

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1601
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Responsible Officer:	Jordan Howard
Land to be developed (Address):	Lot 391 DP 838916, 12 A Rabaul Road NORTH CURL CURL NSW 2099
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Rapid Plans Pty Ltd

Application Lodged:	26/11/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	04/12/2024 to 18/12/2024
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 462,715.00
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PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks development consent for alterations and additions to a dwelling house. Specifically, the following is proposed:

- Upper floor addition comprising of two bedrooms, ensuite, bathroom, living/rumpus area with wet bar and study.
- Internal stairs to upper floor.
- Rear stairs to the upper floor.
- Front deck.
- Sheet metal roofs.

Additional information was requested in relation to potential view impacts, potential visual privacy

impacts and concerns with the proposed internal configuration of the dwelling house. Additional / amended information was submitted in response which resolved these issues and did not require re-notification (in accordance with the Northern Beaches Community Participation Plan).

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 - B1 Wall Heights

Warringah Development Control Plan - B9 Rear Boundary Setbacks

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 391 DP 838916 , 12 A Rabaul Road NORTH CURL CURL NSW 2099
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Rabaul Road. The site is irregular in shape with a frontage of 9.29m along Rabaul Road and a maximum depth of 37.6m. The site has a surveyed area of 514.9sqm. The site is located within the zone R2 Low Density Residential and accommodates a dwelling house. The site slopes from the rear (north) down towards the front (south), with a fall across the site of approximately 8m.

The site contains lawn areas, garden beds and vegetation. There are no details of threatened species at the subject site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density residential development, predominantly dwelling houses.

Map:



SITE HISTORY

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

Development Application No. DA2024/1577 for "Alterations and additions to a dwelling house" was returned at lodgment on 19 November 2024 due to inadequate and/or insufficient information being provided to assess the proposed development.

Development Application No. DA2014/0072 for "Alterations and additions to a dwelling house" was approved by former Warringah Council on 26 February 2014.

APPLICATION HISTORY

Additional information was requested during the assessment process in relation to potential view impacts, potential visual privacy impacts and concerns with the proposed internal configuration of the dwelling house. Additional / amended information was submitted in response which resolved these issues and did not require re-notification (in accordance with the Northern Beaches Community Participation Plan). Changes in the amended proposal included:

- Lowering of the maximum RL of the roof ridge from 34.120m AHD to 33.676m AHD, a reduction of 444mm. This was achieved by changing the pitch of the roof.
- Raising the sill-height of Window 4 on the First Floor Western Elevation from 1.2m to 1.8m.
- Alterations to the internal layout, including the deletion of a door at the Ground Floor between the existing Kitchen and proposed Stairs, and reduction in size of the proposed First Floor 'Wet Bar'.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to potential view impacts, potential visual privacy impacts and concerns with the proposed internal configuration of the dwelling house. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this

Section 4.15 Matters for Consideration	Comments
	application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 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.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 application has been publicly exhibited from 04/12/2024 to 18/12/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Withheld Withheld	NORTH CURL CURL NSW 2099
Kylie Gai Anthony	12 Rabaul Road NORTH CURL CURL NSW 2099
Sarah Louise Eadon	13 Fay Street NORTH CURL CURL NSW 2099
Mrs Ashlea Joy Zivanovic	16 Rabaul Road NORTH CURL CURL NSW 2099

Some property owners / occupiers made more than one submission on the application. All submission received have been recorded and considered in this assessment. However, for the purpose of counting submissions, all submissions received by or on behalf of the same dwelling have been considered as a single submission (in accordance with the Northern Beaches Community Participation Plan).

The following issues were raised in the submissions:

- **Notification of the application**

The submissions raised concerns that neighbouring properties had not received adequate notification of the Development Application. In particular, it was noted that notification letters had not been received by neighbouring properties.

Comment:

Council's records indicate that notification letters were produced and dispatched in accordance with the Northern Beaches Community Participation Plan. It is acknowledged that issues receiving notifications letters sometimes occur and may have occurred in this instance. However, Council's notification process includes a number of actions to maximise the visibility of an application as appropriate per the type of development. In this instance, this has included the placement of a notification sign at the property frontage and digital / online notification (where the application is exhibited publicly online and any parties that are registered to receive online notification of development applications within an area are notified). Furthermore, in the case of this application, submission have been received from neighbouring properties, particularly those adjoining and uphill of the subject site, demonstrating that interested / potentially impacted parties have been involved in the assessment process. Considering these factors, formal re-exhibition / re-notification is not considered to be required, as all necessary steps were undertaken to ensure that the application was notified in accordance with the Northern Beaches Community Participation Plan.

This matter does not warrant refusal or further amendment of the proposed development.

- **View loss**

The submissions raised concerns that the proposed development would create unreasonable view loss impacts on properties situated to the west of the subject site. These concerns were raised against the original proposal, as well as the amended proposal.

Comment:

Refer to the section of this report on WDCP Clause D7 Views for a detailed assessment of

view loss. In summary, the amended proposal is considered to provide an acceptable level of view sharing.

This matter does not warrant refusal or further amendment of the proposed development.

- **Privacy**

The submissions raised concerns that the proposed development would create unreasonable privacy impacts on an adjoining property to the west and on an adjoining property to the north. These concerns were raised against the original proposal, as well as the amended proposal.

Comment:

Refer to the section of this report on WDCP Clause D8 Privacy for a detailed assessment of privacy. In summary, the amended proposal is not considered to create unreasonable privacy impacts.

This matter does not warrant refusal or further amendment of the proposed development.

- **Bulk and scale**

The submissions raised concerns that the proposed development represents excessive bulk and scale when viewed from an adjoining property to the west. The submission also raised issue with the proposed western side setback, stating a 900mm side setback would contribute to this bulk and scale.

Comment:

The western side setback of the proposed first floor addition is not 0.9m, despite this being the minimum required by WDCP B5 Side Boundary Setbacks. The western side setback proposed is 1.6m, which is fully compliant with the side setback control. Furthermore, WDCP Clause B3 Side Boundary Envelope also acts to control building bulk and side setbacks by requiring buildings to be sited within a building envelope determined by projecting planes at 45 degrees from a height of 5m above ground level (existing) at the side boundaries. The proposed first floor addition is also fully compliant with this control. The overall height is also well under the 8.5m height of buildings development standard applicable to the site.

It is acknowledged that the development will result in a visible change to the built form at the subject site, a change that will be visible from neighbouring properties. However, the proposed development has demonstrated a high level of compliance with planning controls. Where non-compliances arise, these have been justified and supported on merit. Furthermore, the proposed development is considered to be qualitatively commensurate to surrounding development. These factors demonstrate that the proposal is not excessive in bulk and scale and is reasonable within this context.

This matter does not warrant refusal or further amendment of the proposed development.

- **Noise from rear stairs / deck**

The submissions raised concerns that proposed rear stairs which provide access to the First Floor would create unreasonable acoustic / noise impacts on an adjoining property to the north.

Comment:

The proposed rear deck is very small and narrow, making it unsuitable for prolonged use as an outdoor entertain area. Furthermore, the proposal includes a better area for such activities, the

front deck adjoining the rumpus room. As such, the rear deck and stairs will only be used in a transient way. Such use is not expected to generate unreasonable acoustic impacts, considering that some level of noise from neighbouring properties is to be expected in a residential environment.

Nonetheless, it is noted that the *Protection of the Environment Operations Act 1997* provides a generic regulatory instruments that can be applied to any context, should noise generated at a property be determined to be 'offensive noise', allowing action to be taken by council or police officers.

This matter does not warrant refusal or further amendment of the proposed development.

- **Loss of breeze**

The submissions raised concerns that the structure may impact the flow of southerly breeze that is obtained by an adjoining property to the north.

Comment:

There is no specific control within the WDCP relating to breezes / airflow. Nonetheless, the proposed development has demonstrated a high level of compliance with planning controls. Where non-compliances arise, these have been justified and supported on merit. In this regard, the proposal is not considered to be excessive in bulk and scale and will therefore not unduly impact on airflow.

This matter does not warrant refusal or further amendment of the proposed development.

- **Potential for use of the First Floor as a secondary dwelling**

The submissions raised concerns that the First Floor may be used as a secondary dwelling.

Comment:

The potential for the proposed First Floor to be used as a Secondary Dwelling was noted during the assessment. Issue with elements of the proposed internal design were raised with the Applicant, and changes were made in the amended proposal to reduce the potential for this use. This included greater connectivity between the proposed stairwell and ground floor via the removal of a door, as well as the reduction of the proposed size of the First Floor 'Wet Bar'. Nonetheless, the application has been assessed as a proposal for alterations and additions to a dwelling house, with no changes to the use of the site proposed. To clarify this, conditions of consent have been included in the recommendations of this report which specify that no approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. The conditions stipulate that built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area, and clarify that the the First Floor 'Wet Bar' is not a designated kitchen area.

This matter does not warrant refusal or further amendment of the proposed development.

REFERRALS

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1771162, issued 31 October 2024).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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	8m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	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	East: 7.4m West: 5.7m	2.8% -	No Yes
B3 Side Boundary Envelope	East: 5m	Inside envelope	-	Yes
	West: 5m	Inside envelope	-	Yes
B5 Side Boundary Setbacks	East: 0.9m	First Floor Addition: 3.6m - 8.9m	-	Yes
	West: 0.9m	First Floor Addition: 1.6m	-	Yes
B7 Front Boundary Setbacks	6.5m	First Floor Addition: 16m	-	Yes

B9 Rear Boundary Setbacks	6m	First Floor Addition: 5m (closest) Rear Stairs: 5.4m (closest)	16.7% 10%	No No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (205.96sqm)	12.9% (66.3sqm)	67.8% (139.66sqm)	No

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	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	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	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

Clause B1 Wall Heights requires that walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space).

The proposal presents a maximum wall height of 7.4m measured on the eastern elevation to the first floor addition. This represents a minor 2.8% variation to the control and is the maximum wall height of the proposal. It is noted that the maximum wall height on the western elevation is 5.7m, compliant with the control.

Merit consideration

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

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

Comment:

Notwithstanding the non-compliance, the proposed development is considered to be appropriately sited to minimise visual impacts caused by the proposed wall height. The breach is very minor and created due to steeply sloping topography. The breach is isolated to the south-eastern corner of the proposed first floor addition, where the land slopes down the most. The majority of the first floor addition, including the entire western elevation, is compliant with the wall height control. It is considered that the visual impact of the development is minimised from adjoining properties, streets, waterways and land zoned for public recreation purposes, considering the limited size and scope of this breach.

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

Comment:

Whilst the subject site is located up-hill from the street, there are a number of tall canopy trees in-front and adjacent to the site which result in the development generally appearing beneath the existing tree canopy level.

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

Comment:

Refer to the section of this report on WDCP Clause D7 Views for a detailed assessment of view loss. In summary, the amended proposal is considered to provide an acceptable level of view sharing.

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

Comment:

Refer to the section of this report on WDCP Clause D7 Views for a detailed assessment of view loss. In summary, the amended proposal is considered to provide an acceptable level of view sharing.

Refer to the section of this report on WDCP Clause D8 Privacy for a detailed assessment of privacy. In summary, the amended proposal is not considered to create unreasonable privacy impacts.

Furthermore, the development is not considered to create unreasonable overshadowing on public or private spaces. Overall the proposal is not considered to result in unreasonable amenity impacts on adjoining properties.

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

Comment:

Notwithstanding the minor breach, the dwelling responds appropriately to the topography. It is noted that the proposal is for a first floor addition to an existing dwelling, therefore creating additional usable floorspace without necessitating excavation.

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

Comment:

The design proposes an acceptable roof design and roof form. During the assessment process, the proposal has been altered to feature a lower ridge height, achieved by lowering the roof pitch. Whilst this did not change the proposed wall height, it did lower the roof form to increase view sharing for properties to the west of the subject site. The roof pitch and design is considered to be adequate.

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

B9 Rear Boundary Setbacks

Description of non-compliance

Clause B9 Rear Boundary Setbacks requires development to be setback a minimum of 6m from the rear boundary.

The proposed rear setback of the First Floor addition is 5m at its closest, representing a 16.7% non-compliance with the control. It is noted that this is greater than the existing Ground Floor rear setback of 4.4m, demonstrating that the first floor addition is setback within the existing building footprint at the rear.

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:

Refer to the section of this report on WDCP Clause D1 Landscaped Open Space and Bushland Setting for a detailed assessment of the proposed landscaped open space. In summary, the proposal is supported on merit despite exhibiting a non-compliant level of landscaped open space. This is because the proposed development is almost entirely located within the footprint of the existing dwelling and has little impact on the level of landscaped area (which as existing is deficient). The only reduction in landscaped area is created by the proposed rear access stairs, a minor element of the proposal with a minor impact on landscaping. As such, the proposal is considered to provide sufficient opportunities to accommodate future landscaping and deep soil zones.

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

Comment:

The proposal is considered to retain a sense of openness in the rear yard, meeting private open space requirements outlined in the WDCP.

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

Comment:

Refer to the section of this report on WDCP Clause D7 Views for a detailed assessment of view loss. In summary, the amended proposal is considered to provide an acceptable level of view sharing.

Refer to the section of this report on WDCP Clause D8 Privacy for a detailed assessment of privacy. In summary, the amended proposal is not considered to create unreasonable privacy impacts.

Furthermore, the development is not considered to create unreasonable overshadowing on public or private spaces. Overall, the proposal is not considered to result in any unreasonable amenity impact on adjoining properties.

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

Comment:

The existing visual continuity and building pattern is not considered to be unreasonably impacted by the proposed development.

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

Comment:

Refer to the section of this report on WDCP Clause D8 Privacy for a detailed assessment of

privacy. In summary, the amended proposal is not considered to create unreasonable privacy impacts.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Clause D1 Landscape Open Space and Bushland Setting requires the minimum landscaped open space (LOS) as being 40% (205.96sqm) of the site area with minimum dimensions of 2 metres.

The proposed development includes 12.9% (66.3sqm) landscaped open space, representing a variation of 67.8% (139.66sqm).

However, it should be noted that the existing site configuration only achieves 13.1% (67.4sqm) of LOS, with the proposed developed only reducing LOS by 1.1sqm. Almost the entire proposal is located within the footprint of the existing dwelling, with only a proposed set of stairs connecting to the rear yard creating this minor loss of LOS. Therefore, even though the proposal is non-compliant, it is largely a result of the existing site configuration. It should also be noted that the site is burdened by Right of Way / Easement for access / services / draining of another property, located behind the subject site. Due to this, a large portion of site along the eastern boundary is concreted as an access driveway, making LOS compliance difficult.

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

No significant trees or vegetation are proposed for removal. The existing non-complaint LOS is only reduced by 1.1sqm in the rear yard, an area not readily visible from the street. As the majority of works are located within the footprint of the existing dwelling, the proposed development will not significantly effect the existing landscape character of the streetscape.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The land has been used for residential purposes for an extended period of time and altered from its natural form during this time. There are no known threatened species identified on site.

- *To provide for landscaped 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.*

Comment:

Considering existing site constraint and existing minimal LOS, there is adequate room for canopy trees and vegetation.

- *To enhance privacy between buildings.*

Comment:

Refer to the section of this report on WDCP Clause D8 Privacy for a detailed assessment of privacy. In summary, the amended proposal is not considered to create unreasonable privacy impacts.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The proposal maintains adequate private open space.

- *To provide space for service functions, including clothes drying.*

Comment:

The proposal maintains adequate space for service functions.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The site has adequate permeable surfaces to ensure that water management and the natural infiltration of stormwater into the ground can occur. Due to typography, the site can drain directly to the street

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

D7 Views

Of the four submissions received by Council, three raised view loss as an issue. These were from owners / occupiers of:

- 13 Fay Street, North Curl Curl
- 16 Rabaul Road, North Curl Curl
- 14 Rabaul Road, North Curl Curl

Figure 1 provides an annotated map of these properties to show their relationship to the subject site.

In order to enable an accurate view loss assessment, a request was made to the Applicant for height poles to be established at the subject site. These were installed at six (6) locations as shown in *Figure 2*, with the height and location confirmed by a Registered Surveyor.

Visits to surrounding properties were undertaken during the assessment process to ascertain the extent of view impacts and other concerns raised. *Figure 3* shows the view from 13 Fay Street. *Figure 4* to *Figure 5* shows the view from 16 Rabaul Road. *Figure 6* to *Figure 17* show the view from 14 Rabaul Road. Following these visits, issue was raised with the Applicant regarding the potential for view loss. As a result, the proposed development was amended to reduce the maximum RL of the roof ridge from 34.120m AHD to 33.676m AHD, a reduction of 444mm. Both the original and amended design will be discussed below. Note that images show height poles as surveyed to the original higher proposed building height.

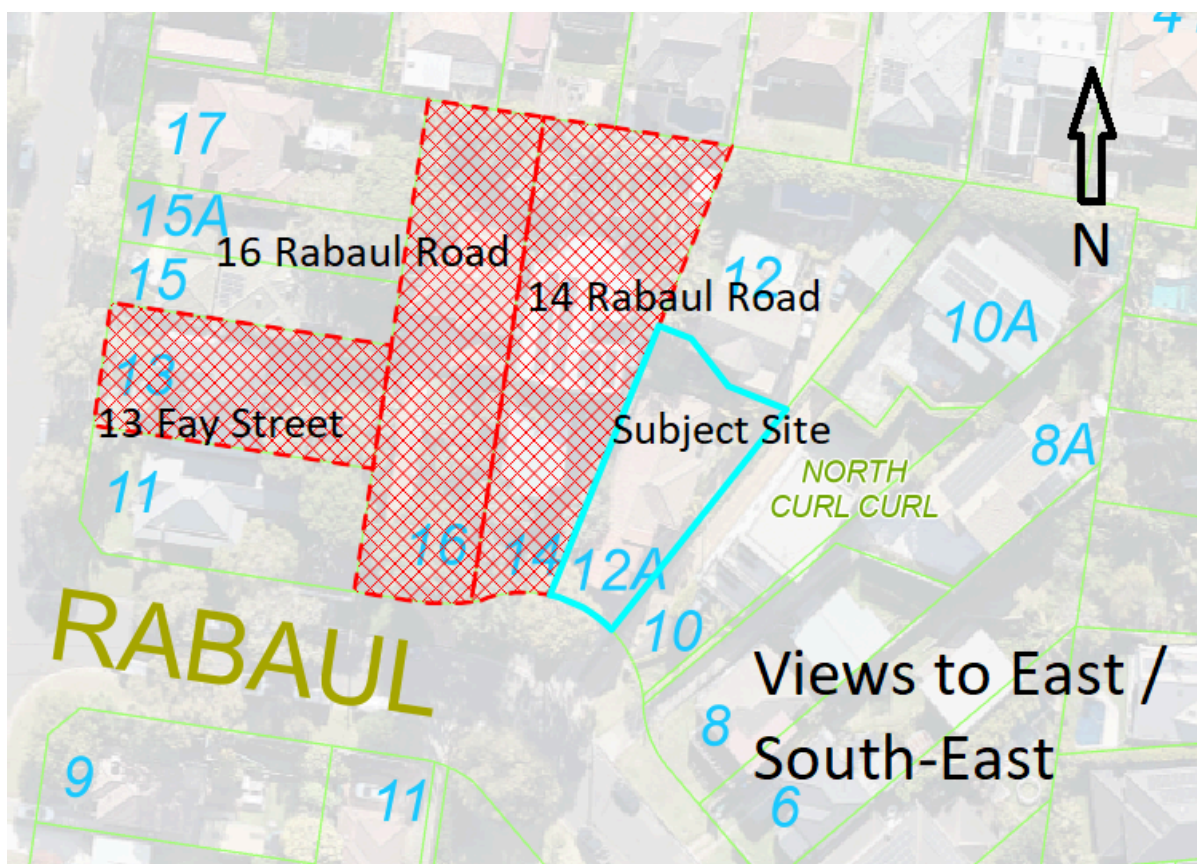


Figure 1 - Annotated map of surrounding properties.

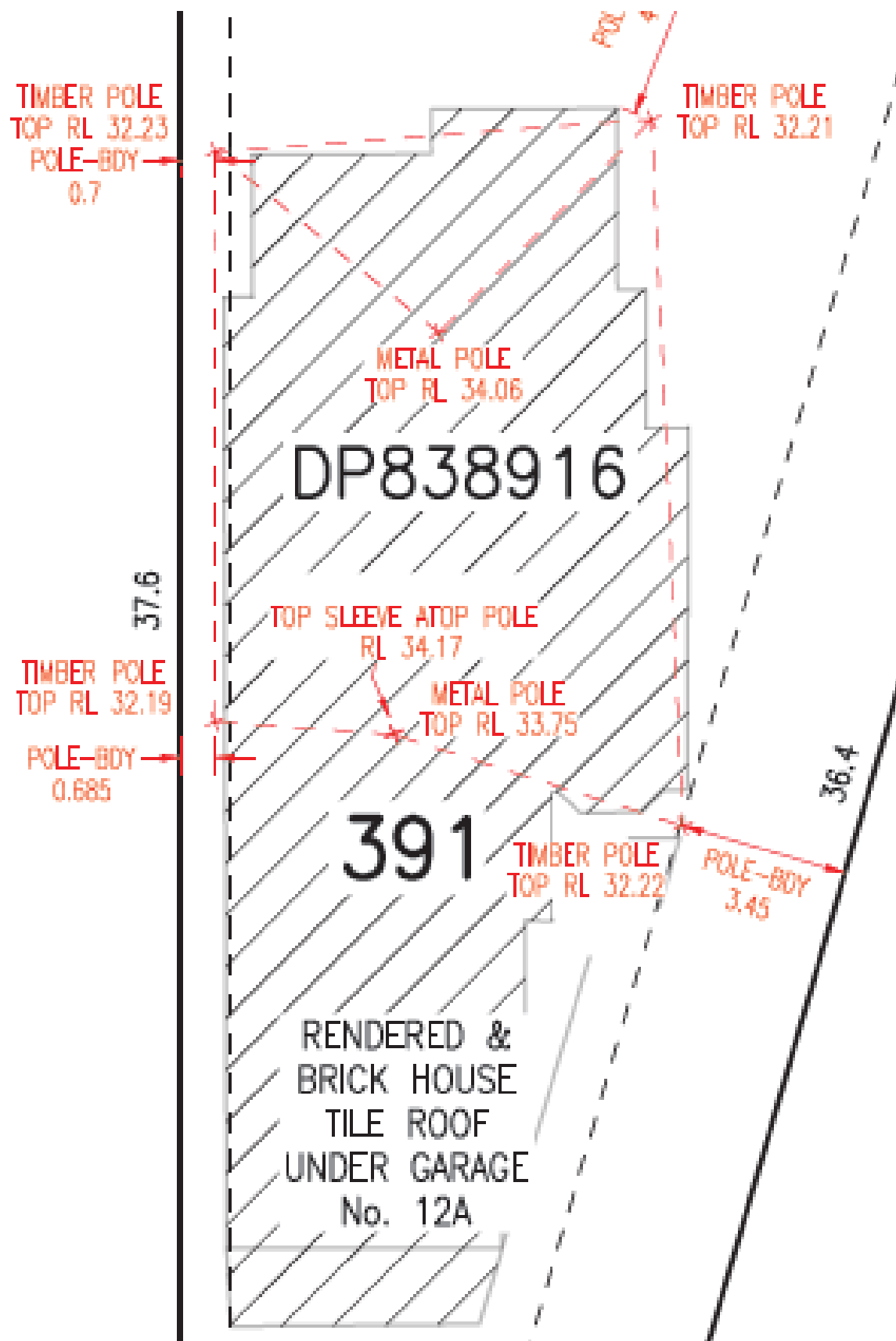


Figure 2 - Location and heights of height poles as surveyed by C&A Surveyors.



Figure 3 - View from First Floor Balcony of 13 Fay Street looking east (toward the subject site). Taken on 7 February 2025.



Figure 4 - View from First Floor Hallway / Stairwell / Open Living Area of 16 Rabaul Road looking south-east (toward the subject site). Taken on 11 February 2025.



Figure 5 - View from First Floor Bedroom of 16 Rabaul Road looking south-east (toward the subject site). Taken on 11 Febuary 2025.



Figure 6 - View from Secondary Dwelling Front Balcony of 14 Rabaul Road looking east (toward the subject site). Taken on 7 February 2025.



Figure 7 - View from Secondary Dwelling Living Room of 14 Rabaul Road looking east (toward the subject site). Taken on 7 February 2025.



Figure 8 - View from Secondary Dwelling Bedroom of 14 Rabaul Road looking east (toward the subject site). Taken on 7 February 2025.



Figure 9 - View from Primary Dwelling Ground Floor Bedroom Side Window of 14 Rabaul Road looking south-east (toward the subject site). Taken on 7 February 2025.



Figure 10 - View from Primary Dwelling Ground Floor Bedroom Front Window of 14 Rabaul Road looking south-east (toward the subject site). Taken on 7 February 2025.



Figure 11 - View from Primary Dwelling Ground Floor Front Room Front Window of 14 Rabaul Road looking south-east (toward the subject site). Taken on 7 February 2025.



Figure 12 - View from Primary Dwelling First Floor Kitchen of 14 Rabaul Road looking south-east (through the living room toward the subject site). Taken on 7 February 2025.



Figure 13 - View from Primary Dwelling First Floor Living Room of 14 Rabaul Road looking south-east (toward the subject site) in a standing position. Taken on 7 February 2025.



Figure 14 - View from Primary Dwelling First Floor Living Room of 14 Rabaul Road looking south-east (toward the subject site) in a sitting position. Taken on 7 February 2025.



Figure 15 - View from Primary Dwelling First Floor Front Balcony of 14 Rabaul Road looking south-east (toward the subject site) in a standing position. Taken on 7 February 2025.



Figure 16 - View from Primary Dwelling First Floor Front Balcony of 14 Rabaul Road looking south-east (toward the subject site) in a sitting position. Taken on 7 February 2025.



Figure 17 - View from Primary Dwelling First Floor Side Balcony / Outdoor Dining Area of 14 Rabaul Road looking south-east (toward the subject site). Taken on 7 February 2025.

Merit consideration

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

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

Comment:

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

Step 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 on Principle 1 for 13 Fay Street

The view obtained from the First Floor of 13 Fay Street is one of neighbouring back yards to the east, street trees and of the sky. Ocean views to the east are not readily discernable.

Comment on Principle 1 for 16 Rabaul Road

The view obtained from the First Floor of 16 Rabaul Road is a partial district view towards the south and south-east through windows. Partial distant views of the ocean to the south-east are discernable. The view is limited by surrounding built form, vegetation and the orientation of windows themselves. The land-water interface is not readily discernable.

Comment on Principle 1 for 14 Rabaul Road

The views obtained from 14 Rabaul Road are different across the property. From a Secondary Dwelling in the front yard of the site, views of the streetscape to the south are achieved. Partial distant views of the ocean to the south-east are somewhat discernable. The view is limited by surrounding built form and vegetation. From the Ground Floor of the Principal Dwelling at the site, front rooms achieve partial district views towards the south and south-east. Distant views of the ocean to the south-east are discernable. The view is limited by surrounding built form, vegetation and the orientation of windows themselves. From the First Floor of the Primary Dwelling at the site, the open plan primary living area, kitchen and balconies achieve sweeping district views to the south and south-east. District views to the south are only limited by some tall trees. Distant ocean views to the south-east (over the subject site) are largely unobstructed. The land-water interface is not readily discernable from any location.

Step 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 on Principle 2 for 13 Fay Street

The view in question from 13 Fay Street is achieved from First Floor living areas and bedrooms adjacent to a rear balcony, as well as from the rear First Floor balcony itself. The view can be attained sitting or standing. The view is over a rear boundary.

Comment on Principle 2 for 16 Rabaul Road

The view in question from 16 Rabaul Road is achieved from First Floor living areas and bedrooms along the southern (front) elevation of the property. The view towards the ocean is best attained standing close to the windows and only from limited viewing angles (due to the southerly orientation of the windows versus the south-easterly direction of the ocean views). The views towards the ocean are attained over a side boundary. It is noted that during the site visit, the homeowner mention the potential of future development of a front upper level balcony at the site, which would potentially obtain greater views. However, this has not been constructed and therefore cannot be considered in detail as the view is not an existing one.

Comment on Principle 2 for 14 Rabaul Road

Views in question from the 14 Rabaul Road Secondary Dwelling are achieved from a front balcony and eastern side elevation windows off a living room and a bedroom. Views towards the ocean are limited by existing vegetation and built form to the east, but can be seen in glimpses over a side boundary. The ocean views are best attained standing, but could possible be viewed sitting on the front balcony and in the living room. The bedroom window is high-sill in design, making the view only visible when standing intentionally to view out of the high window.

Views in question from the 14 Rabaul Road Primary Dwelling are achieved somewhat from the

Ground Floor through southern (front) and eastern (side) elevation windows. Ocean views are best attained standing, but could possibly be viewed sitting in these rooms. However, the district and ocean views are best achieved from the First Floor open plan primary living area, kitchen and balconies. Views are attainable both sitting and standing either within the living room or on the front balcony. Ocean views are all attained over a side boundary.

Step 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 on Principle 3 for 13 Fay Street

The proposed development will only impact views of the sky attained to the east. No significant landscape or ocean features will be obscured. A general landscaped outlook intermixed with neighbouring development will remain the predominate view attained from the First Floor balcony towards the east. The view loss to this property, from both the original and amended proposal, is considered to be negligible. Nonetheless, it is noted that the reduced ridge height of the amended proposal will reduce the overall visibility of built form from this property.

Comment on Principle 3 for 16 Rabaul Road

The proposed development will impact on ocean views attained from the First Floor of this property. Even as amended to reduce the maximum ridge height, the proposed development will likely impact the majority of distant ocean views attained from southern elevation First Floor windows. However, these views as existing are highly obscured by surrounding built form and vegetation. Furthermore, the orientation of windows themselves (towards the south versus the south-easterly direction of the ocean views) restricts the viewing angles where the views are attainable. The nature of the area where views are attained must also be noted. The views are attained from upper level bedrooms, and a hallway / stairwell window. The views are not attained from a kitchen, primarily living space, private outdoor space or outdoor entertaining area. They are attained from low waking use rooms and transient spaces. Finally, it is noted that the views are attained over a side boundary. Step 2 highlights that preserving side views is often unrealistic. For these reasons, the view loss to this property, from both the original and amended proposal, is considered to be minor. Nonetheless, it is noted that the reduced ridge height of the amended proposal will reduce the overall visibility of built form from this property.

Comment on Principle 3 for 14 Rabaul Road

Regarding the Secondary Dwelling at 14 Rabaul Road, the proposed development will impact on ocean views attained from this area of the property. Even as amended to reduce the maximum ridge height, the proposed development will likely impact the majority of distant ocean views attained from the Secondary Dwelling. However, these views as existing are highly obscured by surrounding built form and vegetation. The property is also a Secondary Dwelling rather than a Primary Dwelling. Finally, it is noted that the views are attained over a side boundary. Step 2 highlights that preserving side views is often unrealistic. For these reasons, the view loss to this area of the property, from both the original and amended proposal, is considered to be minor. Nonetheless, it is noted that the reduced ridge height of the amended proposal will reduce the overall visibility of built form from this property.

Regarding the Primary Dwelling at 14 Rabaul Road, the proposed development will impact on

ocean views attained from this area of the property. Even as amended to reduce the maximum ridge height, the proposed development will effect some, but not all, of the distant partial ocean views attained at the Ground Floor. However, Ground Floor views as existing are partially obscured by surrounding built form and vegetation. These are also not high waking use rooms or primary living spaces. Considering the Primary Dwelling as a whole, Ground Floor views are not the best existing views obtained. Therefore, preservice these views is of less importance.

The most valuable views, and the most important views to preserve, are attained from the Primary Dwelling First Floor open plan primary living area, kitchen and balconies. These are high waking use rooms, including the kitchen and primary living areas. The most valuable / important element of this view is the ocean. The original proposal would have preserved standing views to the ocean from the kitchen, living room and balcony, impacting district views below the view of the ocean. However, when sitting in the living room or balcony, the view of the ocean would have been impeded from some positions. As a result, the original proposal was considered to have a moderate view loss impact to the Primary Dwelling. Issue was raised with the Applicant regarding view loss, particularly noting the scope for minor changes which would decrease this view loss. As a result, the proposal was amended to reduce the overall ridge height by 444mm. The amended proposal will result in seated views being better preserved / protected, allowing ocean views over the top of the development. Standing views will further benefit, pulling the ridge line down and increasing the retention of district views below the ocean view. Finally, it is noted that the views are attained over a side boundary. Step 2 highlights that preserving side views is often unrealistic. Overall, it is considered that the amendment proposal reduces the view loss impact from moderate to minor.

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

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

Comment on Principle 4:

Principle 4 is of high significance to this assessment as the proposed development is highly compliant with planning controls. The proposed development, both as originally proposed and as amended, is compliant with the overall height of buildings development standard of 8.5m, with the maximum height of the amended proposal being 7.6m. The proposal is also compliant with almost all MDCP controls, with only a minor rear setback non-compliance, a minor wall height non-compliance and a landscaped open space non-compliance. The wall height non-compliance is on the eastern side of the dwelling (opposite to the side facing the above disused properties) where the land drops away due to site topography. None of the MDCP built form non-compliances contribute to view loss. All are supported on merit (see relevant sections of this report). Therefore, the development, both as originally proposed and as amended, is a highly reasonable proposal.

Regarding the 'more skillful design' question, this was applied to the proposed development. Issue was raised with the Applicant regarding view loss, particularly noting the scope for minor changes which would not impact development potential but would reduce the impact on neighbouring views. As a result, the amended proposal decreased roof pitch,

resulting in a roof height decrease of 444mm. This 'more skillful design' reduces view impacts to neighbours, particularly the Primary Dwelling of 14 Rabaul Road. These changes are considered to strike a balance between reaching the maximum development potential of the land and preserving the views of neighbours. Further changes, including further redesign of the roof form or shrinking of floor to ceiling heights, would impose undue impacts on development potential for minimal additional reduction of view loss. As such, it is considered that the amended proposal is a 'more skillful design' than the original, one that strikes an adequate balance between development potential and amenity of surrounding land. Therefore, minor view loss that arises from the proposal is considered to be acceptable and the view sharing reasonable.

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

Comment:

The amended proposal has employed an innovative design solution as discussed above. This 'more skillful design' strikes an adequate balance between development potential and amenity of surrounding land.

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

Comment:

No removal of canopy trees is proposed.

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

D8 Privacy

Of the four submissions received by Council, two raised privacy as an issue. These were:

- 14 Rabaul Road, North Curl Curl
- 12 Rabaul Road, North Curl Curl

The assessment of potential privacy impacts of a proposal requires consideration of the requirements and objectives of this Clause, as well as planning principals established within *Meriton v Sydney City Council [2004] NSWLEC 313*, which hold that when applying judgment to assess privacy impacts, consideration should be given to density, separation, use and design.

Western Elevation

Windows on the western elevation of the proposed First Floor are within 9m of adjoining dwellings at 14 Rabaul Road. However, these windows are not directly aligned to windows at either the Secondary or Primary Dwelling at this neighbouring site. Issue was raised during the assessment process with the size of proposed Window 4. As a result, an amended proposal has been submitted which reduces the size of this window and makes it high-sill in design. As amended, all windows on the eastern elevation and small in size and high-sill in design, with minimum sill heights of 1.8m. These are effective privacy measures within the design as viewing out of high-sill windows is significantly limited. Furthermore, the low waking use of these rooms should be considered, will all windows on the First Floor western

elevation connecting to either bedrooms or bathrooms.

Whilst submissions have raised concerns that the Primary Dwelling at 14 Rabaul Road is elevated and may look down into high-sill windows, this can only be achieved from limited points on the First Floor of 14 Rabaul Road, such as the front deck. It is not considered appropriate to require the entire removal of western elevation windows, which are beneficial to the health and amenity of occupants, where adequate window design has been employed and the built form of the proposal is largely compliant. Any privacy impacts are not considered to be out of character within a residential area, where some viewing of neighbouring development is inevitable, particularly where surrounding development is situated high above the subject site and oriented toward the subject site to attain views over it.

Northern Elevation

Windows on the northern elevation of the proposed First Floor are within 9m of an adjoining dwelling at 12 Rabaul Road. The one window on this elevation is to a stairwell (a transient space) and is high-sill in design. These two factors are considered to mitigate any privacy impacts to an acceptable level. Regarding the balcony, access stairs and door between the rear yard and the First Floor, this is a transient space, connected to a hallway / storage area. The balcony is very small and narrow and not large enough to be used as a primary outdoor entertaining area. Due to the internal layout, views out of the door will not be directed towards 12 Rabaul Road from any high waking use room (i.e. the rumpus room). Therefore, this space is only expected to be used briefly for transit. Any privacy impacts of this use are not considered to be out of character within a residential area, where some viewing of neighbouring development is inevitable.

Conclusion

Overall, it is considered that the amended proposal meets the general requirements of the Clause. Privacy measures have been employed in the design and location of windows and balconies. The primary proposed living area (rumpus rooms) and connecting balcony have been oriented to the street to limit overlooking. Any privacy impacts are not considered to be out of character within a residential area, where some viewing of neighbouring development is inevitable.

Nonetheless, for the benefit of a full assessment, 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 disused above, the amended proposal provides an acceptable level of privacy for occupants and neighbours.

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

Comment:

As disused above, the amended proposal incorporates design solutions which limit privacy impacts on adjoining properties.

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

Comment:

The proposal will not compromise neighbourhood security or casual surveillance of the street frontage.

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

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$4,627 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$462,715.

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 2021;
- 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 DA2024/1601 for Alterations and additions to a dwelling house on land at Lot 391 DP 838916, 12 A Rabaul Road, NORTH CURL CURL, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA1003	2	Site Plan	Rapid Plans	7 March 2024
DA1007	2	Demolition Lower Ground Floor Plan	Rapid Plans	7 March 2024
DA1008	2	Demolition Ground Floor Plan	Rapid Plans	7 March 2024
DA1009	2	Demolition Roof Plan	Rapid Plans	7 March 2024
DA2001	2	Garage	Rapid Plans	7 March 2024
DA2002	2	Ground Floor	Rapid Plans	7 March 2024
DA2003	2	First Floor	Rapid Plans	7 March 2024
DA2004	2	Roof	Rapid Plans	7 March 2024
DA3000	2	Section 1	Rapid Plans	7 March 2024
DA3001	2	Section 2	Rapid Plans	7 March 2024
DA4000	2	Elevations 1	Rapid Plans	7 March 2024

DA4001	2	Elevations 2	Rapid Plans	7 March 2024
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Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. A1771162	-	RAPID PLANS PTY LTD	31 October 2024
Preliminary Geotechnical Assessment	Ref: AG 24452	Ascent Geotechnical Consulting	23 October 2024
Waste Management Plan - 12A Rabaul Road, North Curl Curl	-	-	-

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

4. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.

- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.
- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) 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.

5. **No Approval for a Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area on the Ground Floor. The 'Wet Bar' on the First Floor is not a designated kitchen area.

Reason: To ensure compliance with the terms of this consent.

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$4,627.15 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 (as amended).

The monetary contribution is based on a development cost of \$462,715.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

7. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any

damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

9. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

10. 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 Certifier prior to the issue of the Construction Certificate.

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

11. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier 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.

12. 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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. Sediment and Erosion Controls

For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go

areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

DURING BUILDING WORK

14. 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.

15. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

16. 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 Certifier when the external structure of the building is complete.

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

17. Maintenance of Sediment and Erosion Controls

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

18. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

19. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

20. Waste Management Confirmation

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

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

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

21. Geotechnical Recommendations

Any ongoing recommendations (if any) of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

22. No Approval for a Secondary Dwelling (On-Going)

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area on the Ground Floor. The 'Wet Bar' on the First Floor is not a designated kitchen area.

Reason: To ensure compliance with the terms of this consent.

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

Signed



Jordan Howard, Planner

The application is determined on 10/04/2025, under the delegated authority of:



Rodney Piggott, Manager Development Assessments