

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0358
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Responsible Officer:	Adam Urbancic
Land to be developed (Address):	Lot 72 DP 841873, 58 Lagoon Street NARRABEEN NSW 2101
Proposed Development:	Alterations and additions to a semi-detached dwelling
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Justin Havelock Sinfield
Applicant:	Justin Havelock Sinfield

Application Lodged:	16/04/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/05/2020 to 03/06/2020
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 24,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to a semi-detached dwelling, specifically the following works:

- construction of a double carport adjacent to the existing garage;
- construction of a new lower deck with a finished floor level of RL 2.53 attached to the rear of the dwelling;
- lowering of the finished floor level of the existing enclosed timber deck accessed from the rumpus room from RL 3.37 to RL 3.2 to match the finished floor level of the approved rear deck under DA2018/1264 (as modified);
- deletion of the windows approved under DA2018/1264 (as modified) to the ground floor rumpus room on the western elevation and the installation of a new three (3) panel sliding door in its

- place; and
- landscaping works.

Amendments to the Development Application

The proposed carport could not be supported by Council's Development Engineer, due to its location within the registered Right of Carriageway burdening the subject site. Based on this, the applicant provided confirmation in an email on 17 August 2020 stating that the proposed carport is to no longer be considered in this development application, therefore, no assessment has been made in relation to the carport and a condition has been included requiring the proposed carport to be deleted from the approved plans prior to the issue of a Construction Certificate. Council's Development Engineer has also recommended a condition requiring certification to be provided by a Registered Surveyor prior to the issue of a Construction Certificate to ensure that no structures are located within the Right of Carriageway. In line with the Northern Beaches Community Participation Plan, as the amendments resulted in a development of a lesser environmental impact than that originally proposed, the amended application was not required to be re-notified.

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 - C9 Waste Management
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 72 DP 841873 , 58 Lagoon Street NARRABEEN NSW 2101
Detailed Site Description:	The subject site consists of one (1) allotment located on the north-western side of Lagoon Street.

The site is a battle-axe allotment with a frontage of 3.5m along Lagoon Street and an average depth of 56.08m. The site has a surveyed area of 611.6m².

The site is located within the R2 Low Density Residential zone and accommodates a one (1) and two (2) storey brick semi-detached dwelling with a tiled roof located in the front portion of the site.

The site has an overall slope of 11.91% and falls 6.54m from the street frontage to the rear of the site.

The site contains a native tree in the north-western corner of the site, along with two (2) palm trees on the northern side of the driveway, and a large area of turf within the rear yard.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a mix of housing typologies including dwelling houses, dual occupancies and residential flat buildings of varying architectural styles up to a maximum of four (4) storeys in height. The site adjoins Berry Reserve and Narrabeen Lagoon to the north-west.

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:

27 April 1993

Development Application 1992/609 (Consent No. 93/152) for the erection of an attached dual occupancy was granted consent.

26 July 1993

Development Application 1993/248 (Consent No. 93/317) for the subdivision of an approved attached dual occupancy was granted consent.

7 November 1996

Building Certificate 76/97 for a rumpus room, bedroom 4 and deck at ground floor level was issued.

24 March 1998

Modification Application to Development Consent 93/152 for the conversion of storage area to a rumpus room and bathroom within an existing attached dual occupancy was granted consent.

9 October 2013

Complying Development Certificate No. 2013-217 (Council's Record CDC2013/0437) for alterations and additions to an existing dwelling was granted consent by a Private Certifier.

16 November 2018

Development Application DA2018/1264 for alterations and additions to a dwelling house was granted consent.

2 April 2019

Modification Application Mod2019/0003 to Development Consent DA2018/1264 was granted consent.

16 October 2019

Review of Determination Application Rev2019/0021 of Modification Application Mod2019/0003 was withdrawn.

9 March 2020

Modification Application Mod2019/0567 to Development Consent DA2018/1264 was granted consent.

24 August 2020

Tree Permit TA2020/0614 for the removal of one (1) Swamp Mahogany (*Eucalyptus robusta*) within the rear yard was granted consent. The planting of a replacement tree was included as a condition of the Tree Permit.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not

Section 4.15 Matters for Consideration'	Comments
	considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to a Waste Management Plan, Sediment and Erosion Control Plan and a Flood Risk Assessment Report. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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

Section 4.15 Matters for Consideration'	Comments
	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

- Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the 'Act')?

Section 4.65 of the Act defines an existing use as:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

- (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
- (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered:

1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?

Comment:

There is evidence in the form of a Building Application (1068/93) which demonstrates that the use of the land for the purposes of an attached dual occupancy commenced as a lawful purpose on 28 July 1993, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

2. Was the use of the land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

Comment:

The use of the land was lawfully approved by Council on 27 April 1993 under Development Application 1992/609 (Consent No. 93/152), prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011. Although not specifically applied for at the time, the approval of the Torrens Title subdivision of the attached dual occupancy on 26 July 1993 under Development Application 1993/248 (Consent No. 93/317) rendered the dwellings semi-detached dwellings, as they were no longer on one lot of land, therefore, the use of the land for the purposes of a semi-detached dwelling is considered to have also been lawfully approved.

3. Has the use of the land been carried out within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

Comment:

There is evidence in the form of a Building Certificate (76/97) which demonstrates that the use of the land was carried out on 7 November 1996, which is within one year from the date on which the provision having the effect of prohibiting the use commenced.

- **What is “the land on which the existing use was carried out” for the purposes of cl 42(2) (b) of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: “if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose”.

Comment:

Having regard to the above case law, it is noted that the whole of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council* (2005) NSWLEC 71, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the NSW Land and Environment Court in this case will have general application in dealing with development applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be

expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment:

The proposed development complies with the 8.5m height standard, which also applies to the majority of the adjoining and surrounding sites, and is therefore consistent with what would be expected for new development. There is no floor space ratio applicable to the subject site, with development limited by setbacks, a maximum wall height, a side boundary envelope and a landscaped open space requirement, which in this case is 40% of the site area. The proposed development complies with all built form controls, with the exception of the landscaped open space requirement, by which the development provides 29.42% of the site area as landscaped open space. Whilst greater compliance with the landscaped open space requirement would be expected for new development, the proposed development involves alterations and additions to an existing semi-detached dwelling and the existing development on adjoining and surrounding sites provide similar amounts of landscaped open space. Whilst the proposed development is not entirely consistent with the likely future context of surrounding development, it is considered to consistent with the existing context of development and is therefore acceptable.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment:

The proposed development largely retains the existing and approved building footprint, with a new lower deck being the only element extending outside of this area. Whilst the overall building footprint is to increase as a result of the proposed development, the bulk and scale of the building remains consistent with that of adjoining and surrounding development.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment:

The proposed development provides for a reasonable amenity outcome for adjoining land in terms of solar access, privacy and the maintenance of views.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment:

The proposed development provides a reasonable level of internal amenity and is generally consistent with the planning controls for permissible development within the R2 Low Density Residential zone. An appropriate amount of private open space is provided at the rear of the building and within the rear yard, and adequate solar access is also provided to the private open space area. Furthermore, the amount of landscaped open space provided on the site is adequate for the proposed development.

Conclusion

The use has been approved under a previous environmental planning instrument (Warringah Local Environmental Plan 1985) and, therefore, is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument (Warringah Local Environmental Plan 2011).

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/05/2020 to 03/06/2020 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:
Mrs Jacqueline Parnell John Parnell	60 Lagoon Street NARRABEEN NSW 2101
Mrs Jacqueline Parnell John Parnell	14 Loftus Street NARRABEEN NSW 2101

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

- View Loss; and
- Privacy.

The matters raised within the submission are addressed as follows:

- View Loss
Comment:

There is concern that the proposed development will result in the loss of views of Narrabeen Lagoon from the adjoining property at 60 Lagoon Street, which comprises a detached dual occupancy development with one dwelling facing Lagoon Street (known as 60 Lagoon Street) and the other fronting Loftus Street (known as 14 Loftus Street).

As the proposed development is restricted to the existing and approved building footprint, with the exception of the proposed lower deck which is to be only slightly elevated above ground level, there will be no further view impact to either dwelling as a result of the proposed

development.

Refer to the discussion under Clause D7 Views within this report for further information.

This does not warrant the refusal of the development application.

- Privacy

Comment:

There is concern that the proposed development will result in unacceptable privacy impacts to the detached dual occupancy development, specifically the dwelling fronting Loftus Street (known as 14 Loftus Street).

The proposed development is generally restricted to the existing and approved building footprint, with no additional windows or doors proposed on the northern elevation of the building. As the proposed lower deck is located close to existing ground level and is appropriately set back from the existing dwelling fronting Loftus Street, it is considered that the proposed development is reasonable and acceptable in terms of privacy without the need for privacy mitigation measures such as privacy screening. The existing screen planting along the northern side boundary of the subject site is to also be retained, which will further limit any privacy impacts.

This does not warrant the refusal of the development application.

Note: A letter (Ref: DOC20/107478) was also received from the Department of Planning, Industry and Environment - Crown Lands ('the department') on 21 May 2020 in response to the notification letter they received from Council as an adjoining property owner. The letter states that the department has no objections to the proposed development, as no impact to Crown Land has been identified.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	Proposal for raising an existing deck - insignificant impact on acid sulfate soils as there will likely be no or very minor excavation. Environmental Health are satisfied with recommending approval without conditions.
Landscape Officer	The plans indicate that no significant landscape features are affected by the proposed works. Conditions from Council's Biodiversity section are noted. In view of those proposed conditions, no additional conditions are recommended.
NECC (Bushland and Biodiversity)	The proposed development has been assessed against the requirements of the Coastal SEPP 2018 and Warringah DCP cl. E4 Wildlife Corridors. The development will not require the removal of native vegetation or significant fauna habitat. Additional landscaping is proposed as part of the works. The development is designed, sited and will be managed to avoid any significant adverse biodiversity impact.
NECC (Coast and	The application has been assessed in consideration of the Coastal

Internal Referral Body	Comments
Catchments)	Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011. Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016. State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone, SEPP (Coastal Management) 2018 is also applicable to the proposed development. The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA. <u>Comment:</u> On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report, prepared by Dr. Justin Sinfield, the DA satisfies the requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018. Warringah LEP 2011 and Warringah DCP 2011 No coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.
NECC (Development Engineering)	Initial Comments, dated 23 July 2020 The submitted Survey Plan indicates a Right of Carriageway (ROC) noted (B) burdening Lot 72, DP 841873. The location of the proposed carport is within the ROC. Council cannot approve a carport at this location unless proof of extinguishment of the ROC with the Land Registry Services is submitted to Council.

Internal Referral Body	Comments
	Revised Comments, dated 27 August 2020 The carport located within the ROC is to be deleted. No Development Engineering objection subject to conditions.
NECC (Riparian Lands and Creeks)	This application has been assessed against: • State Environment Planning Policy (Coastal Management) 2018 • Warringah Local Environment Plan 2011 • Warringah Development Control Plan 2011 ○ C5 Erosion and Sedimentation ○ E8 Waterways and Riparian Lands This application proposes the construction of a raised deck to match the height of the previously approved deck and installation of a roof over the existing driveway for a sheltered carport. The application does not detail the type of erosion and sediment controls which will be implemented during the construction of the deck, therefore a simple Erosion and Sediment Control Plan must be developed to detail the implementation of erosion and sediment controls which will prevent the migration of sediment offsite. It is important to include erosion and sediment controls for sites in proximity to waterways, particularly sensitive receiving water bodies, as the release of any sediment into these ecosystems can smother seagrass and cause changes to water quality. Reference should be made to Landcom's Managing Urban Stormwater: Soil and Construction Manual (2004) when developing the erosion and sediment control plan. https://www.landcom.com.au/assets/Publications/Statement-of-Corporate-Intent/5245260a89/managing-urban-stormwater-soils-construction-volume-1-fourth-edition.pdf With the addition of erosion and sediment controls implemented under an erosion and sediment control plan the proposal is unlikely to cause adverse impacts to the ecological, biophysical and hydrological environment. This application is therefore recommended for approval subject to conditions.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed development is not considered to increase flood risk. No flood related development controls applied.
Parks, reserves, beaches, foreshore	The subject site abuts Berry Reserve on its western boundary. The topography of the site falls towards the reserve, so sedimentation control has been recommended. No other issues with the proposal.

Internal Referral Body	Comments
	<u>Planner Comment:</u> The recommended condition from Council's Senior Asset Planning Officer in relation to sediment and erosion control has not been included, as this has already been addressed by Council's Environment Officer - Coast & Catchments.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the Safework Australia – Excavation Code of Practice and Ausgrid's Network Standard NS156 in relation to works within proximity to the existing electrical network assets (underground cables). These recommendations will be included as a condition of consent.

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 19 - Bushland in Urban Areas

For land adjoining land zoned or reserved for public open space, Council shall not grant development consent unless it has taken into account:

- (c) *the need to retain any bushland on the land,*
- (d) *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) *any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

Comment:

The adjoining land zoned for public open space forms part of Berry Reserve, however, the portion of the land directly adjoining the subject site does not contain any bushland. Nevertheless, Council's Senior Asset Planning Officer has reviewed the proposed development and has recommended that sedimentation controls be implemented during works to ensure that the proposed development does not effect the adjoining land in relation to the erosion of soils or the siltation of streams and waterways. In addition to this condition, Council's Parks Assets Officer has also recommended

conditions to ensure that construction access is not facilitated through the adjoining land and that building materials and the like are not dumped or stored on the adjoining land to ensure that the land is protected and preserved. Furthermore, Council's Biodiversity Officer has reviewed the proposed development and has recommended that all priority weeds within the subject site be removed or controlled prior to the completion of works to manage the potential impacts of the spread of weeds and exotic plants within the bushland.

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 (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the Safework Australia – Excavation Code of Practice and Ausgrid's Network Standard NS156 in relation to works within proximity to the existing electrical network assets (underground cables). These recommendations will be included as a condition of consent.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

- (b) *coastal environmental values and natural coastal processes,*
- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment:

The proposed development is unlikely to cause an adverse impact to the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. The proposed development is also unlikely to cause an adverse impact to existing public open space and safe access to and along the foreshore for members of the public, including persons with a disability. The subject site has not been identified to contain any Aboriginal cultural heritage, practices or places, however, a condition will be included to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities will be notified. Furthermore, the proposed development is unlikely to cause an adverse impact on the use of the surf zone.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

As detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause 1.

14 Development on land within the coastal use area

- (1)
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and

- (b) is satisfied that:
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed development maintains the existing, safe access to and along the foreshore and will not cause any overshadowing, wind funnelling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands, will be preserved. As mentioned above, the subject site has not been identified to contain any Aboriginal cultural heritage, practices or places, however, a condition will be included to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities will be notified. The proposed development will also not have an adverse impact on the cultural and built environmental heritage. As such, it is considered that the proposed development has been designed, sited and will be managed to avoid an adverse impact on the aforementioned cultural and environmental aspects. Furthermore, the proposed development is consistent with the surrounding coastal and built environment, which consists primarily of low-density residential dwelling houses, and is of an appropriate bulk, scale and size.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The land has not been identified as being affected by any coastal hazards and is not likely to cause increased risk of coastal hazards on other land.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.65m	N/A	Yes

Compliance Assessment

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

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B3 Side Boundary Envelope	4m (N)	Within envelope	N/A	Yes
	4m (S)	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m (N)	5.04m	N/A	Yes
	0.9m (S)	2.68m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	>6.5m	N/A	Yes
B9 Rear Boundary Setbacks	6m	6.22m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (244.64m ²)	29.42% (179.92m ²)	26.46% (64.72m ²)	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

C9 Waste Management

A detailed Waste Management Plan has not been submitted with the application. To ensure proper disposal of demolition and builder's waste, a condition has been included requiring details to be provided prior to the issue of a Construction Certificate.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposed development provides 29.42% or 179.92m² of the site area as landscaped open space.

The control requires 40% or 244.64m² of the site are to be provided as landscaped open space.

Note: As the subject site benefits from existing use rights, the 40% landscaped open space requirement does not technically apply to the proposed development, but nevertheless, an assessment has been undertaken against the objectives of the control to ensure that the proposed development provides an acceptable outcome.

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:

The subject site is a battle-axe allotment with a frontage to Lagoon Street which includes a narrow landscaping strip along the northern side boundary, which is to be retained to enable planting to maintain and enhance the streetscape.

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

Comment:

The proposed development retains all existing vegetation on the site and additional landscaping comprising native vegetation is proposed along part of the southern boundary to conserve and enhance indigenous vegetation and habitat for wildlife. The proposed development does not involve any significant earthworks, therefore ensuring that the topographical features of the land are also conserved and enhanced.

- *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:

The proposed development provides 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 within the rear yard.

- *To enhance privacy between buildings.*

Comment:

The proposed development provides adequate separation between buildings and retains and enhances vegetation along the northern and southern side boundaries to maintain a reasonable level of privacy.

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

Comment:

The proposed development accommodates appropriate outdoor recreational opportunities that meet the needs of the occupants by incorporating a lower deck within the rear yard and by lowering the finished floor level of the existing deck to match the approved deck which will provide for a large entertaining area. The proposed development also retains areas of turf within the rear yard for children's play and the like.

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

Comment:

The proposed development provides space for service functions, including clothes drying, within the rear yard.

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

Comment:

The proposed development provides an adequate amount of landscaped open space to facilitate water management, including infiltration of stormwater, and does not require on-site detention. Council's Development Engineer has reviewed the proposed development and is satisfied with the proposed development, subject to a condition to ensure that the stormwater drainage works are certified as being compliant with all relevant Australian Standards and Codes prior to the issue of the Occupation Certificate.

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

The submission from the adjoining property at 60 Lagoon Street, which comprises a detached dual occupancy, has raised concern over the potential loss of views from both dwellings as a result of the proposed development.

As the proposed development is located within the existing and approved building footprint, with the exception of the lower deck at the rear of the site, which is only slightly elevated above existing ground level, it is considered that the proposed development will have no further impact on the views obtained from the dwelling fronting Lagoon Street (known as 60 Lagoon Street).

A detailed assessment in relation to the potential loss of views has been undertaken in relation to the dwelling fronting Loftus Street (known as 14 Loftus Street) given the location of the proposed lower deck in the rear yard and is detailed below.

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

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

Comment:

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

1. Nature of the views affected

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

Comment to Principle 1:

The views attainable from the dwelling comprise water views of Narrabeen Lagoon, including

the interface between land and water, as well as land views of Pat Hynes Reserve and North Narrabeen to the north-west, west and south-west.



Photo: View obtained from the rear deck of the dwelling fronting Loftus Street looking towards the south-west, taken from a standing position.

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 are obtained from the combined kitchen, dining and living area, family room and rear deck from both a seated and standing position, with obscured views also attainable from the living area, Bedroom 1 and bathroom over the southern side boundary.

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 will be no further impact to the views obtained from the dwelling as a result of the proposed development from either a seated or standing position. The extent of the view loss would be best described as negligible, as the dwelling will retain uninterrupted views to the north-west and west, with any impacts to the views obtained from the living area, Bedroom 1 and bathroom as a result of the previously approved development consistent with the view loss assessment undertaken as part of Mod2019/0567.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The proposed development complies with all built form controls, with the exception of landscaped open space, which is deficient of the 40% requirement under the control. As there is to be no further impact to the views obtained from the dwelling as a result of the proposed development, the non-compliance with the landscaped open space requirement is acceptable, and nevertheless, the provision of a compliant amount of landscaped open space would not change the view loss outcome.

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

Comment:

The proposed development encourages innovative design solutions to improve the urban environment by being generally located within the existing and approved building footprint and by incorporating the lower deck close to ground level to ensure that views can be maintained over the structure.

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

Comment:

The proposed development retains all existing vegetation on the site, which ensures that the existing canopy trees have priority over views. The existing Swamp Mahogany (*Eucalyptus robusta*) has been approved for removal as part of a separate Tree Permit (TA2020/0614) and a condition has been included as part of that consent for replacement tree planting.

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 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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 DA2020/0358 for Alterations and additions to a semi-detached dwelling on land at Lot 72 DP 841873, 58 Lagoon Street, NARRABEEN, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp
--

Drawing No.	Dated (by Council)	Prepared By
A1, Roof Plan, Rev A	28 August 2020	Sally Gardner Design and Draft
A3, Proposed Ground Floor Plan, Rev B	28 August 2020	Sally Gardner Design and Draft
A4, East & West Elevations, Rev B	28 August 2020	Sally Gardner Design and Draft
A5, North & South Elevations, Rev B	28 August 2020	Sally Gardner Design and Draft

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
A1, Roof Plan (Landscape Plan), Rev A	20 December 2018	Sally Gardner Design and Draft

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. 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	15 June 2020

(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 Certifying Authority for the work, and

- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,

- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 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

5. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any

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

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

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

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

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

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

6. **Amendments to the Approved Plans**

The proposed carport (as outlined in red) is to be deleted from the approved plans and does not form part of this consent.

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.

7. **Registered Surveyor Certification**

A Registered Surveyor is to certify that no physical structures are approved for any Construction Certificate that can be located in Lot 72, DP 841873 within the Right of Carriageway in contrary to the Conveyance Act. In this regard, car parking or a carport is prohibited.

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

Reason: To ensure protection adjoining property of easement rights under the terms of the Conveyance Act.

8. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). 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 areas and site facilities);

- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

Reason: To mitigate environmental impact resulting from site disturbance.

9. **Landscaping**

All plants used in the landscaping for this development must be local native species as per the Narrabeen Ward Native Plant Species Guide available on the Council website. The website includes information on local native plants and other suitable tree species to reconstruct habitat in non vegetated areas of wildlife corridors on the site.

No Grevillea or Banksia hybrids are to be used in the landscaping for this development.

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

Reason: Biodiversity Conservation and Management.

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 Certifying Authority prior to the issue of the Construction Certificate.

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

11. **Sydney Water "Tap In"**

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

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

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

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

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

12. **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

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND 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. **Survey Certificate**

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

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

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

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

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

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

16. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance

with the Waste Management Plan for this development.

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

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

17. No Access through Public Open Space

Site access is not approved for construction of the development through adjacent public land.

Reason: Public Safety, Landscape Amenity, and Tree Protection.

18. Storage of Materials on Council Land Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

Reason: Public safety and protection of the environment.

19. No Material Storage within 5m/calculated Tree Protection Zone (TPZ)

No storage of building materials or building waste, excavated fill or topsoil storage is to occur within 5m or the notional TPZ of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas. Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

Reason: To protect and retain trees proposed for retention.

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

20. 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.

21. Practical Completion of Landscape Works

A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to the Principal Certifying Authority with the Occupation Certificate application. This report is to certify that all landscape works have been completed in accordance with the landscape working drawings and specifications.

Reason: To ensure landscaping is adequate and consistent with approved plans.

22. Waste Management Confirmation

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

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

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

23. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed Management.

24. **No Planting Environmental Weeds**

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

Reason: Weed Management.

25. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

26. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

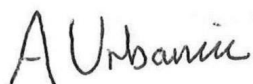
27. **Landscape Plan to be Implemented**

Landscaping is to be implemented in accordance with the approved Landscape Plan. The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.

Reason: To ensure the site is landscaped.

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

Signed



Adam Urbancic, Planner

The application is determined on 31/08/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments