

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/1124
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<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 23 DP 33000, 88 Idaline Street COLLAROY PLATEAU NSW 2097
<b>Proposed Development:</b>	Demolition works and construction of a dwelling house including swimming pool
<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>	Sandra Nicola James Russell Millard
<b>Applicant:</b>	James Russell Millard

<b>Application Lodged:</b>	11/10/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	20/01/2020 to 03/02/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 740,300.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application seeks development consent for demolition of the existing dwelling house and the construction of a new dwelling.

The works are as follows:

#### Basement Level

- Basement garage for two (2) cars from Idaline Street
- Storage room/ Plant room / Workshop

### Ground Floor

- Bathroom
- Front terrace
- Living/ kitchen/ dining
- Rear terrace
- Laundry
- Internal stairs

### First Floor

- Four (4) bedrooms
- Two (2) bathrooms
- Internal access stairs
- Family room
- Balcony

### External

- Swimming Pool
- Rear Terrace
- New driveway
- Landscaping and associated works.

After planning assessment and an inspection of the subject site, and adjoining site of No. 86 Idaline Street, it was identified that there were concerns with the proposal relating to visual privacy and view impacts. As a result, the applicant submitted updated plans that amended the internal configuration, and increased the side setback to the First Floor balcony. The amended plans were notified to the adjoining properties. The design changes resolved the planning concerns and the assessment below is undertaken on these amended plans.

## **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 - 6.2 Earthworks  
 Warringah Development Control Plan - B1 Wall Heights  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - D6 Access to Sunlight  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - D8 Privacy  
 Warringah Development Control Plan - D9 Building Bulk  
 Warringah Development Control Plan - D15 Side and Rear Fences

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 23 DP 33000 , 88 Idaline Street COLLAROY PLATEAU NSW 2097
<b>Detailed Site Description:</b>	<p>The subject site is legally described as Lot 23 within Deposited Plan 33000, and is known as 88 Idaline Street, Collaroy Plateau. The site is located within the R2 Low Density Residential zone under the Warringah Local Environmental Plan 2011.</p> <p>The property is a corner site formed by Idaline Street and Acacia Street. The site is regular in shape and has a total area of 545.60sqm.</p> <p>The primary front boundary to Idaline Street is 13.765m, with the secondary front boundary to Acacia Street being 39.625m. The southern side boundary measures 39.625m and the western side boundary measures 13.765m.</p> <p>The property has a moderate slope of approximately 2.35m from the west to the north of the subject site. Stormwater drains to the two street frontages.</p> <p>The site currently contains a single storey dwelling house with ocean views from the north and eastern side of the property. There are no significant canopy trees or environmental features on the site.</p> <p>Surrounding sites consist of one, and two storey dwelling houses, of varying ages, within landscaped settings.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed the following relevant development applications for the subject site:

1. Development Application **DA2019/0648** was lodged with Council on 26 June 2019. Following an initial assessment of the application, the Applicant was advised by letter dated 7 August 2019, that there were significant planning, and engineering concerns in relation to:
  - Views
  - Landscape Open Space
  - Insufficient information in regards to the swimming pool
  - Unsatisfactory amount of excavation within the road reserve for the driveway
  - Unsatisfactory Stormwater Concept Plan .

The Applicant subsequently withdrew the application from Council on the 7 August 2019.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – 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 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;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&amp;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&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	See discussion on "Notification & Submissions"

Section 4.15 Matters for Consideration'	Comments
in accordance with the EPA Act or EPA Regs	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 1 submission/s from:

Name:	Address:
Victoria Ann Besso	86 Idaline Street COLLAROY PLATEAU NSW 2097

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

- **View Loss**
- **Solar Access/Solar Panels/ventilation**
- **Privacy**
- **Building Bulk**
- **Excavation**
- **Asbestos removal**

The matters raised within the submissions are addressed as follows:

- ***The submission raises concern that the development will create unreasonable view loss.***  
Comment:

View sharing issues are addressed under the merit assessment details within Part D7 Views of this report.

A site inspection of the site and No. 86 Idaline Street was undertaken. It was agreed that the First Floor balcony was causing privacy impacts and potential view loss.

The applicant subsequently amended the First Floor balcony to provide a larger side setback to No. 86 Idaline Street, and a applied condition to require the balustrade to be of clear glazing will ensure that the view impact was reasonable.



In summary, the proposal is not considered to have an unreasonable impact on views for properties that overlook the site. Therefore, this issue does not warrant refusal of the application.

- ***The submission raises concern that the development will overshadow the neighbouring property and restrict/limit ventilation.***

Comment:

The applicant has provided elevation and plan diagrams for No. 86 Idaline Street to demonstrate the change from the existing situation to future solar access with the proposed building between 9am and 3pm on the 21 June. For No. 86 Idaline Street, the change in overshadowing is most pronounced between 9am and 12am. The additional overshadowing to the front setback area is the confined to latter part of the day as shown on the shadow diagrams.

The proposal does not unreasonably affect any solar design elements for adjacent land or solar panels used for solar energy. Overall the building design is consistent with the approach made by the NSW LEC under the Planning Principle in dealing with solar access and with Part D6 Access to Sunlight of the WDCP.

With regards to ventilation, the new dwelling provides more that required side setbacks along the southern side of the subject site such that it would not obstruct or unreasonably prevent ventilation to the submitters property beyond what is currently available. The new dwelling house is consistent with a two storey residential building and, as such, will also not obstruct or unreasonably restrict ventilation to No 86 Idaline Street.

In summary, this issue has been considered in detail and does not warrant refusal of the application.

- ***The submission raises concern that the proposed balcony on the First Floor will impact upon privacy.***

Comment:

Following a site inspection and a review of the submission received from No. 86 Idaline Street, it was determined that the First Floor balcony was to cause unreasonable amenity impact. Amended plans were provided by the applicant that increased the southern side setback of the balcony from 1.15m to 6.1m. The internal floor plans where also amended, such that the balcony is to now service a bedroom not a lounge room (regarded by the NSW Land and Environment Court as being of lesser impact than dedicated living rooms).

Privacy screens where discussed with the owner of No. 86 Idaline Street, however is was requested that privacy screen not be installed as it would be to the detriment of the established view lines.

Consequently, the increase in side setback will achieve an acceptable level of privacy between the proposed deck and the neighbouring property.

Two windows servicing the stairwell on the First Floor will be conditioned to be opaque glazing to ensure privacy impacts are minimised.

The amended plans and applied conditions have addressed the privacy concerns and this matter does not warrant refusal of the application.

- ***The submission states that the proposed southern facade of the development (facing the submitters property) will exhibit overbearing visual impact.***

Comment:

The scale of the development is of a two storey build and not inconsistent with the scale of surrounding development. While it is acknowledged that the design is contemporary, it is not considered to be offensive in that it presents as an obvious visual departure from the character of the area or that it represents something other than a dwelling house. Comprehensive landscaping works are proposed to compliment the building and create a landscaped setting for the building with trees and shrubs that are commensurate with the building bulk and scale, but do not create unreasonable impacts on views.

This issue does not warrant the refusal of the application.

- ***The submission raises concern with the excavation and the impact this could have to their property.***

Comment:

The development proposes excavation within close proximity (1.15m) to the southern boundary. It is considered a dilapidation report is appropriate to ensure security against possible damage to private property. The dilapidation report has been included within the conditions of consent.

It is considered that this issue does warrant the refusal or amendment of the application.

- ***The submission raises concern regarding the removal of asbestos during the demolition/construction process.***

Comment:

The removal of asbestos is regulated by Workcover NSW, relevant Australian Standards and the Occupational Health and Safety Act 2000. Accordingly, appropriate conditions are included in the recommendation of this report to manage the removal of asbestos if present.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The plans indicate that no significant landscape features are affected by the works.</p> <p>The landscape plan indicates removal of a street tree in the Acacia Street road verge. No particular reason for removal is noted and it is recommended that the tree be retained.</p> <p>No objections to approval subject to conditions as recommended.</p>
NECC (Development Engineering)	No objections are raised to the proposed development, 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.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*



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

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

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

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

### **SEPP 55 - Remediation of Land**

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

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

A BASIX certificate has been submitted with the application (see Certificate No. 997604S\_02 dated 19 January 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 997604S\_02 dated 19 January 2020).

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	% Variation	Complies
Height of Buildings:	8.5m	8.4m	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

### Detailed Assessment

#### 6.2 Earthworks

A Limited Geotechnical Investigation Report, prepared by Geotechnique Pty Ltd, reference number Ref: 14602/1, dated 4 February 2020 was submitted with the application. The report and its recommendations are to be included within the conditions of consent to ensure there is no adverse impacts to the surrounding properties resulting from the proposed excavation. Suitable conditions will be imposed in relation to Dilapidation Reports on adjoining property to the south.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.5m - 7.4m North 6.2m - 6.7m South	2.7% -	No Yes

B3 Side Boundary Envelope	5m	No encroachment	-	Yes
	5m	No encroachment	-	Yes
B5 Side Boundary Setbacks	0.9m South	1.15m Dwelling Basement 1.15m Dwelling Ground Floor	- -	Yes Yes
	0.9m West	8.17m - 3m Terrace Ground 13m Dwelling Ground Floor 5.6m Swimming Pool 8.2m - 8.76m Dwelling First Floor	- - - -	Yes Yes Yes Yes
B7 Front Boundary Setbacks	6.5m	8.4m Dwelling Basement 8.4m - 11.1m Dwelling Ground 11.1m Dwelling First Floor 10.35m First Floor Planter 8.75m First Floor Balcony	- - - - -	Yes Yes Yes Yes Yes
B7 Secondary Front Boundary Setbacks	3.5m	3.5m Basement 2.16m Ground Floor Terrace 3.6m Ground Floor Dwelling 0.9m Swimming Pool/Terrace 3.6m - 4.3m First Floor Dwelling 2.5m First Floor Deck	- 38.2% - 74% - 28%	Yes <b>No</b> Yes <b>No</b> Yes <b>No</b>
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	40% (219%)	-	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
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D15 Side and Rear Fences	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **B1 Wall Heights**

##### Description of non-compliance

The development proposes a wall height of between 5.7m and 7.4m. The non-compliance (7.4m) occurs at the north-western corner of the building and equates to a variation of 2.8%.

##### 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 proposed non-compliant wall height along the northern elevation is considered minor and whilst this is viewed as part of the wall (as there is a roof over), the northern elevation has been designed to provide a articulated appearance which will reduce the bulk when viewed from Arcadia Street. Therefore, the non-compliance is relatively minor in that the 0.2m variation will not unreasonably add to the bulk and scale of the building when viewed from adjoining properties streets.

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

Comment:

The overall height of the building is between 7.5m and 8.4m - both of which are compliant with the Height of Buildings Development Standard. In this regard, the building will maintain a height which would be generally beneath the existing tree canopy level.

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

Comment:

The breaches to the wall height do not hinder the existing view sharing available from the neighbouring properties to the south. The development will not have an unreasonable impact upon view sharing from neighbouring public and private properties.

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

Comment:

The breaches to the wall height are considered to be minor and, due to their location at the front of the building and the north-east orientation of the site, would not unreasonably impact upon the amenity of both neighbouring properties to the south or west.

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

Comment:

The development responds positively to the site topography by ensuring the development does not exceed the allowable building height. Beyond the new garage (which will improve the on-site car parking provision) there is no notable excavation works occurring which would impact upon the natural landform or result in a non-compliant wall height for this portion of the building.

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

Comment:

The development includes a skillion roof form which provides a variable low scale roof design while enabling efficient access to light and ventilation (given the north-facing aspect of the skillion window).

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

On corner allotments or sites with a double street frontage, where the minimum front building setback is 6.5 metres to both frontages, the front building setback may be reduced to a minimum of 3.5 metres for the secondary frontage, but secondary street variations must consider the character of the secondary street and the predominant setbacks existing to that street.

The primary front setback to Idaline Street is compliant with the 6.5m front setback control as follows;

#### Basement Level

- 8.4m to the garage/workshop.

#### Ground Floor Level

- 7.3m to the dwelling balcony
- 9m to the dwelling house

#### First Floor Level

- 8.7m to the balcony
- 11m to the dwelling house

The dwelling house demonstrates a variation to the secondary front setback to Acacia Street as follows;

#### Basement Level

- 3.5m to the garage/workshop.

#### Ground Floor Level

- 3.6m - 5.5m to the dwelling house
- 2.16m terrace (**variation of 38%**)
- 0.9m to the swimming pool ( **variation of 74%**)

#### First Floor Level

- 3.6m - 4.3m to the dwelling house
- 2.5m to the balcony/awning (**variation of 28.5%**)



The extent of the building variations is considered to be minor and, as a result, does not offend the streetscape and the predominant setbacks already established along Acacia Street.

In this regard, the variations proposed to the Acacia front setback are discussed in the 'Merit Consideration' section below.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The non-compliant area at the northern edge of the Terrace and Balony at the Ground Floor and First Floor is an elevated minor encroachment which will not offend the sense of openness within the front setback area. The swimming pool is screened via the landscaping of the planterbox and will not impact upon the sense of openness to the front setback area.

The dwelling house is well designed and articulated with steps both on the northern and eastern front setback elevations, open balcony areas, and changes in materials that provide sufficient articulation and visual breaks in the building to improve the sense of openness.

Significant landscaping is to be incorporated within the curtilage of the site to improve the landscape setting, considering the significant increase in height, bulk and scale.

Thus, the dwelling house will improve the sense of openness in the primary or secondary front setback areas.

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

Comment:

The new primary front facade of the dwelling house is compliant with the front setback control, with the balcony, terrace and swimming pool creating the minor variations.

The secondary setback variations are consistent with the character of the streetscape, with many neighbouring corner sites demonstrating similar variations with the front setback requirements, such as No. 93 & No. 95 Acacia Street and No. 52 Edgecliff Boulevard.

The visual impact of the first floor of the dwelling house when viewed from public places will be acceptable given the high level of articulation of the resultant built form, including recessive building elements and high quality external materials and finishes. The noncompliance of the swimming pool will also be screened from the public domain by the proposed screening vegetation rather than traditional boundary fencing.

Therefore, the visual continuity and pattern of buildings and landscape elements which characterise the Idaline and Acacia Street streetscape will be maintained and this objective is achieved.

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

Comment:

The new primary front facade of the dwelling house are compliant, with the proposed secondary front setback being designed sympathetically with the new dwelling house.

The swimming pool is discreetly screened by vegetation, rather than utilising transitional high boundary fencing as is demonstrated in surrounding neighbouring sites.

The closing of the existing north-eastern crossover and driveway, and by replacing with a new driveway to the basement floor garage of the dwelling house will improve the carparking arrangement and landscaping area onsite and improves aesthetic improvement the residential character in the streetscape.

The visual quality of the Idaline and Acacia Street streetscape will be maintained by a satisfactory level of articulation of the resultant built form, including recessive building elements and high quality external materials and finishes combined with significant landscaping resulting in an aesthetic improvement when viewed from the street.

- *To achieve reasonable view sharing.*

Comment:

The matter of view sharing has been addressed elsewhere in this report (refer to Clause D7 of the WDCP 2011).

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

*View Sharing*

The balcony serving Bedroom 1 on the First Floor complies with the primary front setback to Idaline Street, and is a minor encroachment to the secondary front setback and does not have any unreasonable impact upon view sharing from neighbouring properties.

The development has been designed to permit reasonable cross-site viewing of the distant ocean and headland views from southern adjoining neighbouring site of No. 86 Idaline Ave.

The proposed variation to the front secondary setback will not result in an unreasonable loss of views currently enjoyed from 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.

## **D6 Access to Sunlight**

The certified shadow diagrams submitted with the application indicate that the development would overshadow a section of the rear (across the north -western area) of the neighbouring site at 9.00am

then moving across the rear yard throughout the day.

The degree of overshadowing varies in coverage with the worst period being at noon due to the development being located directly due north to the neighbouring site. Overshadowing is then relieved towards 3.00pm.

However, it is noted that the extent of the shadow cast complies with the requirements of this clause in that, at least 50% of the principal private open space area will have access to direct sunlight for a minimum of 3 hours on the 21 June (i.e: between 9.00am and 1.00pm)

It is also worth noting, that due to the southern location of the neighbouring property to the development, and the permitted (and compliant) building height in the area, it is reasonable to expect that overshadowing will occur to some extent. An examination of the plans indicates that, because of the location, shape and size of the site, the relocating or redesigning of the proposed building would not provide any notable relief to the neighbouring property except to only permit the construction of a single storey building which would be an unreasonable and onerous imposition upon the development potential of the site.

Therefore, it is not considered that the proposal is to be excessive or unreasonable during the nominated morning and afternoon periods (i.e: 9.00am and 3.00pm) and that a reasonable level of access to sunlight is maintained.

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.

In assessing view sharing, an inspection from the upper level of the neighbouring dwelling at No. 86 Idaline Street was undertaken.

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

### **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:

A site visit of the subject property, demonstrates the views enjoyed across the front of site are broad coastal views including the ocean, and ocean horizon. The demonstrated views across the northern side boundary are broad coastal views including parts of Narrabeen Beach, coastal headlands including Mona Vale Headland and the ocean.

The focal area is in an north-easterly direction toward the ocean and the ocean horizon. The district views along the coastline also form part of the periphery views to the north. The view is partly open at elevated ground floor towards the east with some obstruction (dwelling houses, and vegetation) across the northern side boundary since dwellings on the lower side of Arcaica Street are not on a consistent alignment, demonstrated in photo 1, 2 and 3 below.



**Photo 1.** Existing view lines to the east from the front balcony



**Photo 2.** Existing view lines to the north-east from the front balcony.





**Photo 3.** Existing view lines to the north from the lounge room window

## 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:

The views enjoyed from are principally from the elevated ground floor level living/dinning areas and front balcony across the side boundary and front setback area.

The dwelling of No. 86 Idaline Street affords ocean, beach and headland views toward Narrabeen Beach, at an acute viewing angle toward the north and north-east. These views are obtained from the side boundary lounge room window (facing north), front glass doors (facing east) and the front balcony area (facing east).

Broad alternate views of the Mona Vale Headland are also obtainable from the side boundary lounge room window (facing north). Trees obscure the view lines to the Headlands and Narrabeen beach from the front balcony, however district and ocean views are still obtainable.

All available view from the main living room, dinning area and front balcony are obtained in a sitting and standing 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:

There is no encroachment into the view to the north-east or east as a result of the proposal.

The proposal will partly encroach into this view corridor and impact the area of district views available from the elevated ground floor northern side window servicing the lounge area. The views towards the beach and coastal Headlands should be reasonably retained. The views from the northern window already has various incursions or interferences such as roof profiles, trees, telegraph lines and the like. Therefore, the view impact is considered to be minor, since the applicant has provided a generous front setback, and provided a 6.1m setback from the side boundary to the balcony to accommodate the existing view line from No. 86 Idaline Street.

#### **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 skillful 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:

The proposed dwelling house has provided an appropriate front setback of 9m for the first floor, and 11.1m for the First Floor Level to ensure that the existing houses of Idaline Street maintain the shared views northward, toward the ocean and North Narrabeen and Mona Vale Headland (north) views.

The proposed new dwelling has been amended to a more skillful design, by providing a greater side setback for the first floor balcony, and conditions to ensure that the balustrading is of glass glazing will ensure the retention of the focal point of the water view / ocean horizon.

Therefore, the proposal is considered to be satisfactory with regard to this element of the planning principle.

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

#### Comment:

The proposal has been amended to a more innovative roof profile to retain elements of the water view and address the submissions made in respect of view sharing.

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

#### Comment:

There are no large trees within the front setback that create any significant impact on views from properties adjacent the site. The proposal includes new landscaping works in the front garden area that contains no canopy trees that would significantly cause obstruction to views.



Having regard to the above assessment, it is concluded that the proposed development is inconsistent / 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 / is not supported, in this particular circumstance.

## **D8 Privacy**

The development includes a balcony at the front of the dwelling at the First Floor. The balcony services Bedrooms 4 and a family room and extends 2.5m from the front wall of the upper level. The balcony is located on both the northern and eastern elevation of the proposed dwelling, primarily orientated to the northern (secondary front ) boundary.

Given the elevation, the balcony has the potential to overlook into the window of No. 86 Idaline Street that services a lounge area.

Overlooking from the additional two (2) windows on the southern elevation servicing the stairwell and ensuite could result in additional overlooking. However, the two windows servicing a bedroom and ensuite have sill heights of 1.9m to ensure no adverse impact on adjoining properties.

The elevated terrace area of the Ground Floor will not have an adverse impact on the privacy of the adjoining dwelling at No.86 Idaline street as it sits at a lower level than the windows of No 86 Idaline street, thereby minimising adverse impacts on the adjoining property.

Overlooking of the property to the rear (Nos. 93 Aubreen Street) is unlikely given the setback of 8.2m from the rear boundary and that the windows service a bedrooms which are rooms regarded by the NSW Land and Environment Court as being of lesser impact than dedicated living rooms).

### 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:

As discussed above, the development includes a front elevated balcony which could overlook the lounge area of the neighbouring property at No. 86 Idaline Street.

Although servicing a bedroom, the balcony is designed to be used as an outdoor area in which to actively stand and/or sit (i.e. not sleep).

However, there is currently a degree of overlooking from all front balconies, along Idaline street so to enable the retention of the established view lines to the ocean, and headlands along the coastline.

The installation of a privacy screen was discussed with the property owner of No. 86 Idaline Street, however it was agreed that this option was to the detriment of the established view lines. Therefore it was requested that privacy screens not be installed. Consequently, it is considered that the distance of 6.1m to the southern adjoining property is reasonable to mitigate overlooking opportunity (and the perception of being overlooked) to the window servicing the lounge area of No. 86 Idaline Street.

Overlooking from the additional windows on the southern elevation servicing the stairwell could result in additional overlooking to the southern adjoining site, however these windows will be conditioned to be of opaque glazing to minimise amenity impact.

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

Comment:

The development has set the first floor balcony 6.1m from the southern adjoining property to reduce the extent of direct overlooking. It is considered that the use of privacy screens on these balconies would be unreasonable as it would obstruct the existing view lines and add bulk and scale to the built form. Therefore, given that the balcony in effect "wraps" around from the north to the east elevation and is primarily orientated to the northern boundary it is considered 6.1m is an appropriate distance to ensure no adverse impact on adjoining properties.

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

Comment:

The development provides for the personal and property security for occupants and visitors.

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**

### Merit consideration

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

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

Comment:

The planning outcome is site responsive in that the variations to the built form controls of WDCP 2011 relate to natural constraints of the site (such as slope, size and the corner allotment). Given the minor scale of these non-compliances, it is considered that they will not have a significant impact on the overall height and bulk of the development and will not cause unreasonable amenity impacts, including view loss for adjoining properties.

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

Comment:

The design is considered to be an appropriate response to the sites location and siting relative to adjoining properties, in that the front setbacks and envelope do not have a significant bearing on the overall height and bulk of the development, such that it will not have an unreasonable amenity impact upon surrounding properties.

Additionally, the proposed northern and eastern facades of the new dwelling contains a high

level of articulation and visual interest with openings, stepping, change of material which is considered to be a improved design outcome and contributes to reducing the visual impact when viewed from adjoining properties.

Therefore, the proposed addition will not appear overbearing and visually dominant and the design provides visual continuity and building patter with the character of the streetscape.

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.

### **D15 Side and Rear Fences**

The proposal includes a 0.5m - 1.1m high brick fence, to be constructed on the north front boundary which complies with the control.

However, there is a glazed pool fence to be constructed on top of the brick boundary wall set up to 0.9m from the front boundary with extensive non-climbable vegetation to be planted within the setback to screen and soften the built form.

It is important to note, that there is a required 0.9m non-climbable zone (NCZ) adjoining a pool fence. An NCZ extends both upwards and downwards in an arc from the barrier. The plans demonstrate compliance with this required distance. The vegetation proposed is suitable to be planted within this NCZ zone as it consists of bushes with dense, spiked, thorned, and rough foliage that is considered non-climbable and are therefore acceptable for planting in the NCZ as they do not facilitate climbing.

Therefore, a site visit and review of the plans indicates that the combination of low brick, glass glazing and screening non-climbable landscaping is a significant improvement to the presentation of Acacia Street, and lower than the height of surrounding existing side boundary fences along the street and in the area overall.

The proposed mixed style of boundary fence with incorporated landscaped zones provides a design solution for safety and security for the occupants, whilst improving the overall outlook of the built environment.

There is no other boundary fence proposed as part of the application. The front boundary to Idaline Street and the remaining boundary area of Acacia Street is to incorporate screening hedging rather than a formalised boundary fence.

Therefore, the proposed fence upgrades the site frontages, allows for increased privacy to the site, and thereby increases visual interest in the streetscape overall.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

## **Northern Beaches Section 7.12 Contributions Plan 2019**

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

A monetary contribution of \$7,403 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$740,300.

## **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 DA2019/1124 for Demolition works and construction of a dwelling house including swimming pool on land at Lot 23 DP 33000, 88 Idaline Street, COLLAROY PLATEAU, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Basement Floor Plan DA-02 Revision C	Dec 2018	TIBA Architecture Group
Ground Floor DA-03 Revision C	Dec 2018	TIBA Architecture Group
First Floor Plan DA-04 Revision C	Dec 2018	TIBA Architecture Group
Site and Roof Plan DA-05 Revision C	Dec 2018	TIBA Architecture Group
Elevations DA-06 Revision C	Dec 2018	TIBA Architecture Group
Section DA-07 Revision C	Dec 2018	TIBA Architecture Group
Excavation Plan	03/09/2019	SJ Nicola & Asscoaites

<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>
Limited Geoetchnical Investigation	4 February 2020	Geotechnique Pty Ltd

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Landscape Plan L01	26/08/2019	Botanique Design

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

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

## 2. Prescribed Conditions

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

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

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

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

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

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

Reason: Legislative requirement.

### 3. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:



- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Policy Controls**

#### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$7,403.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$740,300.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount

unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

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

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

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

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

#### 5. **Security Bond**

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://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 \$1000 as security against any damage to Council's stormwater drainage system 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. **Pump-Out System Design for Stormwater Disposal**

The design of the pump-out system for stormwater disposal will be permitted for drainage of

hard surfaces areas such as driveways and basement pavement areas only, and must be designed in accordance with AS/NZS 3500. The Applicant is to provide engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

**8. Amendments to the approved plans**

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

- Windows servicing the internal stairwell, on the southern elevation, are to be of opaque glazing.
- The balustrades on the First Floor balcony are to be clear glazing for the entire northern, eastern, and western side of the balcony.

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.

**9. On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by AZZURRA Consulting Pty Ltd, drawing reference number IDALINE88-SWCONCEPT, SHEET 1 to 8, dated 07/19. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

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

**10. Vehicle Driveway Gradients**

The Applicant is to ensure 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. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

**11. Utilities Services**

Prior to the issue of the Construction Certificate, the Applicant is to obtain the following:

- (a) A letter from Sydney Water confirming that satisfactory arrangements to the existing water

and sewerage infrastructure have been made for the approved development.

(b) Evidence that notification has been received from Sydney Water authority that, requirements for the development can be provided.

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

Reason: To ensure that services have been provided as required by this Consent.

12. **Structural Adequacy and Excavation Work**

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

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

13. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

14. **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.

15. **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.

16. **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](http://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.

17. **Pre-Commencement Dilapidation Report**

A Pre-Commencement Dilapidation Report of adjacent buildings (No. 86 Idaline Street, Collaroy Plateau) must be conducted prior to any site work.

The Pre-Commencement Dilapidation Report must clearly detail the condition of all the adjoining properties, infrastructure, natural and manmade features within the likely "zone of influence" of any excavation or construction induced vibration.

A copy of the Pre-Commencement Dilapidation Report must be provided to Council, any other owners of public infrastructure, the owners of adjoining and affected private properties and the Certifying Authority prior to the issue of the Construction Certificate.

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

18. **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**

19. **Tree protection**

- (a) Existing trees which must be retained
  - i) All trees located on adjoining land
  - ii) All street trees

- (b) Tree protection
  - i) No tree roots greater than 25mm 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 25mm 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.

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

### 20. 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.

### 21. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

### 22. Survey Certificate

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

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

(b) At 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.

### 23. Vehicle Crossings

The Applicant is to construct one vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/2 NH and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. The vehicle crossing must be at least 1.0 metre away from Council's lintel. All redundant laybacks and crossings are to be restored to

footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

24. **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**

25. **Landscape completion certification**

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

26. **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.

27. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for on-site storm water detention is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

28. **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.

29. **Post-Construction Dilapidation Report**

A Post-Construction Dilapidation Report of adjacent buildings (No.86 Idaline Street, Collaroy Plateau) must be conducted prior to the issue of the Occupation Certificate.

The Post-Construction Dilapidation Report must clearly detail the final condition of all the adjoining properties, infrastructure, natural and manmade features that were originally recorded in the Pre-Commencement Dilapidation Report.

A copy of the Post-Construction Dilapidation Report must be provided to Council, any other owners of public infrastructure, the owners of adjoining and affected private properties and the Certifying Authority prior to the issue of the Occupation Certificate.

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

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

**Signed**



**Catriona Shirley, Planner**

The application is determined on 07/02/2020, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**