

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1183
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot E DP 399909, 8 Bate Avenue ALLAMBIE HEIGHTS NSW 2100
Proposed Development:	Construction of a secondary dwelling
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:	James Iain Elliott Mari-Jane Elliott
Applicant:	Mari-Jane Elliott

Application Lodged:	20/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	29/07/2021 to 12/08/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 146,045.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for a secondary dwelling at the rear of the subject site.

The secondary dwelling includes the following:

- Kitchen/Living area
- Bathroom/Laundry facilities
- Two bedrooms
- Associated Decking

The total floor area of the secondary dwelling is approximately 56.5sqm.

Development Application **DA2021/1002** for the alterations and additions to the dwelling House, including a swimming pool is currently under assessment by Northern Beaches Council.

As a result, this Development Application and planning assessment only considers the proposed secondary dwelling.

Due to specific planning concerns amended plans were received during the assessment period to address the specific built form, and privacy concerns of the proposed secondary dwelling. Consistent with the Northern Beaches Community Participation Plan these amended plans were not required to be re-notified due to lesser environmental impact. However, as a courtesy, the amended design was provided to the objector for their further comment.

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 Development Control Plan - B9 Rear Boundary Setbacks

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D8 Privacy

Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot E DP 399909 , 8 Bate Avenue ALLAMBIE HEIGHTS NSW 2100
Detailed Site Description:	The property is legally identified as Lot E, DP399909 and known as 8 Bate Avenue, Allambie Heights. The site is located within the R2 Low Density Residential Zone as per the Warringah Local Environment Plan 2011.

The subject site is irregular in shape and approximately 1,165sqm in size. The front boundary of the subject site measures 19.81m, with eastern and western side boundaries of 52.754m and 52.805m and a northern rear boundary of 24.385m.

The property contains a drainage easement that traverses the middle area of the subject site. This easement corresponds to the existing 2m depression within the middle area of the subject site.

Environmental features include natural sandstone bedrock and canopy trees.

The subject site currently contains a one storey dwelling house, with vehicle access from Bate Avenue.

Surrounding sites consist of one and two storey dwelling houses, of varying ages, within landscaped settings.

Map:



SITE HISTORY

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

- Development Application **DA2021/1002** for Alterations and additions to Dwelling House including a swimming pool and spa is currently under assessment by Northern Beaches Council.

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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in	<p>(i) Environmental Impact</p> <p>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>

Section 4.15 Matters for Consideration'	Comments
the locality	<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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/07/2021 to 12/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Ms Nicole Peta Rando	14 B Bate Avenue ALLAMBIE HEIGHTS NSW 2100

The following issues were raised in the submissions and each have been addressed below:

- **Rear Setback/Building Bulk**
- **Privacy**

The matters raised within the submissions are addressed as follows:

- **Concern has been raised in the rear setback non-compliance of 2.1m will create unreasonable bulk and scale and amenity impacts this will create. o No. 14B Bates Avenue.**

Comment:

Whilst a variation to the minimum rear setback requirement is proposed, the 2.1 metre rear

setback of the outbuilding is considered to be satisfactory due to the flooding constraints and topography of the subject site. Refer to the assessment of Section B9 of WDCP 2011 within this assessment report for further details.

The orientation and layout of the secondary dwelling is towards the subject site and an amended design provides a more appropriate roofing solution to reduce visual impact. The maximum peak of the of the secondary dwelling will be below the existing high rear boundary fence and landscaping within that area, and will also further block views towards sites adjoining the rear boundary of the subject site. As a result will not have adverse visual impacts on adjoining sites to the rear of the subject site and this issue does not warrant refusal of the application.

- ***Concern is raised in regards to the windows on the northern elevation overlooking into No. 14B Bates Avenue.***

Comment:

A detailed merit consideration of privacy impacts is provided under the heading Part D8 Privacy within this report. Whilst the secondary dwelling footprint is proposed to extend closer toward the rear boundary, the placement aligns with the adjacent dwelling rather than adjacent to neighbouring rear yards (private open space). The secondary dwelling has been designed to orient the living areas (that have a higher activity impact) toward the southern end of the building.

Privacy objectives of the DCP require buildings to provide a high level of visual and acoustic privacy for neighbours (as well as occupants of a proposal), and that living areas, rooms, windows and deck areas avoid overlooking to adjacent private open space (rather than rely wholly on screens / barriers). In this case, the orientation of the secondary dwelling is towards the subject site, with all window openings on the northern elevation being treated with either high sills or opaque glazing to minimise privacy concerns. In summary, the proposal has addressed privacy requirements by the use of window size / placement / opaque glazing in order to be consistent with the Warringah DCP 2011 and this issues does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>This application is for the construction of a new secondary dwelling located towards the rear of a residential property.</p> <p>Councils Landscape Referral section has considered the application against the Warringah Local Environmental Plan, and the following Warringah DCP 2011 controls:</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting

Internal Referral Body	Comments
	<ul style="list-style-type: none"> E1 Preservation of Trees or Bushland Vegetation <p>The Statement of Environmental Effects provided with the application makes reference to a number of significant canopy trees located along the rear of the property that provide valuable privacy to the site. For this reason it is assumed these trees are proposed to be retained.</p> <p>Slight concern is raised due to the proximity of proposed works to these existing trees adjacent to the northern boundary, as the proposed secondary dwelling appears to encroach into the Tree Protection Zone (TPZ), and possibly the Structural Root Zone (SRZ) of these trees to be retained. It should be noted that no Arboricultural Impact Assessment has been provided with the application.</p> <p>That being said, upon review of the Architectural Plans provided, it is clear this secondary dwelling is to be constructed above ground utilising pier footings which is expected to reduce the potential impacts on these existing trees.</p> <p>In order to ensure these trees are retained in a positive manner, it is recommended that a Project Arborist be engaged to supervise all works in this area, in addition to providing input on pier footing locations, ensuring these are located clear of significant tree roots. The retention of these trees is vital to satisfy control E1, as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", "to effectively manage the risks that come with an established urban forest through professional management of trees", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>In addition, the retention of this vegetation is also necessary to comply with control D1, as key objectives of this control include "to provide for landscape open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building", as well as "to enhance privacy between buildings".</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation.</p>
NECC (Development Engineering)	No objections to approval subject to conditions as recommended.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed development seeks consent for a secondary dwelling at 8 Bate Avenue, Allambie Heights. A pool and associated landscaping elements are the subject of a separate application. The application is accompanied by a Flood Management Report prepared by Horizon Engineers dated 13 July 2021. The secondary dwelling floor level is located above the relevant Flood Planning Level for the site.</p> <p>Conditions are included to ensure that the perimeter of the subfloor is open and therefore flood storage is maintained and there are no adverse flooding impacts on neighbouring properties.</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (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 a 'dwelling house' and a 'secondary dwelling'.

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.	Consistent. The site is located within the R2 Low Density Residential 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.	Consistent. 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 development, if approved, would result in a single primary dwelling and a single secondary dwelling on site.
(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 ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning	Proposed floor area of the secondary dwelling is 58.5m ² .

instrument, that greater floor area.	
(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.	Site area: 1165m2 Additional car parking is not proposed on site. Two (2) car parking spaces are provided for the primary dwelling.

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 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.	Consistent. This application does not propose any subdivision of the existing allotment.

Conclusion

The proposal will satisfy the applicable provisions of Division 2 of the ARH SEPP.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1187525S dated 18 June 2021). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 1187525S dated 18 June 2021).

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

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	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	% Variation	Complies
Height of Buildings:	8.5m	3.0m - 3.8m Secondary Dwelling	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	2.6m Secondary Dwelling	-	Yes
B3 Side Boundary Envelope	4m	No encroachment	-	Yes
	4m	No encroachment	-	Yes

B5 Side Boundary Setbacks	0.9m	East 4.5m Secondary Dwelling 1.6m Decking	- -	Yes Yes
	0.9m	West 4.9m Secondary Dwelling 3.6m Decking	- -	Yes Yes
B9 Rear Boundary Setbacks	6m	2.1m Secondary Dwelling	65%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	66% (770.8sqm) 63.2% (736.2sqm)	- -	Yes* Yes**

*LOS calculation for the proposed works i.e. Secondary Dwelling

LOS calculation for the proposed works, plus proposed works of **DA2021/1002 (i.e. swimming pool) that is currently under assessment.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B9 Rear Boundary Setbacks

Description of non-compliance

Clause B9 Rear Boundary Setbacks of the WDCP requires that structures be setback 6m from the rear boundary. The proposal fails to achieve compliance with this control, instead proposing a 2.1m setback for the secondary dwelling.

It is important to acknowledge that site constraints influence the location of the proposed works within the rear of the subject site. The subject site is classified as being flood effected, and is located within the Medium Flood Risk Precinct of Northern Beaches Councils Flood Hazard mapping.



Figure 1a: Councils Flood Mapping in relation to the proposed subject site. (Source: SEA Northern Beaches Council)

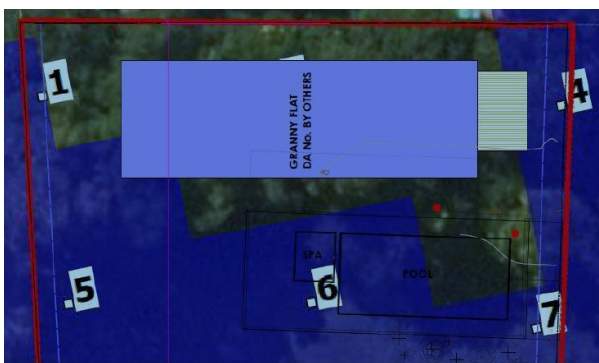


Figure 1b: Councils provided Flood level points in relation to the proposed secondary dwelling location. (Source: Flood Management Report prepared by Horizon Engineers, dated 13 July 2021)

As a result, providing built structures above the Probable Maximum Flood (PMF) level (RL 24.48) is recommended and as a result constrains the available area for the secondary dwelling.

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:

While not complying with the minimum 6m requirement, the proposal does maintain a sufficient 2.1m landscaped area to the rear area of the subject site, and more than adequate side setbacks of 4.9m & 4.5m to the east and west to help compensate for the non-compliant rear setbacks.

Existing trees within the rear of the site are to be retained, and newly planted screening landscaping will also remain as part of the proposal, see Photo 1 below.



Photo 1: Existing vegetation to be retained along the rear setback.

The location of the secondary dwelling is over an existing rock shelf, therefore the incorporation of the secondary dwelling does not limit the opportunities for further deep soil landscaped areas.

Accordingly, it is found that the development satisfies this objective.

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

Comment:

Despite the contravention proposed to the rear boundary setback, the proposal is found to provide a satisfactory sense of openness given the large lot size of 1165sqm and the irregular subdivision pattern of surrounding allotments.

The positioning of the secondary dwelling outside the PMF, more than complying side setbacks provides sufficient dimensions and space within the rear yard to ensure that a sense of

openness in the rear yard is retained, see Photo 2 below. Therefore, the provision of a secondary dwelling will not reduce the sense of openness.



Photo 2: *Location of the secondary dwelling.*

Accordingly, it is found that the development satisfies this objective.

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

Comment:

The secondary dwelling is located on sloping topography and sites at a lower position than the northern adjoining site with the highest point of the roof line (RL28.4) siting below the boundary fence height of of RL28.5m. The secondary dwelling is bound to the north and east by a 1.8m high boundary fence and newly incorporated screen planting, and these elements negate any unreasonable overlooking into neighbouring properties, see Photos 3 below.



Photo 3: *Boundary fencing and landscaping along the northern rear and eastern side boundary.*

The western side boundary displays no boundary fencing, however this side setback adjoins the vehicle access (driveways) to sites No. 6a and 6b Bates Avenue. As a result, even in the absence of no boundary fencing no unreasonable amenity impacts are created for the western adjoining sites.

The window openings to the northern elevation of the secondary dwelling have been designed to mitigate amenity impacts. The amended design includes a mix of high sill and opaque glazing to ensure impacts minimised and considered reasonable and consistent with a R2 Low density

residential zone.

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

Comment:

Due to the irregular subdivision pattern of the adjoining properties, the immediate surrounding vicinity has rear setback areas characterised by elevated swimming pools, decking and other outbuildings, generally located with a varied setbacks to boundaries. Therefore, the development proposed is found to be consistent with the existing visual continuity and pattern of buildings in the area.

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

Comment:

The proposed development is seen to maintain an acceptable level of privacy between buildings due to the position on the subject site and the secondary dwellings design. The site falls from the rear northern boundary, with the secondary dwelling being constructed on piers over the existing rock shelf.

The secondary dwelling is located below the height of the boundary fencing, and well below any window or door opening of the directly adjoining property to the norther, being No. 14B Bate Avenue.

The distance separation of 2.1m to the rear boundary, and existing landscaping will ensure landscaped areas are provided to mitigate any potential privacy impacts between the rear neighbouring sites.

As stated above, the amended design includes a mix of high sill and opaque glazing for the window openings to ensure impacts minimised. The attached timber decks accessible from the kitchen and bedroom one (1) are considered elsewhere in this report with regards to privacy. Therefore, the variation to the rear boundary setback control does not give rise to any adverse or unreasonable privacy impacts between dwellings.

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.

C3 Parking Facilities

As per Appendix 1 of the Warringah Development Control Plan 2011, two (2) parking spaces are to be provided on site for a dwelling house. The proposed development maintains the existing parking arrangement on the site which comprises a single garage.

The subject application does not propose any alterations to the existing parking arrangement and pursuant to this Control, no additional car parking spaces are required for the development of a secondary dwelling. Further, Clause 22 of SEPP (Affordable Rental Housing) 2009 stipulates that a consent authority must not refuse consent to a development for the purpose of a secondary dwelling on the grounds of parking; specifically if no additional parking is proposed to be provided on site.

As a result, the application is supported in its current form, pursuant to SEPP ARH.

D8 Privacy

Clause D8 of the WDCP 2011 requires the building layout to be designed to optimise privacy for occupants of the development and occupants of adjoining properties.

Whilst the proposal satisfies the objectives of the clause, due to the proximity of the secondary dwelling to the rear northern boundary, the effect on the existing levels of privacy afforded to No. 14A Bate Avenue have been assessed below.

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:

A submission was received from No. 14A Bate Avenue, specifically in relation to the privacy impacts from the proposed secondary dwelling window openings on the northern elevation. A site inspection confirmed the due to the higher position of No. 14A Bate Avenue, alignment of the built form, existing boundary fencing and spatial separation the ability for direct overlooking is unlikely to occur, see Photos 1 & 3 above.

In order to effectively address this issue and maintain a level of acoustic and visual privacy comparable to the current situation, a wider setback to the reduce the privacy impact, affording more conventional and consistent visual and acoustic privacy would usually be required. However, due to the constraints of the flood effected site the location is a reasonable choice.

Clause D8 stipulates that windows of a dwelling are to be located so they do not provide direct or close views (ie. from less than 9 metres away) into the windows or private open space of other dwellings. The proposed window openings on the northern elevation would result in a spatial separation of less than 9m between the adjoining dwelling, No. 14B Bate Avenue side facing windows. However, given the lower topography of the secondary dwelling, there is no opportunity for direct overlooking. The design has incorporated techniques to ensure impacts to privacy are minimised, for example the window openings are a mix of either high sill (ie. containing a sill height of 1.5m from the FFL) or obscure glazed so as to deflect direct viewing.

The secondary dwelling also includes two decked areas, adjoining bedroom 1, and the lounge area. The location of the deck to the east servicing the lounge is 8sqm in size, and located away from any neighbouring window openings or private open space areas. The western balcony servicing the bedroom is 4.5sqm in size and also located sufficiently from neighbouring windows or private open space areas. As a result no further mitigation measures are required for the deck areas as reasonable acoustic and visual privacy will be retained between neighbours.

As a result the privacy impacts are considered to be reasonable within a residential environment.

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

Comment:

The proposed development encourages innovative design solutions to improve the urban environment by providing specific mitigation measures to minimise potential overlooking due to the close proximity to the northern rear boundary.

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

Comment:

The proposal has appropriate design for personal and property security for a low density residential environment, including security for the new secondary dwelling.

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.

D9 Building Bulk

While the secondary dwelling displays a non-compliant rear setback the proposal does satisfy the relevant control as follows:

- The proposal provides architectural relief via a pitched roof, and appropriate fenestration and decking areas.
- The size of the building footprint is under 60sqm, and commiserate with the size of the site and associated constraints (i.e. slope & flooding).
- The design of the building has considered the slope of the site.
- Whilst the proposed secondary dwelling is to be elevated on piers, the design continues to minimise building height, bulk and scale on the site to the adjoining neighbours (i.e. the greatest bulk and height would be situated where it would be most visually prominent from the subject site itself).
- The development's primary elevation is oriented towards the subject site, with acceptable colours and materials.
- There is sufficient space for the establishment and growth of large landscaping between the north, east and west side of the secondary dwelling and adjacent boundaries.

As a result the proposal satisfies the objectives of the control in that it:

- Displays good design and innovative architecture to improve the urban environment, and
- Minimises the visual impact of development when viewed from the adjoining properties.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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

A monetary contribution of \$ 730 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 146,045.

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 DA2021/1183 for Construction of a secondary dwelling on land at Lot E DP 399909, 8 Bate Avenue, ALLAMBIE HEIGHTS, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (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 Issue B	7/9/2021	RK Designs
Ground Floor Plan Issue B	7/9/2021	RK Designs
Elevations and Sections Issue B	7/9/2021	RK Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment	4/5/2021	White Geotechnical Group
Flood Risk Management Report Report No # 092 -W21 Issue C	13/7/2021	Horizon Engineers

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. **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 \$730.23 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 \$146,045.00.

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 \$1,500 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.

6. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$1,000 as security against any damage to Council's stormwater infrastructure as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

7. **Pier Footing Design Near Trees to be Retained**

Pier footing structural layout plans for the external works including the secondary dwelling shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in

arboriculture, and a qualified Structural Engineer. The Arborist shall review, comment, recommend design revision as required and approve the pier footing layout, to ensure the locations of piers will be manageable in terms of tree protection measures.

The Arborist shall submit certification to the Certifying Authority, that the locations of the pier footings are accepted. The agreed pier footing structural layout plans shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate.

Reason: Tree protection.

8. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil 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.

9. Flooding

In order to protect property and occupants from flood risk the following is required:

Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the relevant 1% AEP flood level.

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Flood Planning Level of 24.77m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C1

New floor levels within the development shall be set at or above the Flood Planning Level of 24.77m AHD.

Floor Levels – C3

The underfloor area of the dwelling below the 1% AEP flood level is to be designed to allow clear passage of floodwaters. At least 50% of the perimeter of the underfloor area must be of an open design from the natural ground level up to the 1% AEP flood level.

Flood Emergency Response – E1

The shelter-in-place refuge must:

- a) Have a floor level at or above the Probable Maximum Flood level; and
- b) Have a floor space that provides at least 2m² per person where the flood duration is long (6 or more hours) in the Probable Maximum Flood event, or 1m² per person for less than 6 hours;
- c) Is intrinsically accessible to all people on the site, plainly evident, and self-directing, with sufficient capacity of access routes for all occupants without reliance on an elevator.

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

10. **Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. The Applicant is to ensure footings of any new development within this development consent adjacent to an easement or pipeline are to be designed in accordance with Northern Beaches Council's Water Management for Development Policy. Details and certification prepared by a suitably qualified Structural Engineer demonstrating compliance are to be submitted to Council for approval. Council's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

11. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction/demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

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

Reason: Protection of Council's infrastructure.

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. **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.

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. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree

protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. Protection of Rock and Sites of Significance

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.

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.

17. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, including those adjacent to the northern boundary, 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.

18. **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.

19. **Survey Certificate**

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

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

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

20. **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.

21. **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

22. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

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. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

The Applicant shall submit a suitably qualified Structural Engineer's certification that the

completed footing works have been constructed in accordance with this consent, Northern Beaches Council's Water Management for Development Policy and the approved Construction Certificate plans. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure.

25. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets**

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

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

Reason: Protection of Council's infrastructure.

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

26. **Environmental and Priority Weed Control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: Preservation of environmental amenity.

27. **Approved Works**

The application approval is solely for the construction of a Secondary Dwelling.

Any other works shown on the approved plans, including the swimming pool, are not included as part of this application.

Reason: To ensure that only approved works are constructed as anticipated by the development consent.

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

Signed



Catriona Shirley, Planner

The application is determined on 10/09/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments