05%	\$ 244.25
Total	1%	\$ 4,885.00

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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 Northern Beaches Council Contributions Plan 2018.

### 6. Security Bond

A bond (determined from cost of works) of \$1,500 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](http://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**

### **7. On slab landscape planting and associated works**

- a) Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided.
- b) Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.
- c) The following soil depths are required in order to be counted as landscaping:
  - 300mm for lawn
  - 600mm for shrubs
  - 1metre for trees

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

### **8. Stormwater Disposal**

Plans indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments, shall be submitted prior to the issue of the Construction Certificate. Stormwater shall be conveyed from the site to Lancaster Crescent.

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

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

### **9. Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. The parking facility shall be designed in accordance with Australian Standard Parking Facilities - part 1: Off - Street car parking AS2890.1:2004.

Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure suitable vehicular access to private property



10. **Landscaping**

Landscaping is to include locally native species from the Coastal Sandstone Heath vegetation type. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Biodiversity conservation and management

11. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

a) Window W13 on the western elevation of the first floor, adjoining the walk in robe, is to be translucent (frosted) glazing.

b) The privacy screen on the western elevation of the the first floor, is not approved and is t

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

**Reason:** To ensure development minimises unreasonable impacts upon surrounding land.

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.

13. **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.

14. **Waste Management Plan**

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

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

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

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

15. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

16. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNED06)

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

17. **Road Reserve**

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

Reason: Public Safety.

18. **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.

19. **Protection of rock and sites of significance**

- a) All rock outcrops outside of the area of approved works are to be preserved and

protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

20. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

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

22. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is required at the following stage of construction:

a) 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. (DACPLE01)

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

23. **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.

24. **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**

25. **Retention of Natural Features**

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

**Reason:** To ensure the retention of natural features.

26. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

**Reason:** Weed management.

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

**Signed**



**Catriona Shirley, Planner**

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



**Steven Findlay, Manager Development Assessments**