



northern
beaches
council

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held on

WEDNESDAY 8 SEPTEMBER 2021

Ashleigh Sherry
Manager Business Systems and Administration

Agenda for a Meeting of the Development Determination Panel to be held on Wednesday 8 September 2021

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
2.0	MINUTES OF PREVIOUS MEETING	
2.1	Minutes of Development Determination Panel held 25 August 2021	
3.0	DEVELOPMENT DETERMINATION PANEL REPORTS	5
3.1	DA2021/0317 - 141 Riverview Road, Avalon Beach - Construction of a dwelling house.	5
3.2	DA2021/1062 - 10 Arthur Street, Fairlight - Alterations and additions to a dwelling house.	85
3.3	DA2021/0487 - 40 Bassett Street, Mona Vale - Demolition works and construction of a dwelling house including a swimming pool.	128

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 25 AUGUST 2021

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 25 August 2021 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	DA2021/0317 - 141 RIVERVIEW ROAD, AVALON BEACH - CONSTRUCTION OF A DWELLING HOUSE.
REPORTING MANAGER	Lashta Haidari
TRIM FILE REF	2021/612256
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council, as the consent authority, **approves** Development Consent to DA2021/0317 for Construction of a dwelling house on land at Lot 2 DP 833902, 141 Riverview Road, Avalon Beach, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0317
Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 2 DP 833902, 141 Riverview Road AVALON BEACH NSW 2107
Proposed Development:	Construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Uday Bhaskar Bonu Kavitha Bonu
Applicant:	Key Urban Planning
Application Lodged:	06/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	26/07/2021 to 09/08/2021
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,800,000.00

EXECUTIVE SUMMARY

The subject development application is for the construction of a three (3) level dwelling house on a vacant residential parcel of land. The subject site has approved (however, not yet constructed) car parking in the form of an elevated carport with access to Riverview Road which was approved under a separate development consent DA2019/1449. The application is referred to the Northern Beaches Development Determination Panel for determination (DDP) due to the estimated cost of construction being over \$1 million and with more than three (3) unresolved objections being received.

Following notification and preliminary assessment of the proposal, concerns with the proposal were raised with the applicant, including; tree removal & biodiversity protection; landscaping; front & side setbacks; building colours & materials; and insufficient/inconsistent documentation. Amended plans and

additional information were submitted in response. The assessment of this application is based on the amended plans.

A total of six (6) submissions were made in response to the original notification and three (3) were made to the notification of the amended plans, with one submission being withdrawn. These submissions raised numerous concerns with the proposal. The principle issues that were raised in the submissions were concerned that the proposal was an overdevelopment of the site and does not meet the character of the area; the impacts of the development on flora/fauna, biodiversity and Spotted Gum Community; amenity issues regarding solar access, privacy and views; non-compliance with required landscaped area controls and potential impacts to site access via the right of carriageway.

Overall, it is considered that the design and appearance of the proposed dwelling would be consistent with the sloping topography and the surrounding residential dwelling houses located on Riverview Road and wider locale. The application is accompanied by an Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan which address the proposed tree removal and associated impact on biodiversity. These reports have been reviewed by the relevant experts in Council who are satisfied each of the issues can be managed in an appropriate way, subject to their recommended conditions and compliance with the relevant expert reports which include replacement planting and vegetation regeneration. Potential amenity issues to surrounding neighbours have been reviewed under Council's Policies and have been determined to be reasonable within a residential environment.

The site is an irregular shaped lot, has a very steep gradient, a high number of locally native canopy trees scattered throughout the site and is constrained by large right of carriageway and associated driveway (135sqm or 18.2% of the site area) which benefits adjoining properties to the north-eastern corner of the site. The proposed development would have the appearance of being single storey and below average eye level as viewed from Riverview Road and would step with the fall of the land and would be predominantly below the required 8.5m height requirement (with the exception of a minor portion of the roof form). The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport) and includes building modulation to minimise bulk. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. The proposed variations to the Built Form controls under the Pittwater 21 DCP are supported for the reasons discussed in detail in the report.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that, on balance the proposal is a suitable and appropriate development for the subject site, for the reasons outlined in this report.

Accordingly, it is recommended that the application be approved subject to the attached conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for the construction of a new three level dwelling. Specifically, the proposed development consists of:

Lower Ground Floor

- Guest Bedroom with associated WIR and ensuite
- Associated outdoor patio area with BBQ

Ground Floor "Living Level"

- Open plan kitchen, dining and living room
- Associated Balcony
- Laundry
- WC
- Bedroom 3 and ensuite
- Cinema
- Lift

Upper Floor "Entry Level"

- Master Bedroom with WIR and ensuite
- Study
- Bedroom 2 with ensuite
- Lift
- Entry porch
- Balcony

External

- Landscaping and tree removal
- Associated excavation, fill and retaining walls
- Stairs and entry walkway

NOTE: Car parking relies upon an elevated carport with access to Riverview Road approved under development consent DA2019/1449. Car parking is provided for two vehicles.

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

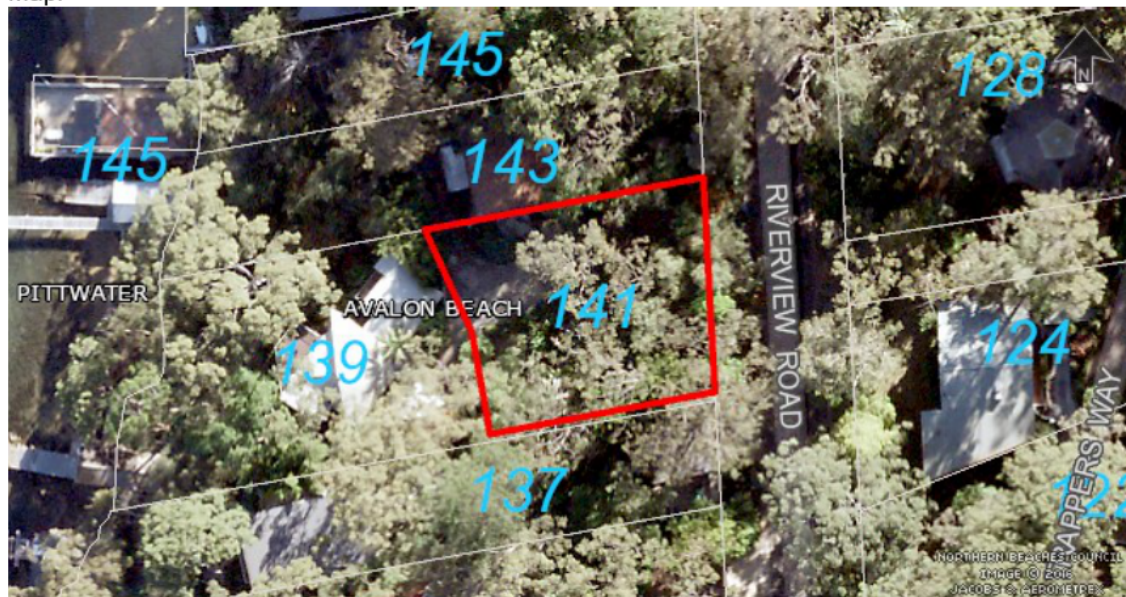
Pittwater Local Environmental Plan 2014 - 1.9A Suspension of covenants, agreements and instruments
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality
Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community
Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation
Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve
Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management
Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
Pittwater 21 Development Control Plan - C1.1 Landscaping
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.13 Pollution Control
Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures
Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure
Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place
Pittwater 21 Development Control Plan - D1.5 Building colours and materials
Pittwater 21 Development Control Plan - D1.8 Front building line
Pittwater 21 Development Control Plan - D1.11 Building envelope
Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land
Pittwater 21 Development Control Plan - D1.17 Construction, Retaining walls, terracing and undercroft areas
Pittwater 21 Development Control Plan - D1.20 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	Lot 2 DP 833902 , 141 Riverview Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Riverview Road.</p> <p>The site is irregular in shape with a frontage of 25.33m along Riverview Road and a maximum depth of 33.52m.</p> <p>The site has a surveyed area of 740.4m² with a right of carriageway located along the north-western corner of the lot.</p> <p>The site is located within the E4 Environmental Living zone and the lot is currently vacant.</p> <p>The site slopes down from the eastern (street frontage) boundary to the western (rear) boundary by approximately 13.5m.</p>

	<p>Numerous native and non-native trees are located on the site including Pittwater and Wagstaffe Spotted Gum Forest, which is listed as an Endangered Ecological Community (EEC).</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Surrounding development is characterised by two (2) and three (3) storey residential dwelling houses of varying architectural styles within a landscaped setting. Filtered views of Pittwater Waterway are available to the west of the site.</p>
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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:

- **SD051/91** - Subdivision Application for the subdivision of 1 lot into 2 - Approved 1992
- **DA2019/1449** - Development Application for the construction of a covered two car parking platform - Approved 22 May 2020

APPLICATION HISTORY

10 June 2021

Council wrote to the applicant, raising concerns in relation to:

- Tree removal and biodiversity protection
- Landscaping

- Front and side setbacks
- Building colours and material
- Landscaped area
- Insufficient documentation

16 July 2021

Amended plans and additional information were submitted to address Council's concerns.

21 July 2021

Amended plans were re-notified to the original list of residents and those who made a submission.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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.</p> <p><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 amended plans and a Biodiversity Report.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><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.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 26/07/2021 to 09/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Mr David Henry Lyall Mrs Phyllis Margaret Lyall	54 Trappers Way AVALON BEACH NSW 2107
Mr Samuel David Littlemore	128 Riverview Road AVALON BEACH NSW 2107
Ms Carolyn Eileen Harris	139 Riverview Road AVALON BEACH NSW 2107
Mrs Helen Betty Shaw	143 Riverview Road AVALON BEACH NSW 2107
Mr Gregory John O'Neill Mrs Bernadette Mary O'Neill	137 Riverview Road AVALON BEACH NSW 2107

The application was initially notified for a period of 14 days and six (6) submissions were received during the notification period.

Following these submissions, amended plans and additional information was received and the application was formally re-notified. Three (3) submissions were received and one (1) submission was withdrawn following this re-notification.

The matters raised within the submissions are addressed as follows:

- **Building Bulk, Overdevelopment and does not meet the character of Avalon Beach Locality or intent of E4 Zoning.**

Comment:

Concern has been raised that the proposal is an overdevelopment of the site and the resulting building bulk and scale would not meet the character of Avalon Beach Locality or intent of E4 Environmental Living Zoning. These issues have been addressed throughout the report. In summary, it is considered that the design and appearance of the proposed dwelling would be consistent with the sloping topography and the surrounding residential dwelling houses located on Riverview Road and wider locale. The proposed dwelling would step with the fall of the land and would be predominantly below the required 8.5m height requirement (with the exception of a minor portion of the roof form) and would be well within the required 10.0m height variation for sloping sites. The proposed development would comply with required side and rear setbacks and would have minor non-compliances with the required front building line and building envelope (the variation to which are considered acceptable in this instance). The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport) and includes building modulation to minimise bulk. Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions contained within this report), will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. Overall, it is considered that the bulk and scale of the proposal would not be out of character with the existing streetscape and wider locale and the development would comply with the objectives of the E4 Zone.

- **Impacts on Flora/Fauna, Biodiversity and Spotted Gum Community**

Comment:

Concerns have been raised by multiple residents with regards to the proposed tree removal associated with the development and the potential impact to flora and fauna and the biodiversity of the site.

The application is accompanied by an Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan which address the proposed tree removal and associated impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Furthermore, the submitted a Biodiversity Development Assessment Report concludes that:

"The proposed development has been purposefully designed to minimise impacts on biodiversity values as much as possible. Due to the vegetated nature of the property, there are limited alternate locations for the proposed development."

It is noted that the site has a number of Pittwater Spotted Gums, along with other native and exempt species throughout the site. The site is a vacant parcel of land and any development for a new dwelling would require some level of tree removal, even with careful and skillful design. Furthermore, the existing right of carriageway which burdens the subject site restricts development to the area where existing trees exist.

Whilst the removal of the identified Spotted Gums is regrettable, the proposed development has been designed to retain and protect other significant trees on the site (and adjoining the site). Furthermore, in order to avoid and minimise potential impacts of the proposal on local biodiversity values, a series of mitigation and management measures have been identified, which are to be implemented as part of any Construction Environmental Management Plan (CEMP) produced for the site. Additionally, a Vegetation Management Plan (VMP) has been produced to guide the rehabilitation and revegetation of Pittwater Spotted Gums within the subject property.

Council's Landscape Officer and Biodiversity Officer support the proposal subject to conditions including replanting and adherence to the submitted Arboricultural and Biodiversity assessment which requires tree protection and rehabilitation measures.

- **Non-compliance with DCP Controls - Landscaped Area**

Comment:

A merit assessment has been carried out against the objectives of Clause D1.14 *Landscaped Area - Environmentally Sensitive Land* of P21DCP in this report. The assessment has found the proposed non-compliance to be reasonable in this instance (subject to conditions).

- **Concern undercroft area has been used to calculate landscaped area**

Comment:

For the purposes of assessment, Council has not included undercroft areas within the landscaped area calculations.

- **Privacy Impacts**

Comment:

The proposed development is acceptable in relation to privacy for the reasons detailed in the section of this report relating to Section C1.5 Visual Privacy of the P21 DCP. In summary, given the orientation and topography, level of spatial separation and screen planting proposed it is considered a reasonable level of privacy would be maintained.

- **Visual impact from adjoining properties and Pittwater Waterway**

Comment:

Concern has been raised regarding the visual impact of the proposed development as seen from adjoining properties and Pittwater Waterway. In order to minimise the visual impact of the development, a condition is to be imposed to ensure the proposed external colours and materials are of dark and earthy tone of low reflectivity. Furthermore, the proposal is supported by a landscape plan which details the retention and provision of canopy trees and screen planting to surround the proposed dwelling. Furthermore, conditions are to be imposed requiring replacement canopy tree planting and bushland revegetation and rehabilitation as specified by Council's Landscape and Biodiversity Officers. This will provide a situation where the visual impact of the proposal is adequately minimised.

- **The dwelling does not respond to the site topography**

Comment:

As discussed throughout this report, it is considered that the design and appearance of the proposed dwelling would be consistent with the sloping topography and the surrounding residential dwellings located on Riverview Road. The proposed dwelling would step with the fall of the land and would be predominantly below the required 8.5m height requirement (with the exception of a minor portion of the roof form) and would be well within the required 10.0m height variation for sloping sites. The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport). Furthermore, the proposed development would have the appearance of being single storey and below average eye level as viewed from Riverview Road.

- **Inaccurate/misleading documentation - Height of Building**

Comment:

Concern was raised that the Reduced Levels of the submitted plans did not appropriately correspond to the survey plan for the site and that this would have an implication to the height of the proposal. Following this submission, amended plans were received which updated the levels on the plans to be in accordance with the submitted survey plan. The height of the proposal has been measured in accordance with these updated levels. A detailed assessment of building height can be found in section 4.3 *Height of buildings* of this report. The proposal is considered to comply with the objectives of the Height of Buildings Development Standard.

- **Inaccurate/misleading documentation - Arborist Report**

Comment:

Concern was raised regarding inaccuracies and inconsistencies within the submitted arborist report. Following this submission, an updated arborist report was submitted with the application. The updated arborist report has been reviewed and supported by Council's Landscape Officer.

- **Retention of trees along the southern boundary**

Comment:

Concern was raised in regards to the location of proposed stairs along the southern boundary and how these stairs would impact the retention of trees along this boundary. Following this submission, amended plans, a landscape plan and an updated arborist report was submitted which deleted these proposed stairs and confirmed the retention and protection of the majority of these trees along the southern boundary.

Following the re-notification of amended plans, further concern was raised over the excavation proposed adjoining these trees along the southern boundary. An excerpt of the submission is provided below:

The trees to be retained along the south-eastern corner of the site, as shown on the proposed cut and fill plan, are immediately adjacent to where the deepest excavations are required. This plan indicates that the excavations are to be battered resulting in excavation being significantly within the SRZ and TRZ of trees numbered 25,26,28,32 and 33. The excavation intrusions are of such a magnitude the chances of these trees surviving must be absolutely minimal, particularly for trees 28,32 and 33.

When assessing these trees in their report, Abacus Tree Services have for each of them nominated a distance within which no excavation works are to occur. The cut and fill plan clearly indicates that none of the nominated distances will be complied with. The Abacus report, when stating the distance each of these trees is "to the proposed development" appear to be stating the distance to the new dwelling, not the distance to where the excavation for the new dwelling is to occur. Consequently in our view, all the TPZ loss calculations they have provided are questionable. It is also contrary to their statement that "The SRZ/TPZ is an area where no to minimal activities listed above should occur". One of the activities listed is "Excavating within the drip line and damaging the structural root system."

For trees 32 and 33, Abacus mention the use of bearers and joists having the potential to retain these trees, state that no excavation works are to occur with the SRZ and no strip footing be allowed on this side of the development. The submitted planning documents provide no indication that this is being achieved.

This submission, along with the amended plans and updated arborist report was sent to Council's Landscape Officer for review. Council's Landscape Officer determined that the proposal was acceptable, subject to strict conditions which would ensure the protection of these trees. Such conditions include:

- Supervision by a Project Arborist during excavation works
- Ensuring Tree protection shall specifically be undertaken in accordance with the recommendations in the submitted Arboricultural Impact Assessment.

Council's Landscape Officer also recommended the imposition the following condition to ensure the protection of these trees through the amendment of the structural design of the proposal within tree protection areas:

Structural Plans and Pier Footing Design near trees to be retained:

Pier footing structural layout plans for the construction works near existing trees 4, 6, 11 to 14, 18 to 26, 28, 32 to 34 and 36 shall be developed in coordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture and a qualified Structural Engineer, to satisfy the design and construction requirements of the Arboricultural Impact Assessment as listed in section 7. Recommendations.

The Structural Plans and Pier Footing Design shall comply to the following requirements:

- *no change in the soil profile shall occur between the development and the trunk of existing trees 4, 6, 20 to 24, 26, 28, 32 to 34, and 36. This includes no excavation works or underground services in this zone,*
- *no strip footings are allowed in the tree protection zone of retained trees to the extent as advised by a Project Arborist,*
- *all retaining walls if required will need to be constructed using a lintel system to avoid strip footings, It is recommended that no structural roots greater than 90mm in diameter be pruned.,*
- *any roots found greater than 90mm will require the pier to be dug to an alternative location.*
- *all pilot holes / piers are to be dug by non-mechanised methods to the required depth within the tree protection zone of existing trees 4, 6, 11 to 14, 18 to 26, 28, 32 to 34, and 36.*
- *final pier placement be a minimum of 100mm to all structural roots to allow for spatial separation and expansion of the root plate.*

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

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

Reason: Tree protection.

- **Boundary fencing**

Comment:

A submission was raised by an adjoining neighbour concerned that the proposed development would contain boundary fencing which would not be characteristic of the area. The proposed plans do not indicate the provision of boundary fencing as part of this application. This is also to be conditioned within any consent. A condition of consent is also to be imposed to ensure the removal of all sediment and temporary fence on the completion of construction.

- **Solar Access**

Comment:

Concern was raised that the submitted solar access diagrams did not accurately depict the proposed overshadowing impacts to adjoining properties. Following this submission, updated solar access diagrams were submitted to support the proposal. These diagrams depict that the proposal would comply Pittwater 21 Development Control Plan requirements for solar access and would not result in unreasonable impact to solar access for adjoining neighbours.

- **View loss from replacement canopy tree planting**

Comment:

Concern was raised by an adjoining neighbour to the north-east (No.128 Riverview Road) with regards to the proposed location of proposed replacement tree planting and impacts on views. This neighbour raised concerns with the proposed location of three (3) replacement Spotted Gum canopy trees proposed within the front setback. A detailed assessment of view loss can be found in section C1.3 *View Sharing* of this report. In summary, in consideration of the location of existing canopy trees within the existing view corridor (on the subject site, adjoining road reserve and neighboring sites); the relative elevation of No.128 Riverview Road above the subject site as well as the requirements and objectives of P21DCP, the replacement tree planting within the front setback is supported and any associated view loss is considered reasonable in this instance.

- **Impact on Right of Carriageway**

Comment:

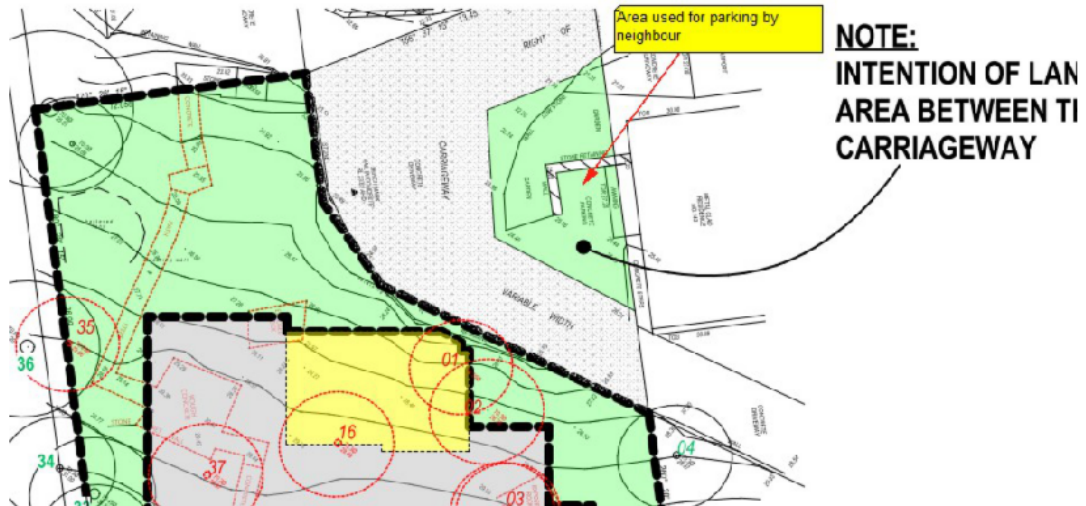
Concern was raised by an adjoining neighbour to the north (No.143 Riverview Road) with regards to the proposed location of landscaping works and associated impacts to parking access from the right of carriageway which burdens the subject site. An excerpt of the submission is provided below:

We have a shared driveway with our neighbours and the legal right of carriageway to access our property 143 Riverview Rd. To access our car park under the house we currently cross a small area of land which is actually part of the property of 141 Riverview Rd. This has been like this since 1970 when the house on 143 was built.

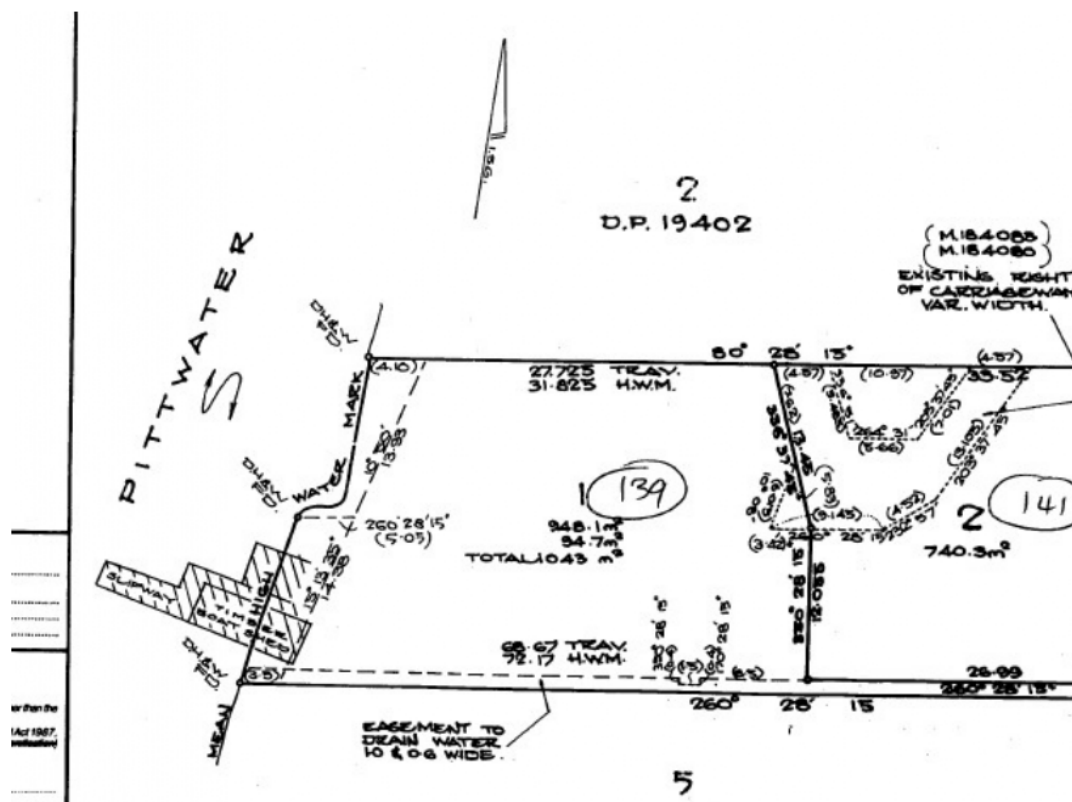
The amended plans show this access turned into a green landscaped area resulting in the loss of access to our parking. There is already some greenery on this corner but increasing it will block our only access which we have had for over 50 years.

The image below indicate the area of concern which is located between the curved right of

carriageway and the northern boundary of the subject site (adjoining No.143 Riverview Road)



The applicant contends that this area of the subject site occupied by the neighbour's car parking space is an unauthorised construction. A review of the survey plan and Council's records do not appear to permit right of use (parking) or access on this specific portion of land of the subject site (i.e between the right of carriageway and No.143 Riverview Road southern boundary). This is shown historical title documents below:



Council's Planner wrote to the objector (No.143 Riverview Road) requesting proof of right of use and access on this portion of the subject site; however, this was not provided. Site access will still be afforded to this neighbour via the western most portion of right of carriageway (located on the north-western boundary of the subject site).

As such, the proposed landscaping works within this area of the site are considered acceptable. Conditions are recommended to ensure that no works are to be undertaken on the right of carriageway and that any damage during construction is restored. Conditions will also be imposed to ensure that the right of way is not impeded and that access is maintained at all times for properties which benefit from this right of way.

- **Roof Reflectivity**

Comment:

Concern has been raised in regard to potential issues with roof reflectivity. In order to minimise potential reflectivity impacts, a condition is to be imposed to ensure that the external finish to the proposed roof shall have a medium to dark range and prohibit metallic steel finish.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The development application is for the construction of a new dwelling

Internal Referral Body	Comments
	<p>on a vacant lot, including tree removal.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 Environmental Living zone, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1 Avalon Beach Locality <p>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees.</p> <p>A Landscape Plan is provided with the development application indicating landscape works and planting, and a Arboricultural Impact Assessment is provided with recommendations for tree removal based on the proposed development footprint. A previous application for a car parking platform under development consent DA2019/1449 included tree removal approval of existing trees identified as T1 and T2 within the site (condition 10) and T5, T6, T7, T8, and T9 within the road verge (condition 11). The current development application for a new dwelling and carport now requests additional tree removal for consideration.</p> <p>The area for residential building is limited to the proposed footprint that supports various native vegetation. Existing right of ways for vehicle access are used to access adjoining properties over the subject land that restricts development to the area where existing trees exist. Should this development proposal be approved, multiple existing Pittwater Spotted Gum Forest native trees located within the development footprint are impacted without design alternatives for retention including: six Spotted Gums, eight Black She Oak, three Sweet Pittosporums, 1 Ironbark and 1 Cabbage Tree Palm.</p> <p>Tree replacement planting is required in order to satisfy the intent of the E4 zone and these are shown on the Landscape Plan in consideration of the landscape controls of C1.1.</p> <p>Should this application be approved, conditions of consent are included by Landscape Referral.</p> <p>The development application includes proposed encroachment by walling, stairs and ramps onto road reserve land and this is not approved as part of this application and shall be subject to formal approval or otherwise of a proposed encroachment under a Minor Encroachments/Constructions within Road Reserve 20/21 application.</p>
NECC (Bushland and Biodiversity)	<p>Updated Biodiversity Comments (19th July 2021)</p> <p>The applicant has provided the following additional reports/plans to</p>

Internal Referral Body	Comments
	<p>support the application:</p> <ul style="list-style-type: none"> • Biodiversity Development Assessment Report (BDAR) (Narla Environmental, July 2021) • Vegetation Management Plan (VMP) (Narla Environmental, July 2021) • Landscape Plan (Aspect Design, June 2021) • Arboricultural Impact Assessment (Abacus Tree Services, July 2021) <p>The BDAR confirms the presence of Pittwater and Wagstaffe Spotted Gum Forest, which is listed as an Endangered Ecological Community (EEC) under the NSW Biodiversity Conservation (BC) Act 2016. In accordance with the BDAR, the proposed impacts to biodiversity include the removal of a total of 0.03ha of PWSGF EEC, including the removal of 15 native trees as identified by the Arboricultural Report.</p> <p>It is acknowledged that the applicant has amended the design of the dwelling such that it is now able to retain seven (7) native trees previously proposed for removal, including one (1) <i>Corymbia maculata</i>, the largest on site.</p> <p>Assessment of the BDAR has confirmed that the BDAR satisfies the minimum requirements set out by the Biodiversity Offsets Scheme (BC Act and associated regulation as well as the BAM (DPIE 2020) and BAM Operational Manual – Stage 1 (DPIE 2020)).</p> <p>The assessed residual impacts of the development result in the following offset requirements under the Biodiversity Offset Scheme:</p> <ul style="list-style-type: none"> • Retirement of one (1) ecosystem credit for Pittwater and Wagstaffe Spotted Gum Forest EEC (PCT 1214) • Retirement of one (1) species credit for <i>Genoplesium baueri</i> • Retirement of one (1) species credit for <i>Hygrocybe aurantipes</i> <p>The retirement of offsets will be conditioned as part of the consent.</p> <p>Council's Biodiversity referrals team support the application, subject to conditions.</p> <p>Original Biodiversity Comments (20th April 2021)</p> <p>Council's biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • Coastal Management SEPP 2018 cl. 13 Development on land

Internal Referral Body	Comments
	<p>within the coastal environment area</p> <ul style="list-style-type: none"> • Pittwater LEP cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p>The Development Application seeks consent for the construction of a dwelling on a vacant block. The Arborist Report (Abacus Tree Services 2021) submitted with the Application identified that 24 trees will require removal, most of which are considered to be Prescribed trees.</p> <p>The property is located within the Biodiversity Values Map designated by the NSW State Government (Department of Planning, Industry and Environment), making it subject to the provisions of the NSW Biodiversity Conservation Act 2016. The removal of native vegetation from within an area mapped on the Biodiversity Values Map triggers the Biodiversity Offset Scheme (BOS) and the subsequent requirement for a Biodiversity Development Assessment Report (BDAR) to be prepared by an accredited assessor and submitted with the application.</p> <p>The BDAR should take into account any direct and prescribed impacts to Pittwater Spotted Gum Forest EEC, which is listed as a Serious and Irreversible Impact (SAIL) entity under the BOS. Any impacts which are considered to be serious and irreversible to Pittwater Spotted Gum Forest EEC as a result of the development will not be supported by Council.</p> <p>Furthermore, the site is located within the Coastal Environment Area designated under the Coastal Management SEPP (2018), and is therefore required to meet the objectives of cl.13, which includes avoiding adverse impact to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. This is to be discussed and assessed within the BDAR.</p> <p>The BDAR must identify how impacts have been avoided/minimised and address compliance with LEP/DCP controls, including objectives for no net loss of native canopy trees. The applicant is encouraged to consider measures to improve compliance with DCP B4.7 by reducing the footprint to retain additional Spotted Gums, reducing the impact of the entry way or potentially redesigning so that entry is from the rear of the already approved carport.</p> <p>The BDAR is to be accompanied by a Vegetation Management Plan (VMP) to guide weed removal and replanting of Pittwater Spotted Gum Forest Endangered Ecological Community within the site. The VMP is to be prepared by a suitably qualified person experienced in restoration ecology.</p> <p>At this stage, Council's biodiversity referrals team are unable to provide a referral for this Development Application. Upon receipt of</p>

Internal Referral Body	Comments
	requested documentation, assessment will recommence.
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps 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.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
NECC (Development Engineering)	<p><i>Note to Planner: The plans propose access stairs on the southern side of the driveway, located in the road reserve. This requires assessment and concurrence from the Road Assets Team.</i></p> <p>No objections to approval subject to conditions as recommended.</p>

Internal Referral Body	Comments
	Additional Information Provided on 28/06/2021 Amended plans have been reviewed. No objections to approval subject to conditions as recommended.
NECC (Water Management)	The proposal must include a sediment filter pit to reduce the impact of the development on the Pittwater waterway. Sediment and erosion controls during construction apply.
Road Reserve	No objection to proposed stairs subject to Road Act being obtained consent.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1184535S dated 19/03/2021). The BASIX Certificate is supported by an NatHERS Certificate (see Certificate No.0005762463-02).

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

Commitment	Required Target	Proposed
Water	40	46
Thermal Comfort	Pass	Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory

period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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 works are not likely to cause an adverse impact upon the matters identified in this clause. The proposed works do not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes. Council's Coastal and Biodiversity Officer have reviewed the proposal and have raised no objection to the proposal.

- (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:

Council is satisfied the proposed works are designed, and can be managed, to avoid adverse impacts based upon the matters identified in this clause.

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 is not likely to cause an impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind tunnelling or unreasonable impact on the loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. The proposed development will also not have an adverse impact on the cultural and built environment heritage.

It is considered that the proposed development has satisfied the requirement to be designed, sited and will be managed to avoid an adverse impact to the aforementioned cultural and environmental aspects.

Furthermore, the proposed development is considered to be of an acceptable bulk, scale and size that is generally compatible with the surrounding coastal and built environment, which consist of low-density residential dwellings. The proposed works are not likely to cause an adverse impact upon the matters identified in this clause.

A condition of consent has been placed to stop works and report the findings to the AHO if any Aboriginal Engravings or Relics are unearthed.

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:

Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

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

Coastal Management Act 2016

The subject site identified as Coastal use area under the Coastal Management Act 2016. The management objectives for the coastal use area are as follows:

- "(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:*
(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and
(ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and
(iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and
(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and
(v) the use of the surf zone is considered,
(b) to accommodate both urbanised and natural stretches of coastline."

Comment

The proposal is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected. In addition, the surrounding area consists of examples of similar developments.

Pittwater Local Environmental Plan 2014

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:	10.0m	8.9m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

1.9A Suspension of covenants, agreements and instruments

Clause 1.9A of Pittwater Local Environmental Plan 2014 states that for the purpose of enabling development on land in any zone, covenants that restrict the carrying out of that development do not apply to the extent necessary to serve that purpose. However, this does not apply in the case of a covenant imposed by Council (as in this case). As such, the covenant applies for the purpose of assessment, but may be modified at Council's discretion. An assessment of the relevant easements/covenants is as follows:

Upon subdivision of the subject site within SD051/91 (approved 1991), a restriction on the use of land was imposed which required any future structures erected on those lots to be designed, located and constructed so as to minimise any adverse impact they might have on trees and vegetation on the site. As discussed in detail throughout this report, the proposed development seeks to remove a number of trees in order to facilitate the development. Hence, this application seeks to vary the terms of the restrictive covenant imposed on the land. The application is accompanied by an Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan which address the proposed tree removal and associated impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Given the approval by Council's Landscape Officer and Biodiversity Team and the proposed rehabilitation and revegetation of vegetation Pittwater Spotted Gums within the subject property, the proposed variation to the restrictive covenant is supported in this instance.

4.3 Height of buildings

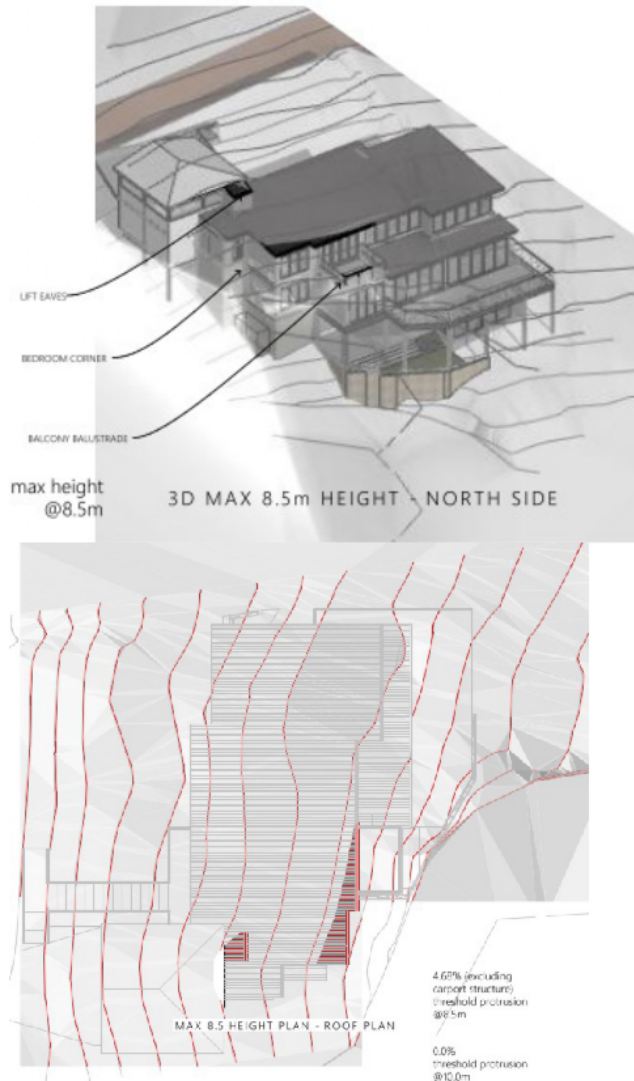
The proposed dwelling has a maximum building height of 8.9 m which does not comply with the 8.5m requirement.

Clause 2D of the of the height of building control within PLEP 2014 identifies the height of buildings may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and

Comment

The variation to the 8.5m height limit is not excessive and is demonstrated in Figure 1 below. As shown the extent of the variation is predominantly limited to the roof form.



Figures 1 & 2: Height of building variation

(b) the objectives of this clause are achieved, and

Comment

The objectives of 4.3 Height of Building are achieved as follows:

- *(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

Comment

The proposed dwelling is comparable with that of the built form of surrounding newer dwellings located on Riverview Road. The dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey and below average eye level as viewed from Riverview Road. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this

report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. Overall, the height, design and scale of the new dwelling would not be inconsistent with surrounding properties or the desired character of the locality.

- *(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment

The proposed height non-compliance of is contained to the new roof form. As above, the dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey and below average eye level as viewed from Riverview Road. The proposal presents a compatible height and scale with that of surrounding and nearby development (Noting that multiple properties and structures on the low side of Riverview Road are built in close proximity to Riverview Road with similar overall ridge heights). Furthermore, the site has an existing approved Development Application (DA2019/1449) for a carport which has approved ridge height above that proposed. Overall, the height, design and scale of the new dwelling would be compatible with approved and nearby development.

- *(c) to minimise any overshadowing of neighbouring properties,*

Comment

The solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms of the adjoining properties and private open spaces.

- *(d) to allow for the reasonable sharing of views,*

Comment

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. Due to the slope away from Riverview Road the proposed development is not prominently viewed from the public roadway and road reserve, with views past and over the dwelling to be maintained for the public and the surrounding properties.

- *(e) to encourage buildings that are designed to respond sensitively to the natural topography,*

Comment

The proposed development would not require excessive excavation and would be stepped with the fall of the land.

- *(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comment

The proposal would not require excessive excavation. Whilst there is some tree removal required as part of the development, the proposed development has been designed to retain and protect other significant trees on the site (and adjoining the site). Furthermore, in order to avoid and minimise

potential impacts of the proposal on local biodiversity values, a series of mitigation and management measures have been identified, which are to be implemented as part of any Construction Environmental Management Plan (CEMP) produced for the site. Additionally, a Vegetation Management Plan (VMP) has been produced to guide the rehabilitation and revegetation of Pittwater Spotted Gums within the subject property, along with replacement planting as proposed on the landscape plan and required as development consent conditions. The proposal has been supported by a Biodiversity Development Assessment Report and has been reviewed by Council's Biodiversity Officer who have raised no objection to the proposal subject to recommended conditions. There are no heritage items in the vicinity of the subject site.

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and

Comment

The building footprint is situated on a slope which exceeds the 30% requirement.

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment

The extent of excavation for the proposed dwelling house will be minimised due to the design of the proposed dwelling house 'stepping up' the natural topography of the site. The proposed development is supported by a geotechnical risk assessment, that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 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.

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be

of an suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of an suitable quality.

(f) the likelihood of disturbing relics

Comment:

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The development has been assessed by Council's Coastal Engineers, Water Management Officer and Biodiversity Officers, who have raised no objection to the proposal subject to conditions.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of

the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

(a) site layout, including access,

(b) the development's design and construction methods,

(c) the amount of cut and fill that will be required for the development,

(d) waste water management, stormwater and drainage across the land,

(e) the geotechnical constraints of the site,

(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The proposed development is supported by a geotechnical risk assessment, architectural plans, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:

(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitable managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

(i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or

(ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or

(iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	3.6m (entry) 5.05 (dwelling)	44.6%	No
Rear building line	6.5m	7.3m	N/A	Yes
Side building line	2.5m (N)	2.9m	N/A	Yes
	1m (S)	2.0m (balcony) 2.5m (dwelling)	N/A	Yes
Building envelope	3.5m (N)	Outside envelope	N/A	No
	3.5m (S)	Outside envelope	N/A	No
Landscaped area	60% (444.24sqm)	43.5% (321.8sqm)	27.6%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - 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
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	No	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	No	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The Avalon Beach Locality statement notes as follows:

"The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape".

"Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses".

"Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards".

Comment

The proposed development consists of part a two/part three storey dwelling house, where the locality calls for two storey development. Furthermore, the proposal would result in the removal of canopy trees in order to facilitate the development

The proposed dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey and below average eye level as viewed from Riverview Road. The design and appearance of the proposed dwelling would be consistent with the sloping topography and the surrounding residential dwelling houses located on Riverview Road. The proposed dwelling would step with the fall of the land and would be predominantly below the required 8.5m height requirement (with the exception of a minor portion of the roof form) and would be well within the required 10.0m height variation for sloping sites. The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport) and includes building modulation to minimise bulk. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

The proposed tree removal has been reviewed by Council's Bushland & Biodiversity and Landscape Officers who have raised no objection subject to replacement planting. The proposal is also supported by a Biodiversity Development Assessment Report which concludes that:

"The proposed development has been purposefully designed to minimise impacts on biodiversity values as much as possible. Due to the vegetated nature of the property, there are limited alternate locations for the proposed development."

A number of canopy trees are proposed to be retained and protected to surround the proposed dwelling.

On balance, subject to recommended conditions, the proposal is considered consistent with the

desired future character of the Avalon Beach locality.

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

The proposal seeks the removal of five (5) spotted gum trees (trees 2; 15; 30; 35 & 37) to facilitate the development. The proposal is supported with a Biodiversity Development Assessment Report and Vegetation Management Plan (Narla 2021) which recommends a series of mitigation and management measures in order to avoid, minimise and offset potential impacts of the proposal on Pittwater Spotted Gum Endangered Ecological Community (EEC). The proposal and supporting documentation has been reviewed by Council's Bushland & Biodiversity Officer and Landscape Officer who support the proposal subject to conditions including replanting and adherence to the submitted Aborigicultural Impact Assessment, Biodiversity Development Assessment Report and Vegetation Management Plan measures.

Please refer to the comments prepared by Council's Landscape Officer and Biodiversity Officer for further information related to the tree removal.

In summary, subject to compliance with recommended conditions, the application is seen to meet the outcomes of this clause and is supported on merit.

B4.22 Preservation of Trees and Bushland Vegetation

The application is accompanied by an Aborigicultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan to address the proposed tree removal and impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

Subject to compliance with recommended tree planting conditions, the application is seen to meet the outcomes of this clause and is supported on merit.

B6.1 Access driveways and Works on the Public Road Reserve

The proposal seeks the construction of access stairs and landscaping works on the road reserve. Council's Road Assets Officer, Development Engineer and Landscape Officer have reviewed the proposed works on the Road Reserve and have raised no objection subject to conditions. Such conditions ensure appropriate approval under the provisions of the Roads Act 1993 and ensure the works structurally adequate and meet appropriate engineering standards. Given the steep topography of the sites and the location of approved works of the road reserve the proposed works are considered acceptable subject to conditions.

The access driveway and elevated carport on the proposed plans do not form part of this application. These works form part of DA2019/1449 which was approved by Council on 22 May 2020. If approved, a condition of consent is to be imposed on the subject application requiring the new driveway and parking structure and carport (within DA2019/1449) be completed prior to receiving the Occupation Certificate

B6.3 Off-Street Vehicle Parking Requirements

As above, the elevated carport on the proposed plans does not form part of this application. These works form part of DA2019/1449 which was approved by Council on 22 May 2020. If approved, a condition of consent is to be imposed on the subject application requiring the new driveway and parking structure

and carport (within DA2019/1449) be completed prior to receiving the Occupation Certificate. Subject to compliance with this condition, the proposal would meet the specified parking requirements.

B6.7 Transport and Traffic Management

A condition has been imposed requiring the Applicant to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person and further conditions ensure this will be implemented during works.

B8.1 Construction and Demolition - Excavation and Landfill

The proposal seeks to excavate portions of the land and redistribute over the site to facilitate the development. Council's Development Engineers have reviewed the proposal and submitted Geotechnical Report and have raised no objection subject to recommended conditions.

Given the proposed location of these works, the proposal is not considered to have an adverse impact on the streetscape. In order to ensure that there are no adverse impacts on the adjoining neighbours, conditions have been imposed which:

- Ensure structural adequacy of landfill and excavation work;
- Ensure the preparation and adherence of a Waste Management Plan;
- Ensure the recommendations of the Geotechnical report is adhered to;
- Ensure the proper installation and maintenance of sediment and erosion control;
- Ensure topsoil is stockpiled on site and stabilised during construction works;

The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer and Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

B8.6 Construction and Demolition - Traffic Management Plan

A condition requiring the provision of a construction management plan has been included in the recommendation of this report.

C1.1 Landscaping

Please refer to the referral comments prepared by Council's Landscape Officer. The proposal would meet the requirements of this control subject to recommended conditions.

C1.3 View Sharing

Filtered water views are available across the subject site towards the west. No view loss concerns have been raised by adjoining neighbours in relation to view loss from the proposed dwelling. Nevertheless, consideration is given to potential view loss created from the proposal.

Given the relative position of the adjoining neighbours to the north and the south, positioned to further to the west than that proposed dwelling, the proposal is not anticipated to unreasonably impact these neighbours views.

Due to the slope of the site, the properties on the eastern side of Riverview Road are elevated well above (approximately 10m - 20m) the proposed dwelling and are expected to maintain equitable

preservation of existing views over the proposed dwelling. Due to the significant slope of the site, the proposed dwelling would be predominantly below street level and average eye level as viewed from the street. Views are expected to be retained over the new dwelling. Any view loss associated with the proposal is considered to be minor. The proposal is considered to be satisfactory and not considered to have an unreasonable impact to views and vistas from surrounding properties of Riverview Road.

Following the submission of the Landscape Plan (which was submitted with the amended plans) an objection was received by an adjoining neighbour to the north-east (No.128 Riverview Road) with regards to the proposed location of proposed replacement tree planting and impacts on views. This neighbour raised concerns with the proposed location of three (3) replacement Spotted Gum canopy trees proposed within the front setback. Given COVID-19 restrictions, Council's Planner was unable to enter this neighbouring property in order to take photos of the view corridor of concern, however, the following photos were provided by the objector on request by Council.



Photo 1 - View from No.128 Riverview Road from the main living room on the upper floor - *Photo taken by the resident of No.128 Riverview Road due to COVID-19 restrictions



Photo 2 - View from No.128 Riverview Road from the main living room on the upper floor - *Photo taken by the resident of No. 128 Riverview Road due to COVID-19 restrictions



Photo 3 - Photo taken from the front of the subject site looking north-east towards No.128 Riverview Road demonstrating the high number of existing canopy trees.

Photos 1, 2 and 3 above demonstrate the view corridor through the subject site, as well as the high number of canopy tree which currently exist within this view corridor. The replacement spotted gum

trees proposed within the front setback would be replacing existing canopy trees proposed for removal on the subject site, many of which would be in similar positions on the site.

The inclusion of replacement tree planting is reasonable to satisfy the objectives of E4 zone, B4.7, C1.1 and D1.1, that can be summarised as follows:

- Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.
- Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.
- To provide for residential development of a low density and scale integrated with the landform and landscape.
- At least 2 canopy trees in the front yard are to be provided on site.

Furthermore, the objectives of clause *C1.3 View Sharing* of P21 DCP specifies that canopy trees take priority over views.

In consideration of the location of existing canopy trees within the existing view corridor (on the subject site, adjoining road reserve and neighboring sites); the relative elevation of No.128 Riverview Road above the subject site as well as the requirements and objectives of P21DCP, the replacement tree planting within the front setback is supported and any associated view loss is considered reasonable in this instance.

C1.5 Visual Privacy

Clause C1.5 of the P21DCP stipulates that private open space areas and windows of adjoining properties are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation. The proposed development contains elevated balconies, private open space and side facing windows which are within 9.0m from both the northern (No.143 Riverview Road), southern (No.137 Riverview Road) and western (No.139 Riverview Road) neighbours.

Merit Assessment

The proposed development is considered against the underlying outcomes of the control as follows:

- Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.

No.137 Riverview Road

The proposed dwelling would be located greater than 9.0m from the existing dwelling and principle private open space of the southern neighbour (No.137 Riverview Road). Additionally the proposed Landscape Plan details the retention and provision of canopy trees and screen planting along the southern side boundary which would assist in mitigating potential privacy impacts. The proposed dwelling would be within 9.0m of this neighbours carport and inclinator, however, given that these structures are non-habitable and would be used for momentary access, any associated privacy impacts are considered reasonable within a residential environment.

Overall, given the level of spatial separation and screen planting proposed it is considered a

reasonable level of privacy would be maintained.

No.143 Riverview Road

The proposed dwelling would be suitably offset and separated from the adjoining northern neighbour (No.137 Riverview Road). This neighbour does not contain any prominent south facing windows and the proposal would be separated from this neighbour's principle private open space by greater than 9.0m. The proposed Landscape Plan details the provision of screen planting along the northern side boundary and along the northern perimeter of the proposed private open space which would assist in mitigating potential privacy impacts. Additionally, no objections have been received by this neighbour in relation to privacy.

Overall, given the level of spatial separation and screen planting proposed it is considered a reasonable level of privacy would be maintained.

No.139 Riverview Road

The proposed dwelling would be located greater than 9.0m from the existing dwelling and principle private open space of the western neighbour (No.139 Riverview Road). The primary windows and principle private open space of this neighbour faces away (west) from the proposed dwelling and is at a lower elevation. As such the proposed dwelling would primarily look over the roof, driveway and garage of this neighbour. The proposed Landscape Plan details the provision of screen planting western perimeter of the proposed private open space which would also assist in mitigating potential privacy impacts.

Overall, given the orientation and topography, level of spatial separation and screen planting proposed it is considered a reasonable level of privacy would be maintained.

- *A sense of territory and safety is provided for residents.*

Comment:

The proposed development is considered capable of providing a sense of territory and safety for residents on the subject site and adjoining properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

C1.13 Pollution Control

The proposed development includes a fireplace in the first floor lounge room. No details of the fireplace are included with the application. As such, Council cannot be satisfied that the development is designed to prevent air pollution, or that the development complies with the *Protection of the Environment Operations Act 1997*, and other relevant legislation. As such, a condition of consent has been included to ensure that no solid fuel heaters are approved under this consent. Subject to compliance with this condition the proposal is considered to meet the requirements of this control.

C1.14 Separately Accessible Structures

The Pittwater 21 DCP stipulates within Clause C1.14 that separately accessible structures may be permitted provided that they are not designed for separate habitation and do not contain any cooking facilities. The application proposes a separately accessible lower ground floor level. In order to achieve compliance with this control, the development will be conditioned over the life of the development so to

ensure the lower ground floor level will not be used for the purposes of separate habitation including a secondary dwelling or dual occupancy. An additional condition will be applied over the life of the development to remove and prohibit the installation of cooking facilities.

C1.24 Public Road Reserve - Landscaping and Infrastructure

As discussed by Council's Landscape Officer and Roads Assets Officer, the proposed works within the road reserve are considered to be appropriate given the gradient of the site (subject to recommended conditions).

D1.1 Character as viewed from a public place

The proposed dwelling would comply with the requirements of this control. The carport indicated on the submitted plans has been previously approved within DA2019/1449. The assessment of the proposed carport within DA2019/1449 concluded that the parking structure referenced within submitted plans is consistent the relevant objectives of this control.

D1.5 Building colours and materials

The submitted colour schedule is generally consistent with the required external finishes. In order to ensure consistency with this control, a condition is to be imposed requiring the external colours and finishes to the external walls and roof to have a medium to dark range and specifying that light colours such as off white, cream, silver or light grey colours are not permitted.

D1.8 Front building line

Description of Variation

Clause D1.8 of the P21DCP requires development (other than driveways, fences or retaining walls) to be setback at least 6.5m from the front boundary or the established building line, whichever is greater.

The proposed access stairs would have a nil setback from the front boundary representing a 100% variation to the 6.5 metre requirement.

The proposed entry platform would have a setback of 3.6m from the front boundary representing a 44.6% variation to the 6.5 metre requirement.

A portion of the proposed dwelling would have a setback 5.05m setback from the front boundary representing a 22.3% variation to the 6.5 metre requirement. The remainder of the dwelling façade would be located behind the 6.5m requirement.

As previously discussed in this report, the elevated carport on the proposed plans does not for part of this application. These works form part of DA2019/1449 which was approved by Council on 22 May 2020. The variation to the front setback has been discussed in this assessment and was deemed to meet the objectives of 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 achieve the desired future character of the Locality. (S)

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Beach Locality of the Pittwater 21 DCP.

The amenity of residential development adjoining a main road is maintained. (S)

Comment:

The subject site adjoins a local road, therefore, this outcome is not applicable.

Vegetation is retained and enhanced to visually reduce the built form. (En)

Comment:

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

Vehicle manoeuvring in a forward direction is facilitated. (S)

Comment:

The approved parking arrangement will not be altered as part of this proposal.

To encourage attractive street frontages and improve pedestrian amenity.

Comment:

The development is sited well below the established tree canopy and average eye level when viewed from the street. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Riverview Road. Notwithstanding the non-compliance, sufficient space remains within the front setback area for additional vegetation planting to provide an attractive street frontage and improve pedestrian amenity.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Comment:

The western side of Riverview Road accommodates examples of structures located forward of the front building line. In this regard, the location of the structures will not be out of context with the established streetscape character. Furthermore, given the significant slope of the site, the proposed stairs, entry platform and dwelling and would be below street level and would not dominate the streetscape. Additionally, the proposed access stairs and entry platform would be open structures of minimal bulk

and scale. The facade of the proposed dwelling would be modulated, with the majority meeting the required 6.5m setback. Existing and proposed vegetation and landscaping will further alleviate the visual impacts when viewed from the street and surrounding properties. Based on the above, it is concluded that the development responds to the spatial characteristics of the existing built and natural environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P21DCP 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.

D1.11 Building envelope

Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries.

The proposed dwelling has a minor encroachment into the prescribed building envelope along the northern and southern elevations. This variation is represented in figure 1 and 2 below.

This building envelope non-compliance is largely attributed to the slope of the site, which exceeds 30%. P21DCP allows for a variation to the prescribed building envelope for development on steep sites, subject to consistency with the outcomes of this Clause.

As previously discussed in this report, the elevated carport on the proposed plans does not for part of this application. These works form part of DA2019/1449 which was approved by Council on 22 May 2020. The variation to the building envelope has been discussed in this assessment and was deemed to meet the objectives of the control.

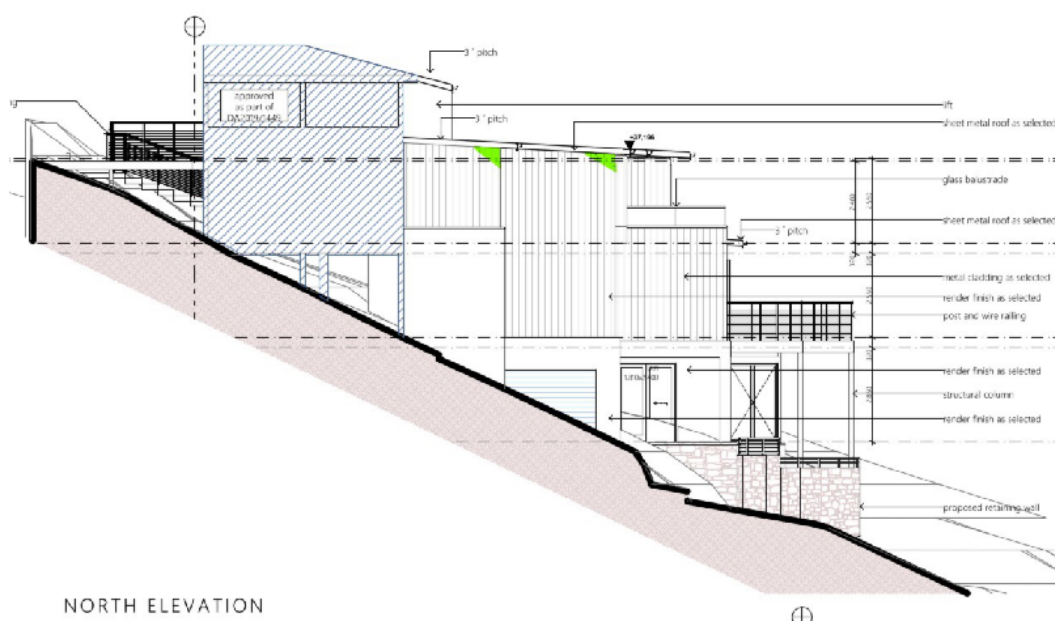


Figure 1 - Proposed building envelope non-compliance on the northern elevation (highlighted in green).

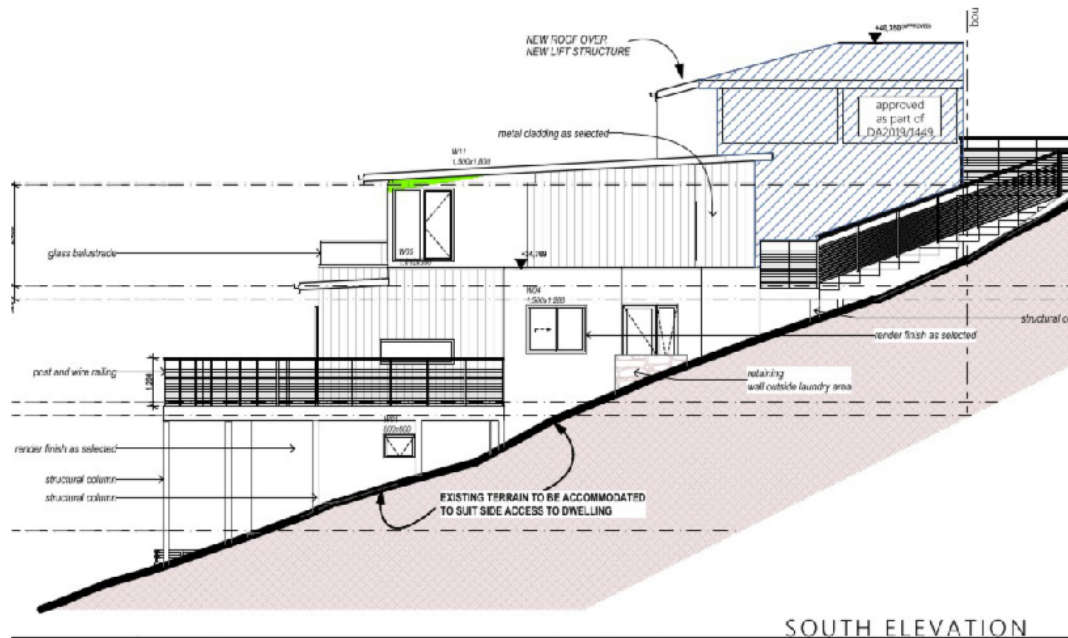


Figure 2- Proposed building envelope non-compliance on southern elevation (highlighted in green).

Merit consideration

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

- *To achieve the desired future character of the Locality.*

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Locality of the Pittwater 21 DCP.

- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment:

The development is sited well below the established tree canopy and average eye level when viewed from the street. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Riverview Road. The proposal includes adequate landscaping in order to screen the built form of the proposed development when viewed from Riverview Road and the adjoining properties. It is considered that the bulk and scale of the proposal would not be out of character with the existing streetscape and wider locale.

- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment:

The site has a steep gradient and it is not uncommon for the building envelope to be encroached due to the slope of the site, as recognised by the variation clause contained in the control. The building is well articulated and modulated to break up the bulk and scale, and responds to the slope of the site through the stepping of levels. The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport). Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

The proposed tree removal has been reviewed by Council's Bushland & Biodiversity and Landscape Officers who have raised no objection subject to replacement planting. The proposal is also supported by a Biodiversity Development Assessment Report which concludes that:

"The proposed development has been purposefully designed to minimise impacts on biodiversity values as much as possible. Due to the vegetated nature of the property, there are limited alternate locations for the proposed development."

- *The bulk and scale of the built form is minimised.*

Comment:

The proposal involves compliance with the development standard for building height and is well set back from side and rear boundaries. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Riverview Road. Furthermore, the proposal would introduce suitable landscaping along the side boundaries to minimise the visual impact of the development to the adjoining neighbours. The proposal would step with the fall of the land and incorporate open balconies with variable setbacks. This provides a situation in which presentation of bulk and scale is adequately minimised.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

- To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development. Furthermore, the proposal would retain suitable landscaping along the side and rear boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has

been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The Control requires a minimum of 60% (444.24sqm) of the total site to be landscaped area.

The proposed development provides 43.5% (321.8sqm) of the total site area as landscaped area, which represents a variation of 27.6%

Upon achievement of the objectives of the Control, the variations provision allows for up to 6% of the site to be impervious landscape treatment provided such areas are used for outdoor recreational purposes only. Upon achievement of the aforementioned variation, the landscape area total would increase to 49.5% (366.2sqm).

It should also be noted that the site is burdened by a large right of carriageway and associated driveway which benefits adjoining properties. The impervious hard surface area resulting from this right of carriageway is approximately 135sqm or 18.2% of the site area. If this impervious hard surface (resulting from the right of carriageway) were removed from the calculation, the proposal would comply with the required landscaped area.

Merit consideration

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

- *Achieve the desired future character of the Locality.*

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Locality of the Pittwater 21 DCP.

- *The bulk and scale of the built form is minimised.*

Comment:

The site will retain a landscaped setting surrounding a built structure, which is compatible with the surrounding developments in the immediate vicinity, and within the wider community of Avalon Beach. The proposal involves compliance with the development standard for building height and is well set back from side and rear boundaries. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Riverview Road. Furthermore, the proposal would introduce suitable landscaping along the side boundaries to minimise the visual impact of the development to the adjoining neighbours. The proposal would step with the fall of the land and incorporate open balconies with variable setbacks. This provides a situation in which presentation of bulk and scale is adequately minimised. The submitted landscape plan details new and existing trees and vegetation to assist in reducing the perceived bulk and scale of the development from the public domain and adjacent properties. In this instance, the proposed development is considered to achieve compliance with this outcome.

- *A reasonable level of amenity and solar access is provided and maintained.*

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development. Furthermore, the proposal would retain suitable landscaping along the side and rear boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

Whilst there is tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

- *Conservation of natural vegetation and biodiversity.*

Comment:

As above, the proposal involves tree removal to facilitate the development. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained natural vegetation and biodiversity. The proposal is also supported by a Biodiversity Development Assessment Report which concludes that: "The proposed development has been purposefully designed to minimise impacts on

biodiversity values as much as possible. Due to the vegetated nature of the property, there are limited alternate locations for the proposed development."

The application is also supported by a landscape plan, which demonstrates an enhancement of natural vegetation. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting as well as mitigation and rehabilitation techniques, ensure that this objective is achieved.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objection subject to conditions included in the recommendation of this report. It is considered the pervious surface within the property is capable of reducing stormwater runoff, preventing soil erosion and siltation of natural drainage channels.

- *To preserve and enhance the rural and bushland character of the area.*

Comment:

As above, whilst there is tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form and maintain the bushland character of the site. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately preserve the bushland character of the area.

- Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

Comment:

The on-site capacity of pervious surface is considered capable of providing infiltration of water to the water table, minimising run-off and assisting with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D1.17 Construction, Retaining walls, terracing and undercroft areas

As discussed previously in this report, the level of excavation and fill is considered acceptable subject to recommended conditions. The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer; Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions. Conditions are to be imposed that new retaining walls be constructed of sandstone or

sandstone like materials.

D1.20 Scenic Protection Category One Areas

Subject to conditions to ensure the proposed external colours and materials are of dark and earthy tone of low reflectivity and replacement canopy tree planting as specified by Council's Landscape and Biodiversity Officers, the proposal would meet the requirements of this clause.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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

A monetary contribution of \$18,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,800,000.

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;
- Pittwater Local Environment Plan;
- Pittwater 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

In summary, the application has been assessed with regard to the relevant Pittwater LEP and DCP controls which guide the future desired character of the area, along with the public submission received during the notification period.

The issues raised in the public submissions are considered to be addressed by way of the amended plans and conditions of consent. The issues regarding impact to the vegetation and biodiversity associated with the development have been addressed by the submitted expert reports, the recommendations of these reports forming conditions of development consent.

Subject to the recommended conditions of consent, it is considered that the amended design of the proposal would result in a development that displays reasonable scale and density compatible with the surrounding development on Riverview Road and would not result in unreasonable amenity impacts to surrounding properties. Overall, the proposal is considered a reasonable response to the site constraints and relevant planning controls

Accordingly, the application is referred to the DDP with a recommendation for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0317 for Construction of a dwelling house on land at Lot 2 DP 833902, 141 Riverview Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02 Issue.9 - SITE PLAN	09/07/2021	FYFFE Designs
DA05 Issue.9 - CUT & FILL PLAN	09/07/2021	FYFFE Designs
DA06 Issue.9 - LOWER GROUND FLOOR PLAN	09/07/2021	FYFFE Designs
DA07 Issue.9 - LIVING LEVEL FLOOR PLAN	09/07/2021	FYFFE Designs
DA08 Issue.9 - ENTRY LEVEL FLOOR PLAN	09/07/2021	FYFFE Designs
DA09 Issue.9 - ROOF PLAN	09/07/2021	FYFFE Designs
DA10 Issue.9 - EAST & WEST ELEVATION PLAN	09/07/2021	FYFFE Designs
DA11 Issue.9 - NORTH & SOUTH	09/07/2021	FYFFE Designs

ELEVATION PLAN		
DA12 Issue.9 - A SECTION PLAN	09/07/2021	FYFFE Designs
DA19 Issue.9 - INDICATIVE MATERIALS SCHEDULE	09/07/2021	FYFFE Designs

Engineering Plans		
Drawing No.	Dated	Prepared By
C1 Rev.A - COVERSHEET & NOTES	12/03/2021	NASTASI & ASSOCIATES
C2 Rev.A - DRAINAGE PLAN	12/03/2021	NASTASI & ASSOCIATES
C3 Rev.A - STORMWATER DETAILS	12/03/2021	NASTASI & ASSOCIATES

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (1184535S)	19/03/2021	Frys Energywise
NatHERS Certificate (0005762463-02)	18/03/2021	Frys Energywise
Waste Management Report	-	FYFFE Designs
Geotechnical Report (J2986A)	24/06/2021	White Geotechnical Group
Geotechnical Report (J2986)	23/02/2021	White Geotechnical Group
Vegetation Management Plan	July 2021	Narla Environmental Pty Ltd
Biodiversity Development Assessment Report v2.0	16 July 2021	Narla Environmental Pty Ltd
Arborist Report	15 July 2021	Abacus Tree Services

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L/01 - Landscape Plan - Ground Floor	18/06/2021	Aspect Designs
L/02 - Landscape Plan - Lower Ground Floor	18/06/2021	Aspect Designs
L/03 - Landscape Details Sheet	18/06/2021	Aspect Designs
DA04 Rev.9 - LANDSCAPE PLAN	02/07/2021	FYFFE Designs

Waste Management Plan		
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Drawing No/Title.	Dated	Prepared By
Waste Management Report	-	FYFFE Designs

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling."

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

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

3. **Installation of solid/fuel burning heaters**

No approval is granted for the installation of a solid/fuel burning heater.

Reason: To preserve the amenity and environmental health of adjoining properties.

4. **No works on adjoining land or right of carriageway**

No Approval is granted under this consent for any works on adjoining land or on the right of carriageway which burdens the subject site.

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

5. **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.

6. **No approval for fencing**

No Approval is granted under this consent for any boundary fencing.

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

7. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the

development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred 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

8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$18,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$1,800,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

9. **Security Bond**

A bond (determined from cost of works) of \$10,000 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

10. **Structural Plans and Pier Footing Design near trees to be retained**

Pier footing structural layout plans for the construction works near existing trees 4, 6, 11 to 14, 18 to 26, 28, 32 to 34 and 36 shall be developed in coordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture and a qualified Structural Engineer, to satisfy the design and construction requirements of the Arboricultural Impact Assessment as listed in section 7. Recommendations.

The Structural Plans and Pier Footing Design shall comply to the following requirements:

- no change in the soil profile shall occur between the development and the trunk of existing trees 4, 6, 20 to 24, 26, 28, 32 to 34, and 36. This includes no excavation works or underground services in this zone,
- no strip footings are allowed in the tree protection zone of retained trees to the extent as advised by a Project Arborist,
- all retaining walls if required will need to be constructed using a lintel system to avoid strip footings, It is recommended that no structural roots greater than 90mm in diameter be pruned.,
- any roots found greater than 90mm will require the pier to be dug to an alternative location.
- all pilot holes / piers are to be dug by non-mechanised methods to the required depth within the tree protection zone of existing trees 4, 6, 11 to 14, 18 to 26, 28, 32 to 34, and 36.
- final pier placement be a minimum of 100mm to all structural roots to allow for spatial separation and expansion of the root plate.

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

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

Reason: Tree protection.

11. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

12. **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 prepared by White Geotechnical Group dated 23/2/2021 and letter dated 24/6/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in the BDAR and VMP (Narla Environmental, July 2021) and these conditions of consent are to be implemented at the

appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

14. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

15. **Like for like credit retirement conditions - Ecosystem credit retirement conditions**

Prior to issue of the relevant Construction Certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and to the Certifying Authority prior to release of construction certification.

Table 1 Ecosystem credits required to be retired – like for like

Impacted Plant Community Type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
PCT 1214: Spotted Gum - Grey Ironbark open forest in the Pittwater	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	1	N	Pittwater	1214, 1589

and Wagstaffe area, Sydney Basin Bioregion					
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Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

16. **Variation rule credit retirement conditions - Ecosystem credit retirement conditions**
Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 2 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 2 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	Containment
PCT 1214 Pittwater Spotted Gum forest	1	No

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

17. **Like for like credit retirement conditions - Species credit retirement conditions**
Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 3 must be retired to offset the impacts of development.

The requirement to retire credits outlined in Table 3 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 3 requirements must be provided to the Manager Bushland and Biodiversity

of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 3 Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA sub-region
Genoplesium baueri (Bauer's Midge Orchid)	1	Any in NSW
Hygrocybe aurantipes	1	Any in NSW

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

18. **Variation rule credit retirement conditions - Species credit retirement conditions**
Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 4 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 4 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 4 Species credits required to be retired – variation rules

Impacted species credit species	Number of species credits	IBRA sub-region	Approved variation species credit species that can be used to offset the impacts from development
Genoplesium baueri (Bauer's Midge Orchid)	1	Any in NSW	Endangered Flora
Hygrocybe aurantipes	1	Any in NSW	Vulnerable Fungi

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

19. **Compliance with approved BDAR impact mitigation table to minimise impacts – Prior to Construction**
The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Certifying Authority and Council prior to issue of Construction Certificate.

Reason: To - compliance with the approved BDAR.

20. **Implementation of the Vegetation Management Plan**

All requirements in the Vegetation Management Plan (Narla Environmental, July 2021) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

21. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

22. **Stormwater Treatment Measures – Minor**

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

23. **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.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

24. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

25. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of access stairs which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. Structural details of the new access stairs and safety barriers from the southern end of the driveway to the dwelling.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

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

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

26. **Structural Adequacy and Excavation Work**

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

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

27. **Engagement of Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the BDAR and VMP (Narla Environmental, July 2021).

The Project Ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

28. **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.

29. **External Colours and Finishes**

The external colours and finishes to the external walls and roof shall have a medium to dark range. Light colours such as off white, cream, silver or light grey colours are not permitted. Proposed new retaining walls shall be constructed of sandstone or sandstone like materials. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure building colours and materials compliment and enhance the natural landscapes and to ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

30. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

31. **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.

32. Compliance with Arborist's Recommendations – Pre-construction

All pre-construction tree-related measures specified in the Arboricultural Impact Assessment Report (Abacus Tree Services July 2021) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To protect trees proposed for retention.

33. Construction Traffic Management Plan

A Construction Traffic Management Plan is to be prepared for the development given its unusual access arrangements.

The Construction Traffic Management Plan shall include (but not be limited to) the following:

- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Details for maintaining access to adjacent properties and properties which benefit from the right of carriageway easement
- Details regarding the proposed method of access to and egress from the site for construction vehicles, and demonstration these vehicle will manoeuvre the right of way safely – i.e enter and leave in a forward direction.
- Details for storage of materials
- Provision of parking for workers
- Details for loading and unloading of materials
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- The location and operation of any on site crane

The Construction Traffic Management Plan shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

34. Waste Management Plan

A Waste Management Plan must be prepared for this development. The plan must comply with the Northern Beaches Council Waste Management guidelines. Details demonstrating compliance must be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure that any demolition and construction of waste, including excavated material,

is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

35. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

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

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

The Project Arborist shall be in attendance and supervise all works, including:

- i) excavation and construction works within the tree protection area of existing street trees (T11, T12, T20, and T21) within the road verge,
- ii) excavation and construction works within the tree protection area of existing trees (T13, T14, T18, T19, T25, T26, T28, and T33) within the site,
- iii) excavation and construction works within the tree protection area of existing trees (T4, T6, T22, T23, T24, T32, T34, and T36) located in adjoining properties.

All tree protection measures specified must:

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

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

Note:

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

Reason: Tree protection.

36. **Tree Removal within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) T1, T2, T3, T5, T7, T10, T15, T16, T17, T27, T29, T30, T35 and T37.

Note: Exempt Species (T8 and T31) as listed in the Development Control Plan or the

Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised building works.

37. **Tree Removal within the Road Reserve**

This consent approves the removal of the following tree(s) within the road reserve (as recommended in the Arboricultural Impact Assessment): T9 and T10 - both Black She Oak.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: Public liability.

38. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with the BDAR and VMP (Narla Environmental, July 2021)

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

39. **Impacts to Protected Native Wildlife**

Habitat for native wildlife is to be inspected for native wildlife by the Project Ecologist during a pre-clearing inspection prior to removal. If native wildlife is found within habitat to be removed, the wildlife is to be safely relocated by the Project Ecologist.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifying Authority

Reason: To protect native wildlife.

40. **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 protect native wildlife.

41. **Compliance with approved BDAR impact mitigation table to minimise impacts – During Construction**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented during construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to keep details of compliance, including written and

photographic evidence.

Reason: To ensure compliance with the approved BDAR.

42. Notification of determination to which the Biodiversity Offset Scheme applies

The applicant or Project Ecologist, on behalf of the applicant, must download and complete the "Biodiversity Offsets Scheme – Notification of Determination" form.

The completed form and attachments, including a copy of the determination and any conditions of approval, must be emailed to the LMBC Service Centre <bam.support@environment.nsw.gov.au>. The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council's Manager Bushland and Biodiversity and the Principal Certifying Authority must be copied into the notification email to confirm compliance.

Reason: To ensure the NSW Department of Planning, Industry and Environment are notified of determinations where the Biodiversity Offsets Scheme applies and Council are notified for compliance.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

43. Tree and Vegetation Protection

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

- i) all trees and vegetation within the site not approved for removal (these are identified as T4, T6, T11 to T14, T18 to T26, T28, T32 to T34, and T36, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-

2009 Protection of Trees on Development Sites,

ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,

x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,

xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

44. **Road Reserve**

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

Reason: Public safety.

45. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

46. **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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

47. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

48. **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.

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

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

50. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

51. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

52. **Stockpiling of Topsoil**

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment.

53. **Protection of Landscape Features and Sites of Significance**

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

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

54. **Right of Carriageway Access**

Construction vehicles and material are not to impede access for the properties that benefit from the right of way and turning area throughout the construction phase. The applicant must provide neighbours who use the right of way and turning area with contact details of the contractor in the event that access to the right of way is blocked.

Reason: To ensure access is available to all property owners who benefit from the right of carriageway during the construction phase.

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

55. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- i) the three (3) locally native trees (Spotted Gum - *Corymbia maculata*) shall be planted within the site in accordance with the following: a) tree planting at a minimum 75 litre container size shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 4 metres from existing and proposed buildings and other trees; b) tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight or where the proposed tree location may impact upon significant views; c) tree planting shall be maintained until establishment including fertilising and watering, and thereafter for their safe useful life expectancy, and replaced should the trees fail due to lack of maintenance,
- ii) all other tree planting shall be located a minimum of 3metres from existing and proposed buildings and other trees.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

Note: Please consider registering your new tree through the link below to be counted as part of the NSW State Governments 5 Million trees initiative

<https://5milliontrees.nsw.gov.au/>

56. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Council's Water Management for Development Policy by a suitably qualified Civil Engineer. 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.

57. Compliance with Ecologist's Recommendations – Post Construction

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the BDAR and VMP (Narla Environmental, July 2021).

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of any

Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

58. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Aspect Designs, June 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

59. **Replacement of Canopy Trees**

At least 3 locally native canopy trees (*Corymbia maculata*) are to be planted on site as per the Landscape Plan (Aspect Designs, June 2021) to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with species selected from the Pittwater Spotted Gum Forest EEC.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

60. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

61. **Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) and those outlined in the VMP (Narla Environmental, July 2021) are to be removed from the property.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

62. **Compliance with approved BDAR impact mitigation table to minimise impacts – Occupation Construction**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented

before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented immediately after construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Principal Certifying Authority and Councils Bushland Manager prior to issue of Occupation Certificate.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

63. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

64. **Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

65. **Completion of parking platform as approved within DA2019/1449**

Prior to the issue of any Occupation Certificate, the covered two car parking platform as approved within DA2019/1449 (approved 22 May 2020) and as shown on the approved plans must be fully constructed. Evidence of an Occupation Certificate for DA2019/1449 must be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To ensure the site has adequate parking.

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

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

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

Reason: Tree protection.

67. **Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

Reason: To protect reserve amenity and public safety.

68. **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.

69. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

70. **Access Stairs**

The access stairs works within the road reserve shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

71. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy

(Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

72. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

73. **Damage to the right of way**

Any damage to the right of way, caused by the construction of the development, is to be repaired prior to the issue of the occupation certificate.

Reason: To ensure the site is left in an acceptable state and that access is maintained for adjoining neighbours.

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

74. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

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

Reason: To maintain local environmental amenity.

75. **Compliance with Ecologist's Recommendations – Ongoing**

All ongoing biodiversity-related measures are to be implemented in accordance with the BDAR and VMP (Narla Environmental, July 2021) and these conditions of consent.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

76. **Replacement of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

77. **Compliance with approved BDAR impact mitigation table to minimise impacts – Post Construction/Ongoing**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to Councils Manger of Bushland as per the mitigation table.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

78. **Maintenance of Stormwater Treatment Measures - Minor**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

79. **Geotechnical Recommendations**

Any ongoing recommendations 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.

80. **Lift noise control**

The passenger lift must be installed and operated at times so as not to cause 'offensive noise'. It must be demonstrated that the noise level will not exceed 5dBA above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

81. **Use of "Lower ground floor level"**

The proposed "Lower ground floor level" is not to be used for the purpose of separate habitation (including a secondary dwelling or dual occupancy) and is not to contain any cooking facilities.

Reason: To ensure that the ground floor remains ancillary to the dwelling house.

82. **Retention of Natural Features**

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

Reason: To ensure the retention of natural features.

NOTE:
REFER TO LANDSCAPE PLAN FOR
TREES TO BE REMOVED INFORMATION

Total Build Area	
DWELLING	Area
Entry Floor Level	116.47
Front Porch (Entry Level)	16.12
Balcony (Living Floor Level)	47.87
Outdoor Living - Lower Floor Level	40.98
Guest Bed Area - Lower Floor Level	45.89
Living Floor Level	163.68
Balcony (Entry Level)	10.81
	441.82 m ²

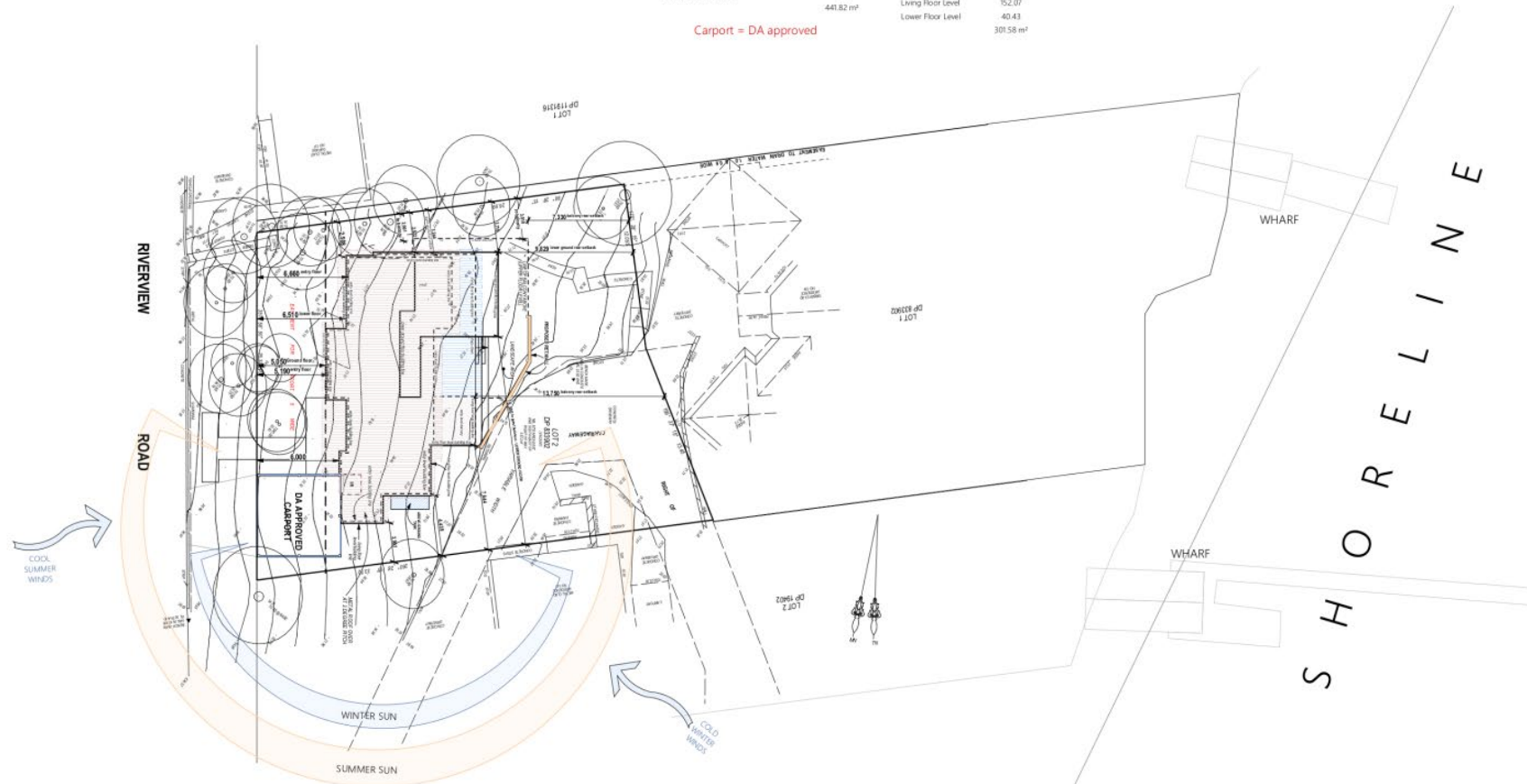
Carport = DA approved

DA Calculations

Site Area = 740.38m²
Carriageway = 133.55m²
Allowable FSR - N/A

GFA Calculations

Entry Floor Level 109.08
Living Floor Level 152.07
Lower Floor Level 40.43
301.58 m²



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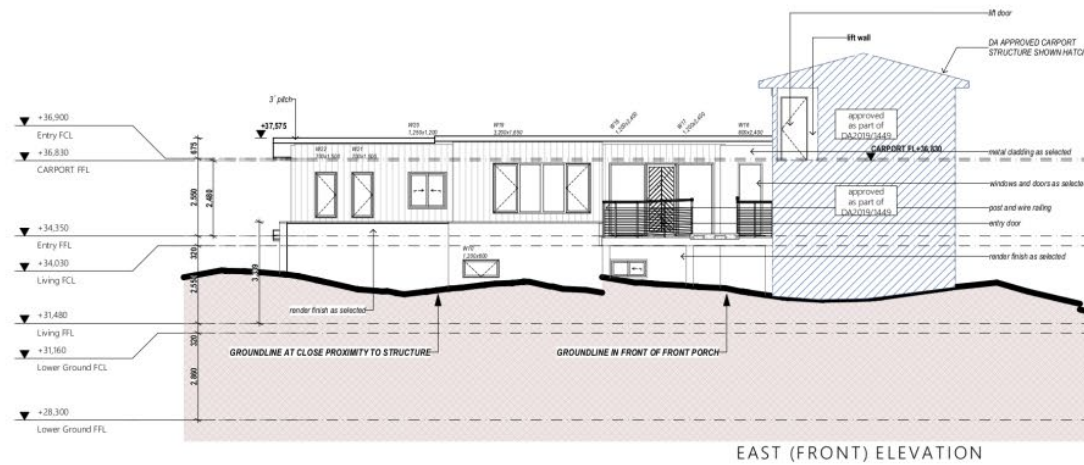
bda Full Member
No. 3672 - 14

DATE	AMENDMENTS	NO.	BY	ADDRESS
21/01/2021	design development	3	HH	141 Riverview Road, Avalon Beach Lot 2/-/DP833902
16/02/2021	working drawings	4	AW	
15/03/2021	windows changed as per client's email dated 12.03.21	5	PC	
18/03/2021	development application plans	6	PC	
21/05/2021	additional shadows & landscape calcs added	7	PC	
07/06/2021	6.5m front setback compliance redesign	8	PC	
02/07/2021	Northern side of structure redesign	9	PC	

DRAWING TITLE	PROJECT
SITE ANALYSIS PLAN	PROPOSED NEW DWELLING

DRAWING STATUS			
DA SUBMISSION			
DRAWN BY	DATE	SCALE	
AW	09/07/21	1:200	#02
DWG NO	JOB NUMBER	ISSUE	
DA03	20127	09	

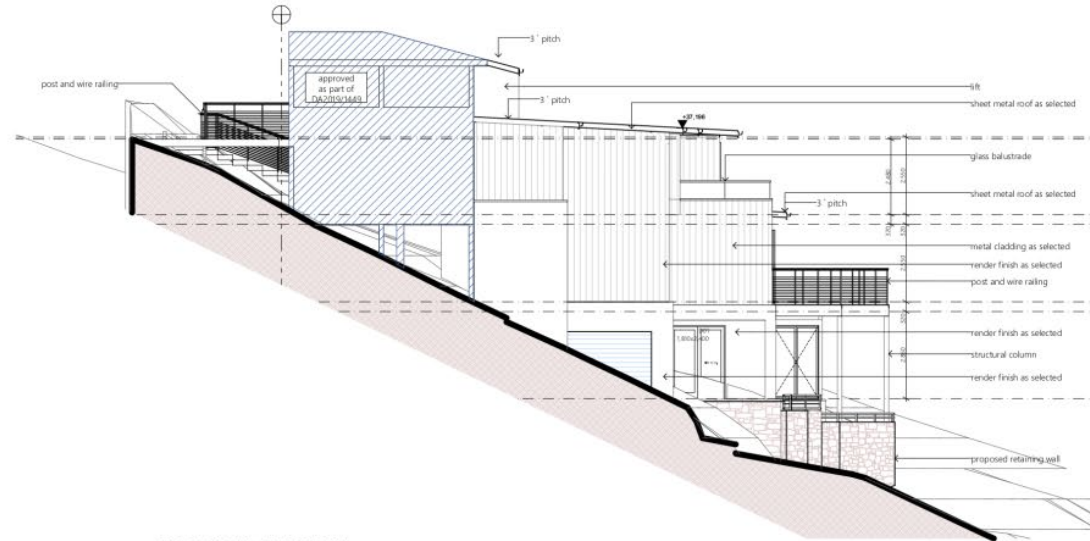
NOTE:
FRAMING TO AS 1685 - 2010
CONCRETE FOOTING TO AS 2870 - 2011
PLUMBING TO AS 3500 - 2003
MASONRY TO AS 4773 & 3700
TERMITE CONTROL TO AS2049
DOORS AND WINDOWS TO AS 2047



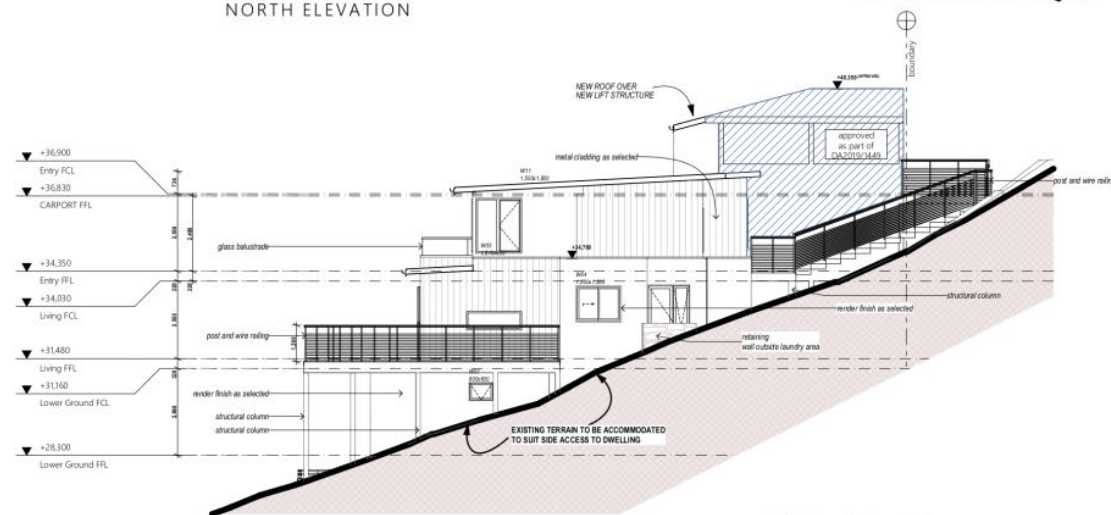
NOTE:
W06 and STUDY
WINDOW TO BE
45% OPANABLE
AS PER NatHers
REQUIREMENTS

<div><div>FYFFE DESIGN</div><div>residential and building design</div><div>www.fyffedesign.com.au info@fyffedesign.com.au 02 9634 3600</div><div>S/G/ 256 New Line Road Dural 2158</div></div> <div><div>bda</div><div>Full Member</div><div>No. 1672 - 14</div></div>	<table><tr><th>DATE</th><th>AMENDMENTS</th><th>NO</th><th>BY</th></tr><tr><td>21/01/2021</td><td>design development</td><td>3</td><td>HH</td></tr><tr><td>16/02/2021</td><td>working drawings</td><td>4</td><td>AW</td></tr><tr><td>15/03/2021</td><td>windows changed as per client's email dated 12.03.21</td><td>5</td><td>PC</td></tr><tr><td>18/03/2021</td><td>development application plans</td><td>6</td><td>PC</td></tr><tr><td>21/05/2021</td><td>additional shadows & landscape calcs added</td><td>7</td><td>PC</td></tr><tr><td>07/06/2021</td><td>6.5m front setback compliance redesign</td><td>8</td><td>PC</td></tr><tr><td>02/07/2021</td><td>Northern side of structure redesign</td><td>9</td><td>PC</td></tr></table>	DATE	AMENDMENTS	NO	BY	21/01/2021	design development	3	HH	16/02/2021	working drawings	4	AW	15/03/2021	windows changed as per client's email dated 12.03.21	5	PC	18/03/2021	development application plans	6	PC	21/05/2021	additional shadows & landscape calcs added	7	PC	07/06/2021	6.5m front setback compliance redesign	8	PC	02/07/2021	Northern side of structure redesign	9	PC	<table><tr><th colspan="2">ADDRESS</th></tr><tr><td>141 Riverview Road, Avalon Beach Lot 2/-/DP833902</td><td></td></tr></table> <table><tr><th colspan="2">CLIENT</th></tr><tr><td>Uday and Kavita Bonu</td><td></td></tr></table>	ADDRESS		141 Riverview Road, Avalon Beach Lot 2/-/DP833902		CLIENT		Uday and Kavita Bonu		<table><tr><th colspan="2">DRAWING TITLE</th></tr><tr><td>EAST & WEST PLAN</td><td></td></tr></table> <table><tr><th colspan="2">PROJECT</th></tr><tr><td>PROPOSED NEW DWELLING</td><td></td></tr></table>	DRAWING TITLE		EAST & WEST PLAN		PROJECT		PROPOSED NEW DWELLING		<table><tr><th colspan="4">DRAWING STATUS</th></tr><tr><th colspan="4">DA SUBMISSION</th></tr><tr><td>DRAWN BY</td><td>DATE</td><td>SCALE</td><td></td></tr><tr><td>AW</td><td>09/07/21</td><td>1:100</td><td></td></tr><tr><td>DWG NO</td><td>JOB NUMBER</td><td>ISSUE</td><td></td></tr><tr><td>DA10</td><td>20127</td><td>09</td><td></td></tr></table>	DRAWING STATUS				DA SUBMISSION				DRAWN BY	DATE	SCALE		AW	09/07/21	1:100		DWG NO	JOB NUMBER	ISSUE		DA10	20127	09	
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NORTH ELEVATION



SOUTH ELEVATION

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			21/01/2021			design development			3	HH	141 Riverview Road, Avalon Beach Lot 2/-/DP833902	NORTH & SOUTH ELEVATION PLAN			DA SUBMISSION			
<div><div>bda</div><div>Full Member</div><div>No. 1672 - 14</div></div>			16/02/2021			working drawings			4	AW		PROJECT PROPOSED NEW DWELLING			DRAWN BY		DATE	SCALE
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ITEM 3.2	DA2021/1062 - 10 ARTHUR STREET, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE.
REPORTING MANAGER	Rod Piggott
TRIM FILE REF	2021/612309
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations 3 Report - Clause 4.6

PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the floor space ratio.

RECOMMENDATION OF DEVELOPMENT ASSESS

- A. THAT Council, as the consent authority, vary the Floor Space Ratio Development Standard of Clause 4.4 pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. THAT Council, as the consent authority, **approves** Development Consent to DA2021/1062 for alterations and additions to a dwelling house on land at Lot 14 Sec A DP 2170, 10 Arthur Street, Fairlight, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1062
Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 14 DP 2170, 10 Arthur Street FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Alan Harold Shuttleworth Grainne Mary Keaney
Applicant:	Grainne Mary Keaney
Application Lodged:	12/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/07/2021 to 03/08/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.4 Floor space ratio: 20%
Recommendation:	Approval
Estimated Cost of Works:	\$ 49,390.00

EXECUTIVE SUMMARY

This report is submitted to the Northern Beaches Development Determination Panel (DDP) for the consideration of Development Application DA2021/1062 for alterations and additions to an existing dwelling house.

The proposed Floor Space Ratio (FSR) for the site measures at 0.72:1 (200.7sqm GFA), which results in a 20% variation from the applicable FSR development standard of 0.6:1 (167.22sqm GFA). Any variations to a Principal Development Standard that exceed 10% are required to be referred to the DDP if the works pertain to Class 1 structure (i.e. dwelling house).

The additional gross floor area resulting from the development equates to 17.3sqm and is located within the footprint of the lower ground floor deck. The footprint and envelope of the existing dwelling house

remains unaltered.

The applicant has demonstrated that compliance with the FSR standard is both unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the 20% variation to Clause 4.4 of Manly LEP 2013.

The proposed development has been assessed on its merits and is found to be acceptable, noting that the additional gross floor area does not result in adverse amenity or streetscape impacts. Therefore, it is recommended that the DDP approve this application, subject to the conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing dwelling house. The works are confined to the lower ground floor and involve the following:

- Enclose part of the existing deck to provide additional floor space.
- New window openings on the eastern and western elevations.
- New bi-fold doors on the northern elevation of the addition.

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

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

SITE DESCRIPTION

Property Description:	Lot 14 DP 2170 , 10 Arthur Street FAIRLIGHT NSW 2094
-----------------------	--

Detailed Site Description:

The subject site consists of one allotment located on the northern side of Arthur Street, Fairlight.

The site is regular in shape with a frontage of 9.145m along Arthur Street and a depth of 30.48m. The site has a surveyed area of 278.7sqm.

The site is located within the R1 General Residential zone pursuant to Manly LEP 2013 and accommodates a two storey dwelling house.

The front yard contains garden beds with shrubbery. The rear yard contains level lawn areas, hedging and a small canopy tree.

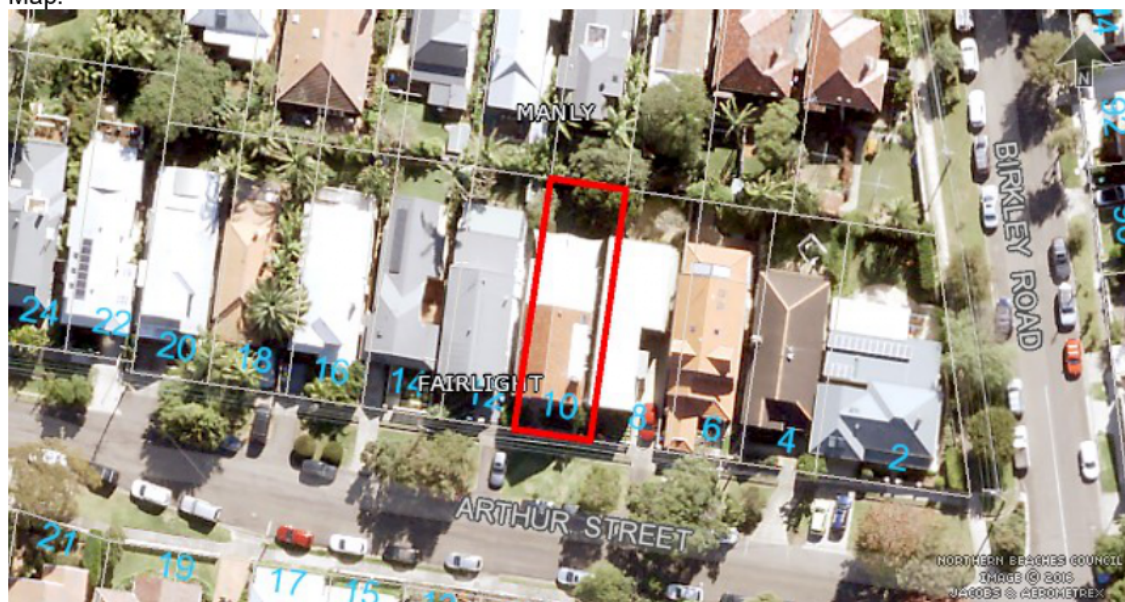
The site experiences a fall of approximately 5.3m that slopes away from the front boundary towards the rear. This represents an approximate slope of 17.4%.

The site is burdened by a Council drainage pipeline that runs contiguous to the western side boundary.

Description of Surrounding Development

The locality is characterised by a mix of residential development, including dwelling houses, semi-detached dwellings and residential flat buildings.

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. 1344/98 for alterations and additions including deck approved by Council on 29 January 1999.
- Section 4.55(2) Modification to modify Development Application No. 1344/98 approved by Council on 25 October 1999.
- Development Application No. 196/2014 for alterations and additions to an existing dwelling house including rear additions to the ground floors and rear deck approved by Council on 17 June 2015.

APPLICATION HISTORY

The Assessment Officer examined the subject site and its surrounds on 19 August 2021.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development,	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the</p>

Section 4.15 Matters for Consideration'	Comments
including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/07/2021 to 03/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>There is a 375 mm diameter Council pipe across the western side of the site.</p> <p>A discussion has been undertaken with our Stormwater Operation & Planning team.</p> <p>Stormwater Operation & Planning team suggested to place some conditions, including additional bond and dilapidation survey, to protect Council's pipeline in accordance with Council's Water Management For Development Policy.</p> <p>As such, Development Engineering has no objection to the application subject to the following condition of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

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

Manly Local Environmental Plan 2013

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	2.9m	-	Yes
Floor Space Ratio:	FSR: 0.6:1 (167.22sqm GFA)	FSR: 0.72:1 (200.7sqm)	20%	No

Note: GFA refers to gross floor area.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

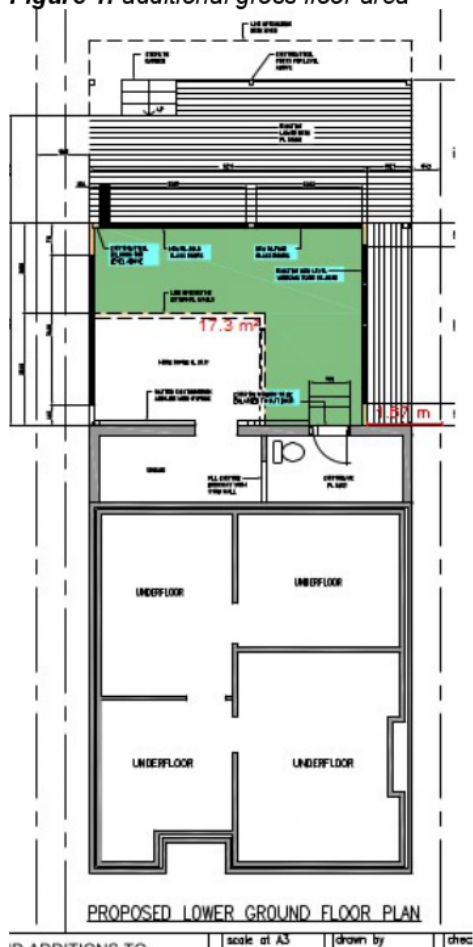
Description of non-compliance:

Development standard:	Floor Space Ratio
Requirement:	0.6:1 (167.22sqm GFA)
Proposed:	0.72:1 (200.7sqm GFA)
Percentage variation to requirement:	20%

The proposed Floor Space Ratio (FSR) for the site measures at 0.72:1 (200.7sqm GFA), which results in a 20% variation from the applicable FSR development standard of 0.6:1 (167.22sqm GFA). The additional gross floor area resulting from the development equates to 17.3sqm and is located within the footprint of the lower ground floor deck. The additional gross floor area is depicted in Figure 1 below.

It is noted that the existing FSR on the site is non-compliant and measures at 0.66:1 (183.4sqm GFA), which represents a 10% variation from the FSR development standard.

Figure 1: additional gross floor area



Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 - Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the*

circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant's written request argues, in part:

"There are sufficient grounds to permit the variation of the development standard. The development has

been considered below with particular reference to the Objects of the Environmental Planning and Assessment Act 1979, which are accepted as the best gauge of environmental planning grounds. In particular:

Context

- *The area surrounding the subject site is characterised by large two storey detached residential dwellings on small residential lots, with non-compliant floor space ratios.*
- *The proposed dwelling has been designed to remain consistent with the character of the existing dwelling and the area, despite the minor variation to FSR, through design, architectural features and complimentary materials and colour choices.*
- *Variation to the Manly LEP 2013 Cl. 4.4 FSR, control has been the subject of recent precedent.*
- *The setting and context with similar FSR variations recently approved, demonstrates that a varied FSR is reasonable and that it is consistent with clause 1.3(c) and (d).*

Future Development

- *The proposed development will allow for the provision of a larger office space.*
- *This represents an efficient use of an existing developed site, with all services readily available.*
- *The built form proposed is consistent with other buildings in the locality.*
- *Given the site context, the proposed variation is reasonable at 33.46m² or 20% and does not result in any unreasonable impacts to neighbouring properties.*
- *The proposed works will not hinder any future development of the lot.*
- *The alterations proposed demonstrate fulfillment of clause 1.3(a), (b), (c) and (g).*

Consistent with Zone Objectives

- *The extent of the variation is considered to be in the public interest, as the proposal remains consistent with the objectives of the zone, allowing for additional residential floor space in a residential zone, with a bulk and scale consistent with the locality. Compliance with the FSR standard based on this would be unreasonable, with clause 1.3(c) demonstrated as fulfilled.*

Natural Environment

- *The proposed development allows for the current and future housing needs of the residents to be met, without developing a greenfield site, representing an efficient use of existing developed land.*
- *The development does not require the removal of any significant native vegetation and complies with Council DCP landscape area controls.*
- *The new dwelling proposed, allows for environmental impacts to be minimised, by locating works on an already disturbed residential lot.*
- *The natural environment is unaffected by the departure to the development standard and it would be unreasonable for the development to be refused on this basis with Cl 1.3(b) satisfied.*

Social and Economic Welfare

- *The variation to the FSR will have a positive social impact, as it will allow the housing needs of the residents to be met in their current local community. It provides the opportunity to work from*

home in a dedicated home office and utilises existing services, satisfying Cl1.3(b). Accordingly, refusal of the development based on this reason would be unreasonable.

Appropriate Environmental Planning Outcome

- *The development proposed is not an overdevelopment of the site and satisfies the objectives of the zone and the development standard as is detailed earlier in the report.*

The variation to the FSR and the discussion above reflects the unique circumstances for the subject site and proposed development. The proposed development will not present with excessive bulk from the public domain and there is recent precedent of similar variations being accepted by Council.

By supporting this variation, in its current form, it is considered that an appropriate degree of flexibility be applied, which results in a reasonable built form, consistent with developments within the locality.

The sufficient environmental planning grounds stipulated above demonstrate that the proposal aligns with the relevant objects of the EP&A Act i.e. the development is an orderly and economic and development of the land, notwithstanding the FSR variation".

Planner Comment:

Council's Assessment Officer agrees generally with the applicant's justification.

It is agreed that the development will be generally consistent with surrounding residential development, notwithstanding the FSR breach. The additional gross floor area is situated within an existing building footprint and will not increase the number of storeys to the existing building. Furthermore, the additional floor space is not visible from the street frontage and therefore, will not alter the perceived bulk and scale of the dwelling when viewed from the public domain. It is further noted that there are a number of examples of surrounding development that exceeds the FSR standard.

It is accepted that the works will not preclude future development on the site or adjoining properties. The additional floor space is located within an existing building footprint and does not alter the natural topography of the land. The additional works will not alter the envelope or footprint of the dwelling and will not result in unreasonable amenity impacts on adjoining properties, specifically having regard to views, solar access or privacy.

It is further accepted that the works will not have an adverse impact upon the natural environment. The proposal is located within an existing building footprint and does not decrease the amount of soft landscaping on the site. The existing canopy tree and vegetation will be retained.

It is agreed that the proposal will increase the internal amenity for the occupants of the site, without detracting from the amenity of adjoining properties.

Furthermore, it is accepted that the proposal aligns with the objectives of the FSR standard and R1 General Residential zone, notwithstanding the numeric non-compliance to the FSR standard. This is discussed in further detail below.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the FSR development standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The additional gross floor area is situated within an existing building footprint and will not increase the number of storeys to the existing building. Furthermore, the additional floor space is not visible from the street frontage and therefore, will not alter the perceived bulk and scale of the dwelling when viewed from the public domain.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The works are confined to an existing building footprint and will not result in the removal of trees or significant vegetation.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The overall footprint and envelope of the structure will remain unaltered and therefore, the

proposal will continue to maintain an appropriate visual relationship with the surrounding built environment. The landscape character of the site will remain unchanged

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

As noted earlier within this report, the proposal will not result in the removal of vegetation. Furthermore, the proposal has been appropriately designed to minimise adverse amenity impacts.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

The proposed development maintains a residential use within the R1 General Residential zone.

Zone objectives

The underlying objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*

Comment:

The proposal is for alterations and additions to an dwelling house and will provide for the housing needs of the community.

- *To provide for a variety of housing types and densities.*

Comment:

The proposal maintains a residential land use within the R1 General Residential zone.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal continues to maintain a residential land use

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone and the FSR Development Standard.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Floor Space Ratio Development Standard associated with a single dwelling house (Class 1 building).

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 278.7sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	East: N/A - no change	no change	N/A	N/A
	West: 7.7m (based on gradient 1:5)	2.9m	-	Yes
4.1.2.2 Number of Storeys	2 storeys	2 storeys	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line or 6m	works sited at the rear of the dwelling and setback over 6m from frontage	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	East: 2.93m (1/3 of existing max. wall height)	1.67m	43.06%	No
	West: 2.82m (1/3 of existing max. wall height)	1.205m	57.22%	No
	Windows: 3m	windows within 3m of eastern and western side boundaries	44.33% - 59.83%	No
4.1.4.4 Rear Setbacks	8m	11.8m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	61.3% (170.84sqm)	-	Yes
	Open space above ground 25% of total open space	10.07% 17.2sqm	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	no change	N/A	N/A
	1 native tree	1 native tree	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	> 18sqm	-	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	no spaces - existing and unchanged	N/A	N/A

***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
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes

Detailed Assessment

4.1.3 Floor Space Ratio (FSR)

A detailed assessment of the FSR variation has been undertaken within the section of this report relating to Clause 4.6 of the Manly LEP 2013. In conclusion, the applicant has adequately justified that compliance with the FSR Development Standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the variation. It is noted that the site is not an 'undersized allotment', therefore further exemptions to the FSR control are not applied.

4.1.4 Setbacks (front, side and rear) and Building Separation

Description of non-compliance

The control requires development to be setback at least 1/3 of the adjacent maximum wall height from side boundaries, which equates to the following:

- Eastern elevation: 2.93m.

- Western elevation: 2.82m.

The proposed development provides the following side setbacks:

- Eastern elevation: 1.67m, which represents a 43.06% variation from the numeric requirement.
- Western elevation: 1.205m, which represent a 57.22% variation from the numeric requirement.

It is important to note that the works are confined to an existing building footprint and do not alter the existing side setbacks.

The control further states that windows must not be located within 3m of side boundaries. The proposal includes windows within 3m of side boundaries on the eastern and western elevations, which fails to satisfy the prerequisite.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The works are located within an existing building footprint at the rear of the dwelling and will not be visible from the street. Therefore, the proposal will not alter the perceived bulk and scale of the dwelling when viewed from the public domain. It is further noted that the proposal will not result in the removal of vegetation or trees, nor will the works decrease the amount of soft landscaping on the site.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The window on the western elevation contains a 1.8m high window sill and will not allow for direct overlooking into the western adjacent site (No. 12). The window on the eastern elevation contains a 1.2m high window sill, however will not allow for direct viewing into windows on the eastern adjacent site (No. 8).

The works do not alter the envelope and footprint of the dwelling and therefore, will not result in significant shadowing of adjoining properties, nor will the development compromise significant view lines.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

Flexibility is afforded in this circumstance as the maintenance of existing non-compliant side setbacks will not result in adverse streetscape or amenity impacts.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

As noted above, the proposal will not result in the removal of vegetation or trees, nor will the works decrease the amount of soft landscaping on the site.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

The site is not bushfire prone.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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;
- Manly Local Environment Plan;
- Manly 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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed development involves alterations and additions to an existing dwelling house.

The proposed FSR for the site measures at 0.72:1 (200.7sqm GFA), which results in a 20% variation from the applicable FSR development standard of 0.6:1 (167.22sqm GFA). However, the works are confined to an existing building footprint and do not alter the overall envelope or footprint of the existing building.

When considered on merit, the proposed development is considered to be acceptable. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority vary Clause 4.4 Floor Space Ratio development standard pursuant to Clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2021/1062 for Alterations and additions to a dwelling house on land at Lot 14 DP 2170, 10 Arthur Street, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A-01 - Site Plan and Schedules	12 June 2020	AS
A-02 - Floor Plans	12 June 2020	AS
A-03 - East Elevation	12 June 2020	AS
A-04 - North and West Elevations	12 June 2020	AS

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	6 July 2021	Grainne Keaney

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

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

2. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

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

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

3. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

iv) For any work/s that is to be carried out

v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. 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.

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

The applicant is to lodge a bond of \$3000 as security against any damage to Council's stormwater drainage infrastructure.

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

Reason: Protection of Council's infrastructure.

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

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

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

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

Reason: Protection of Council's infrastructure.

7. **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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. **Waste Management During Development**

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

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

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

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

9. **Post-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the condition of the asset after the completion of works. Council's Guidelines are available on Council's web site.

The post-construction dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Occupation Certificate.

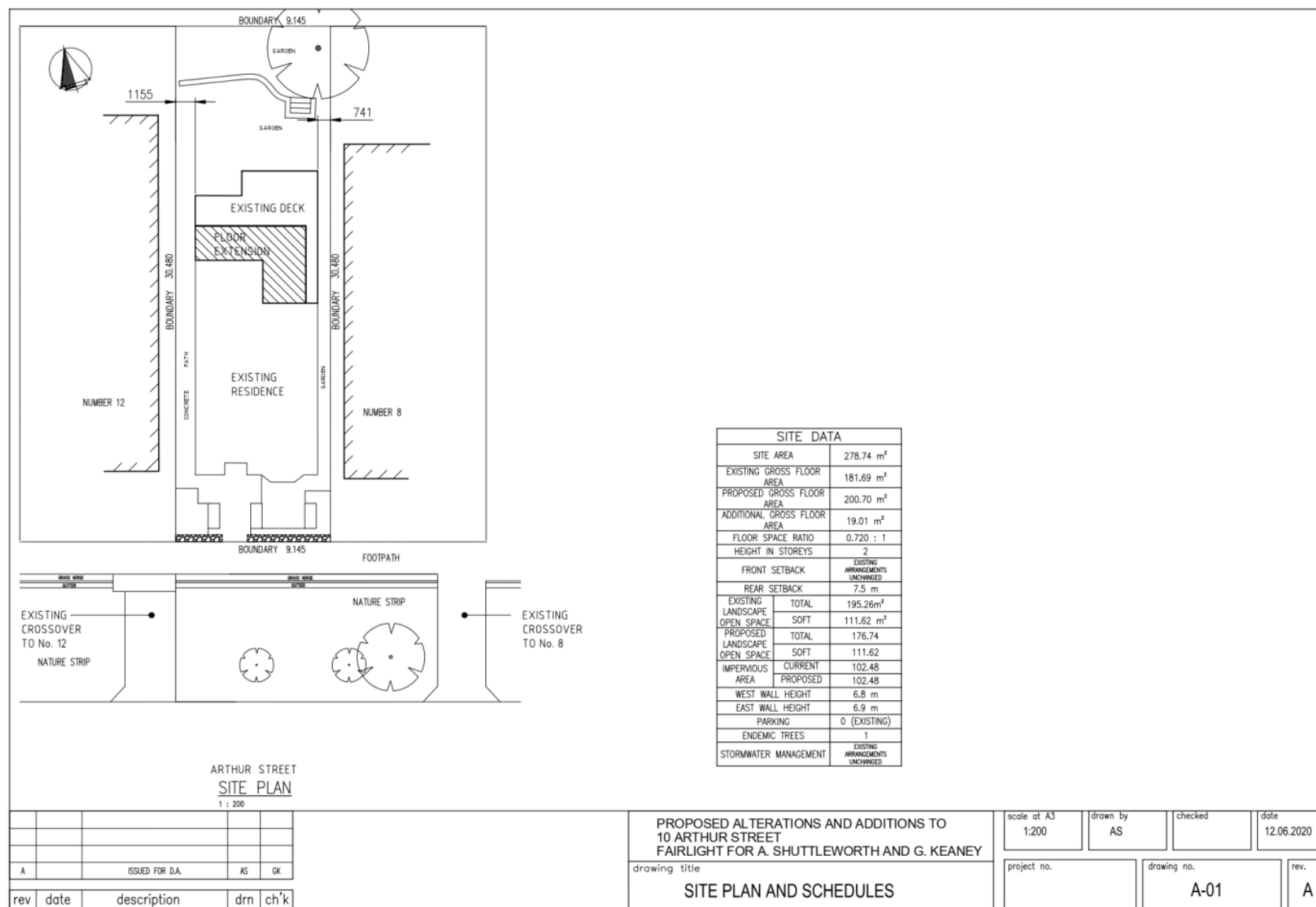
Reason: Protection of Council's infrastructure.

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

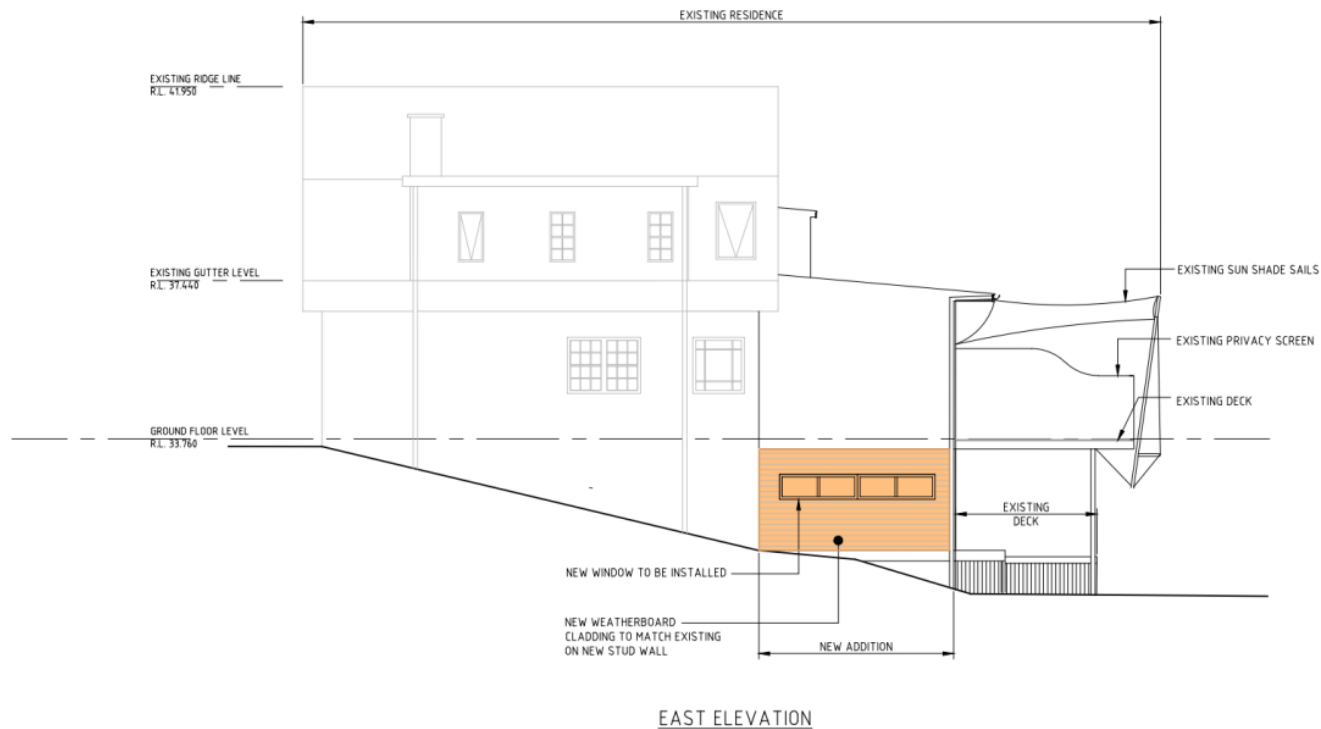
10. **Lower Ground Floor not to be used for Separate Occupancy**

The approved floor space within the lower ground floor is not permitted to be used, or adapted to be used, for separate occupancy. The provision of cooking/kitchen facilities is not permitted within this area.

Reason: This approval relates to a dwelling house land use.



A3

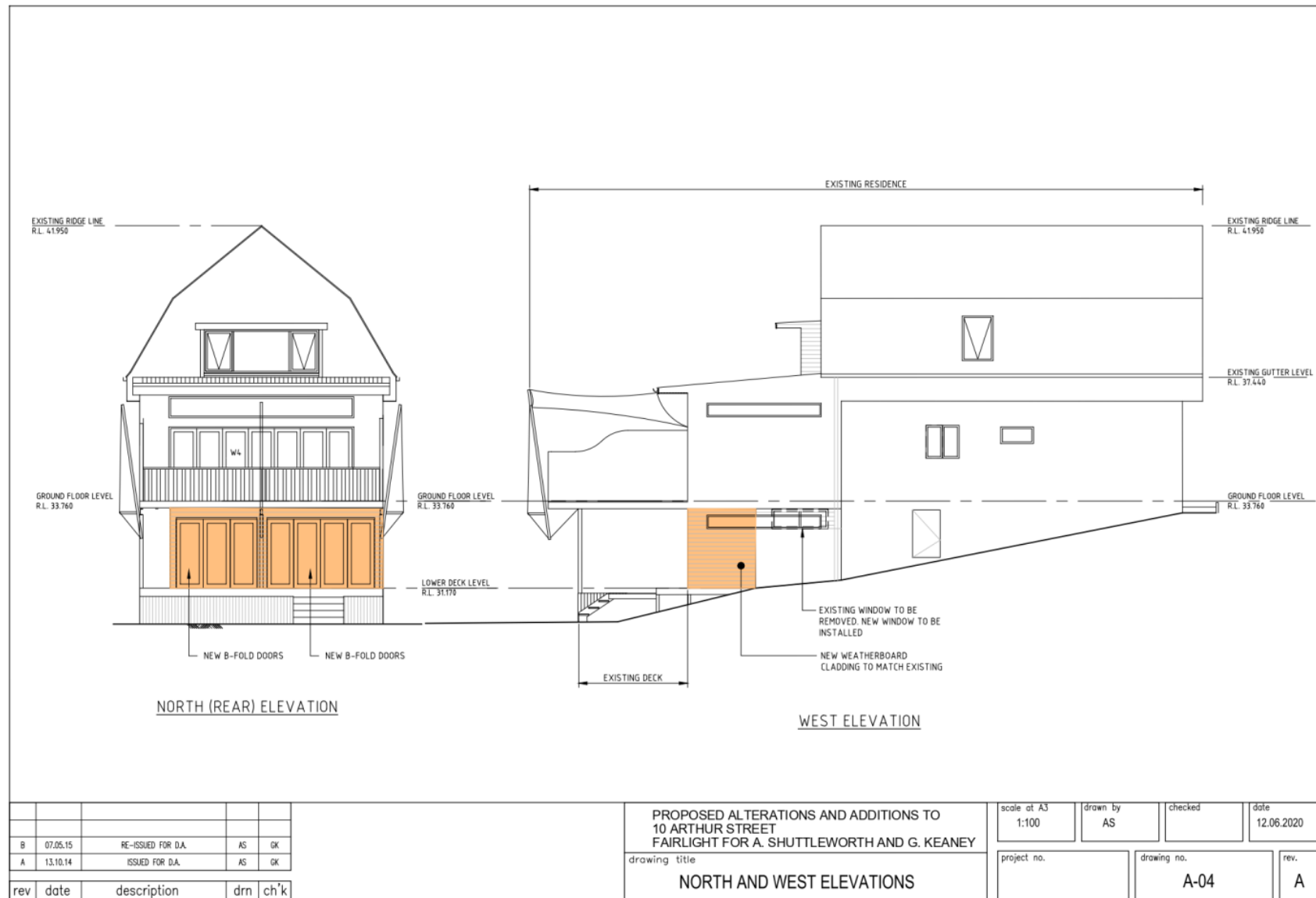


A		ISSUED FOR D.A.	AS	OK
rev	date	description	drn	ch'k

PROPOSED ALTERATIONS AND ADDITIONS TO
10 ARTHUR STREET
FAIRLIGHT FOR A. SHUTTLEWORTH AND G. KEANEY
drawing title
EAST ELEVATION

scale at A3 1:100	drawn by AS	checked	date 12.06.2020
project no.	drawing no. A-03	rev. A	

A3



Appendix One - Clause 4.6 Exceptions to Development Standards – Floor Space Ratio

Clause 4.6 of the Manly Local Environmental Plan 2013 (MLEP 2013) permits departures from development standards in certain circumstances. In this case, it is necessary to consider if compliance with the development standard is consistent with the aims of the policy and, in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in section 1.3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) being:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*



The aims and objectives of Manly LEP 2013 Clause 4.6 are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Under Clause 4.6(3) and (4) of the MLEP 2013, consent for a development that contravenes a development standard must not be granted unless the consent authority is satisfied that:

(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard.

(4)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

These matters, along with case law judgements from the NSW Land and Environment Court, are addressed below.

1. Environmental Planning Instrument Details (Manly LEP 2013)

1.1 What is the name of the environmental planning instrument that applies to the land?

Manly Local Environmental Plan 2013

1.2 What is the zoning of the land?

R1 – General Residential

1.3 What are the objectives of the zone?

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

1.4 What is the development standard being varied?

CI 4.4 – Floor Space Ratio



1.5 Under what clause is the development standard listed in the environmental planning instrument?

CI 4.4 of the Manly Local Environmental Plan 2013

1.6 What are the objectives of the development standard?

(1) *The objectives of this clause are as follows:*

- (a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*
- (b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*
- (c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*
- (d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*
- (e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

1.7 What is the numeric value of the development standard in the environmental planning instrument?

The numeric value of the FSR development standard applicable to the subject site is 0.6:1, this equates to a maximum floor area of 167.24m² for the site area of 278.74m².

1.8 What is proposed numeric value of the development standard in your development application?

The development proposes a maximum floor area of 200.7m² or 0.72:1.

1.9 What is the percentage variation (between your proposal and the environmental planning instrument)?

The percentage variation sought is 20% or 33.46m²



2. NSW Land and Environment Court Case Law

Several key Land and Environment Court (NSW LEC) judgements have refined the manner in which variations to development standards are required to be approached. The key findings and direction of each of these matters are outlined in the following discussion.

2.1 *Wehbe v Pittwater* [2007] NSW LEC 827

The decision of Justice Preston in *Wehbe v Pittwater* [2007] NSW LEC 827, (expanded on the findings in *Winten v North Sydney Council*), identified 5 ways in which the applicant might establish that compliance with a development standard is unreasonable or unnecessary. It was not suggested that the five ways were the only ways that a development standard could be shown to be unreasonable or unnecessary.

The five ways outlined in *Wehbe* include:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way).*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way).*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way).*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).*

In the *Micaul* decision Preston CJ confirmed that the requirements mandated by SEPP 1 (as discussed in *Wehbe*) are only relevant in demonstrating that compliance with a development standard is unreasonable or unnecessary for the purpose of Clause 4.6(3)(a).

2.2 *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC

In the matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC, initially heard by Commissioner Pearson, upheld on appeal by Justice Pain, it was found that an application under Clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe v Pittwater* [2007] NSW LEC 827 and demonstrate the following:



1. Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP;
2. That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
3. That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs;
4. All three elements of clause 4.6 have to be met and it is best to have different reasons for each but it is not essential.

3 Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7

In *Randwick City Council v Micaul Holdings*, the Court allowed a departure from development standards, provided the processes required by clause 4.6 are followed, a consent authority has a broad discretion as to whether to allow a departure from development standards under clause 4.6, even where the variation is not justified for site or development specific reasons.

Preston CJ noted that *the Commissioner did not have to be satisfied directly that compliance with each development standard was unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the appellant's written request had adequately addressed the matter in clause 4.6(3)(a) that compliance with each development standard was unreasonable or unnecessary.*

4 Zhang v City of Ryde

Commissioner Brown reiterated that clause 4.6 imposes three preconditions which must be satisfied before the application could be approved:

1. The consent authority must be satisfied that the proposed development will be consistent with the objectives of the zone;
2. The consent authority must be satisfied that the proposed development will be consistent with the objects of the standard which is not met; and
3. The consent authority must be satisfied that the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.

It is only if all of these conditions are met that consent can be granted to the application, subject to an assessment of the merits of the application.

The Commissioner applied the now familiar approach to determining consistency with zone



objectives by considering whether the development was antipathetic to the objectives.

In contrast to four2five, the reasons relied on to justify the departure from the standards in this case were not necessarily site specific.

5. Action Pty Ltd v Woollahra Municipal Council [2018]

In Action Pty Ltd v Woollahra Municipal Council, the court demonstrated the correct approach to the consideration of clause 4.6 requests, including that the clause does not require that a development that contravenes a development standard, must have a neutral or better environmental planning outcome than one that does not.



3. Consideration

The following section addresses the provisions of clause 4.6 of the MLEP 2013 together with principles established in the NSW Land and Environment Court Case Law outlined above.

Clause 4.6(3)(A) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case (and is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case)?

In order to demonstrate that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, the Five (5) Part Test established in *Winten v North Sydney Council* and expanded by Justice Preston in *Wehbe v Pittwater* [2007] NSW LEC 827 is considered:

The five ways outlined in *Wehbe* include:

3.1 Five (5) Part Test - *Wehbe v Pittwater*

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).*

The objectives of the standard are:

- (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

Comment

The proposed development is a minor lower ground floor level addition to the rear of the dwelling and is not visible from Arthur Street. The bulk and scale is consistent with the existing dwelling and neighbouring dwellings.

The proposed variation is 20% or 33.46m² and is considered reasonable given the proposed development does not present with excessive bulk and is of a similar or lesser scale than adjoining properties. It is considered this objective is met, despite the numerical variation.

- (b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*

Comment

The proposed built form, setbacks and massing are considered to be consistent with other dwellings in the locality and remain consistent with the existing dwelling. The proposal is located beneath the existing ground floor level and at the rear of the dwelling. It is not visible from the street and will not obscure any important landscape and townscape



features. The proposal also easily complies with the relevant DCP requirements for total open space and landscaped area.

A site visit has been undertaken and it is considered the development will not result in any view loss impacts.

It is therefore considered this objective is met, despite the numerical variation.

(c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment

The proposed variation does not require the removal or pruning of trees on the subject site or on adjoining properties. The proposed works are located on the portion of the lot that is already disturbed and it is considered the built form is consistent with new development in the locality and the existing dwelling. In this regard, the underlying intent of this objective has been satisfied despite the numerical departure.

(d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment

The proposed variation to floor space ratio does not result in any unreasonable environmental impacts to the amenity of adjoining dwellings. Compliant levels of solar access are maintained despite the proposed variation and there will be no impact on views, visual privacy or acoustic privacy. In this regard, the underlying intent of this objective has been satisfied despite the numerical departure.

(e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment

Not relevant as the subject site is not located in a business zone.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way).

This exception to development standards request does not rely on this reason.



3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way).*

This exception to development standards request does not rely on this reason.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way).*

This exception to development standards request does not rely on this reason.

5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).*

This exception to development standards request does not rely on this reason.

This clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and accordingly justifies the variation to the floor space ratio control pursuant to the First Way outlined in Wehbe.

Thus, it is considered that compliance with Clause 4.6(3)(a) is satisfied.

3.2 Clause 4.6(3)(B) – Are there sufficient environmental planning grounds to justify contravening the development standard?

There are sufficient grounds to permit the variation of the development standard. The development has been considered below with particular reference to the Objects of the Environmental Planning and Assessment Act 1979, which are accepted as the best gauge of *environmental planning grounds*. In particular:

Context

- The area surrounding the subject site is characterised by large two storey detached residential dwellings on small residential lots, with non-compliant floor space ratios.
- The proposed dwelling has been designed to remain consistent with the character of the existing dwelling and the area, despite the minor variation to FSR, through design, architectural features and complimentary materials and colour choices.



Figure 1. No. 6 & 8 Arthur Street – the adjoining properties to the east.

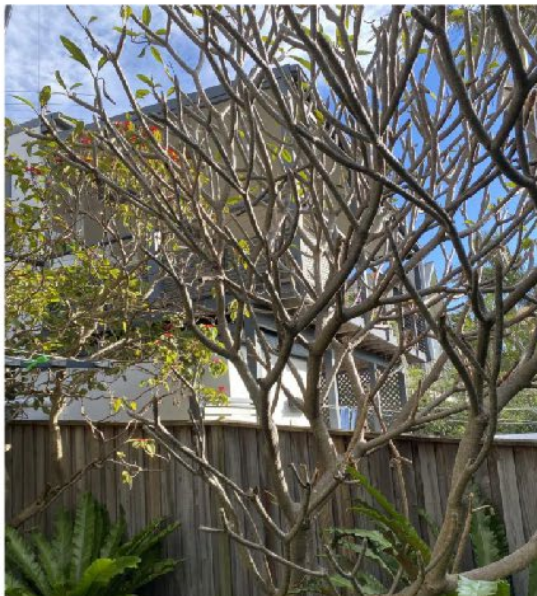


Figure 2. No. 12 Arthur Street – the adjoining property to the west (recently redeveloped).



Figure 3. No. 12 Arthur Street – the adjoining property to the west (partial nil setback to boundary).

- Variation to the Manly LEP 2013 Cl. 4.4 FSR, control has been the subject of recent precedent for the following developments:
 - 2020/0254 12 Arthur Street Fairlight, FSR Variation of 18.8%
 - 2020/0936 11 Bareena Drive Balgowlah Heights, FSR Variation of 11.5%
 - 2020/0872 65 Bower Street Manly, FSR variation of 2%
 - 2020/0979 4 Kangaroo Street Manly, FSR Variation of 9.2%
 - 2020/1316 1 Peacock Street Seaforth, FSR Variation of 4.44%
- The setting and context with similar FSR variations recently approved, demonstrates that a varied FSR is reasonable and that it is consistent with clause 1.3(c) and (d).

**Future Development**

- The proposed development will allow for the provision of a larger office space,
- This represents an efficient use of an existing developed site, with all services readily available.
- The built form proposed is consistent with other buildings in the locality,
- Given the site context, the proposed variation is reasonable at 33.46m² or 20% and does not result in any unreasonable impacts to neighbouring properties.
- The proposed works will not hinder any future development of the lot.
- The alterations proposed demonstrate fulfillment of clause 1.3(a), (b), (c) and (g).

Consistent with Zone Objectives

- The extent of the variation is considered to be in the public interest, as the proposal remains consistent with the objectives of the zone, allowing for additional residential floor space in a residential zone, with a bulk and scale consistent with the locality. Compliance with the FSR standard based on this would be unreasonable, with clause 1.3(c) demonstrated as fulfilled.

Natural Environment

- The proposed development allows for the current and future housing needs of the residents to be met, without developing a greenfield site, representing an efficient use of existing developed land.
- The development does not require the removal of any significant native vegetation and complies with Council DCP landscape area controls.
- The new dwelling proposed, allows for environmental impacts to be minimised, by locating works on an already disturbed residential lot.
- The natural environment is unaffected by the departure to the development standard and it would be unreasonable for the development to be refused on this basis with Cl 1.3(b) satisfied.

Social and Economic Welfare

- The variation to the FSR will have a positive social impact, as it will allow the housing needs of the residents to be met in their current local community. It provides the opportunity to work from home in a dedicated home office and utilises existing services, satisfying Cl 1.3(b). Accordingly, refusal of the development based on this reason would be unreasonable.



Appropriate Environmental Planning Outcome

- The development proposed is not an overdevelopment of the site and satisfies the objectives of the zone and the development standard as is detailed earlier in the report.

The variation to the FSR and the discussion above reflects the unique circumstances for the subject site and proposed development. The proposed development will not present with excessive bulk from the public domain and there is recent precedent of similar variations being accepted by Council.

By supporting this variation, in its current form, it is considered that an appropriate degree of flexibility be applied, which results in a reasonable built form, consistent with developments within the locality.

The sufficient environmental planning grounds stipulated above demonstrate that the proposal aligns with the relevant objects of the EP&A Act i.e. the development is an orderly and economic and development of the land, notwithstanding the FSR variation.

3.3 Clause 4.6(4)(A)(ii) – Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone which the development is proposed to be carried out.

The proposed development is consistent with the objectives of the standard (see Cl 4.6(3)(A)). An assessment of consistency with the objectives of the Zone is provided below:

Zone – R1 General Residential

Objectives of zone

- *To provide for the housing needs of the community*

Consistent. The proposed works will allow the current and future housing needs of the residents to be met in their current local community. It provides the opportunity to work from home in a dedicated home office.

- *To provide for a variety of housing types and densities.*

Not relevant. The proposal is for an addition to an existing residential dwelling.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

Not relevant.



The proposed development is not contrary to the public interest, because it is consistent with the objectives of the standard (see Cl 4.6(3)(A)) and objectives for development within the zone.

Clause 4.6(5)(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning,

The non-compliance will not raise any matter of State or Regional Significance.

Clause 4.6(5)(b) the public benefit of maintaining the development standard,

The proposed development is not contrary to the public interest, accordingly there can be no quantifiable or perceived public benefit in maintaining the standard.

Clause 4.6(5)(c) any other matters required to be taken into consideration by the Secretary before granting concurrence

How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Act.

Strict compliance with the standard would hinder the attainment of the objects specified in section 1.3 of the Act

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*



(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

Strict numerical compliance with the 0.6:1 FSR development standard would hinder the development for the purpose of *promoting the orderly and economic use and development of land, promoting good design and amenity of the built environment and promoting the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.*

The proposed development for a lower ground floor level rear addition, on land zoned R1 – General Residential is appropriate and reasonable for the following reasons:

- There is recent precedent for similar variations to CI 4.4 FSR of the Manly LEP 2013 being accepted by Council,
- The proposed development does not present with excessive bulk and is of a consistent scale to surrounding properties. The proposal will not result in any unreasonable impacts.
- The works proposed will allow the housing needs of the residents to be met, including an opportunity to work from home, in their current community,
- The objectives of the R1 zone can be met despite the numerical variation.

Strict numerical compliance is considered to be unnecessary and unreasonable given that the proposed variation sought is consistent with the underlying objectives of the control despite the numerical variation, of which have been reasonably satisfied under the provisions of Clause 4.6. The statement sufficiently demonstrates that compliance with the development standard is both unreasonable and unnecessary in this instance.

The sufficient environmental planning grounds stipulated within this request, demonstrate that the proposal aligns with the relevant objects of the EP&A Act i.e. the development is an orderly and economic and development of the land, notwithstanding the FSR variation.

The proposed variation satisfies the objectives of the zone, underlying intent of Clause 4.6 and Clause 4.4, and therefore the merits of the proposed variation are considered to be worthy of approval.

ITEM 3.3

**DA2021/0487 - 40 BASSETT STREET, MONA VALE -
DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING
HOUSE INCLUDING A SWIMMING POOL.**

REPORTING MANAGER Lashta Haidari
TRIM FILE REF 2021/612342
ATTACHMENTS
1 Assessment Report
2 Site Plan & Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council, as the consent authority, **approves** Development Consent to DA2021/0487 for demolition works and construction of a dwelling house including a swimming pool on land at Lot 26 Sec E DP 6195, 40 Bassett Street, Mona Vale, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0487
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Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 26 DP 6195, 40 Bassett Street MONA VALE NSW 2103
Proposed Development:	Demolition works and construction of a dwelling house including a swimming pool
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Simon David Edwards Wendy Morton-Edwards
Applicant:	Simon David Edwards

Application Lodged:	12/05/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	28/07/2021 to 11/08/2021
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,395,000.00
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EXECUTIVE SUMMARY

The application seeks consent for the demolition of the existing house and construction of a two (2) storey detached dwelling with a swimming pool.

Clause 4.3 (2C) of the PLEP allows the Height of Buildings to exceed the 8.5m height limit on land affected by flooding. The site is mapped as being flood affected and the maximum height of the dwelling at 9.14m sits below the 8.5m height limit above the Flood Planning Level (FPL). In addition, the the proposal has been amended to reduced in height to RL 5.55 in the mid section of the dwelling, a 400mm reduction, to be fully consistent with the Flood Planning Level.

The proposal complies with all other built form controls with the exception of a minor breach of the side

envelope to part of the north-west elevation. The minor breach of the envelope will not give rise to unreasonable impacts on neighbouring amenity or visual impacts from the street. The height, bulk, scale and massing of the dwelling is assessed as acceptable and is consistent with the desired future character of the Mona Vale Locality. The dwelling presents a single storey frontage to the street and the side elevations are well articulated with the upper floors being set back for the side boundaries. A condition requires the front fence to be reduced in height and painted mid grey as opposed to white.

The proposal has been amended to include high level windows and screens. In addition, conditions are recommended requiring additional privacy measures to window and balconies in the side elevations

Seven (7) submissions have been received following the exhibition of the application which raised issues with regards to the height, bulk and scale of the dwelling, impacts on residential amenity (over-shadowing and privacy), landscaping and construction impacts. The amended proposal was re-notified and one additional submission was received which re-iterates the issues raised before. The issues raised in the submissions have been addressed in the "Public Notification" section of this report.

Based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the demolition of the existing dwelling and the construction of a new two (2) storey dwelling and swimming pool. In detail, the proposal includes:

Ground Floor RL 5.2, 5.5 and 5.90

- Double garage and store
- Entry foyer
- Open plan living, kitchen and dining room which adjoins a rear covered terrace
- Bathroom and ensuite
- Family room
- Powder room
- Laundry
- Stairs

First Floor RL 8.55 and 8.90

- Three (3) bedrooms all with ensuites and a master with ensuite, WIR and balcony
- Office with balcony
- Stairs

External

- Pool to the rear
- Fence to the frontage
- New driveway partially suspended above the ground on piers
- Removal of a total of eighteen (18) exempt species(exempt by height or by species type).
- Materials: Weatherboard pain finish Triple Sea Fog, FC Cladding dark grey finish, Timber white finish and shingle and colourbond roofing mid grey colour.

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

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
 Pittwater 21 Development Control Plan - C1.4 Solar Access
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
 Pittwater 21 Development Control Plan - D9.3 Building colours and materials
 Pittwater 21 Development Control Plan - D9.7 Side and rear building line
 Pittwater 21 Development Control Plan - D9.9 Building envelope
 Pittwater 21 Development Control Plan - D9.12 Fences - General

SITE DESCRIPTION

Property Description:	Lot 26 DP 6195 , 40 Bassett Street MONA VALE NSW 2103
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Bassett Street, approximately 300m to the west of Mona Vale beach.</p> <p>The site is generally regular in shape with a frontage of 15m along Bassett Street and a depth of between 68.6m and 72.1m. The site has a surveyed area of 1073m².</p> <p>The site is located within the R2 Low Density Residential zone in the PLEP and accommodates a detached dwelling with a garage and shed within the rear eastern boundary.</p> <p>There is a level difference of approximately 3m from the front boundary to the rear boundary of the site. Trees are located in the front, side and rear of the allotment.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density one and two storey detached dwelling set back from the street in landscaped gardens. There are some medium density developments interspersed throughout the surrounding area including the residential flat building to the immediate east at No. 38 Bassett Street.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

History of subject application

On 28 June 2021, a letter was sent to the applicant raising issues with regards to the building height, solar access, privacy, building envelope and landscape open space.

On the 7 July 2021, amended plans were submitted which included the following modifications:

- Building Height - the building has been reduced in height by reducing the floor level (5.55) of the mid section of the dwelling, bringing the floor level down closer to the FPL(5.50). The rear portion of the dwelling has also been moved closer to the rear which in turn has allowed the house to be closer to natural ground.
- Solar Access - 3D Solar access plans have been prepared, refer A-08;
- Privacy - clarification has been provided on privacy treatment including high level windows and screening
- Building envelope - The applicants notes that the repositioning of the dwelling and change in levels reduced the non-compliance.

- Landscaping - A revised landscape calculation sheet has been submitted.

The amended plans were re-notified on 23 July 2021 for a period of two (2) weeks.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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.</p> <p><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 the building height, landscaping, envelope breach and privacy measures.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent</p>

Section 4.15 Matters for Consideration'	Comments
	<p>authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><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.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/07/2021 to 11/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Mrs Mellisa Karen Dossett	2 / 38 Bassett Street MONA VALE NSW 2103
Mr Giles William Simon Dossett	19 Bassett Street MONA VALE NSW 2103
Ms Zoe Maree Maker	4 / 38 Bassett Street MONA VALE NSW 2103
Mr Connor Maree Galpin	4 / 38 Bassett Street MONA VALE NSW 2103
Mr Timothy Anthony Malakou	Po Box 1312 MONA VALE NSW 1660
Mr Terence Paul Dawe	3 / 38 Bassett Street MONA VALE NSW 2103
Ms Sarah May Twibill	42 Bassett Street MONA VALE NSW 2103

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

- Height, scale and bulk
- Out of character
- Breach of building envelope
- Side boundary
- Overshadowing
- Privacy (visual and acoustic)
- Landscaping
- Impact on outlook
- Construction impacts
- Devalue property

The matters raised within the submissions are addressed as follows:

- **The height, scale and bulk of the proposed development represent over-development and will have a negative visual impact on the surrounding area being and is out of character with the streetscape. The proposal dominates the streetscape due to its height, scale, proportions and bulk. It is not in keeping with council requirements that has maintained a uniform and characterised scale of size with other buildings in the locality. The architect has falsified flood levels (the building even exceeds the fake floor levels, as well as the envelope lines) to justify the unnecessary and excessive height and size of the building.**

Comment:

Clause 4.3 (2C) of the PLEP allows the Height of Buildings to exceed the 8.5m height limit on land affected by flooding. The site is mapped as being flood affected and the dwelling has been raised to a maximum height of 9.14m which is below the 8.5m height limit above the Flood Planning level. Further the dwelling has been reduced in height by lowering the floor level in the mid section of the dwelling, to be consistent with the Flood Planning Level (5.50). The rear portion of the dwelling has also been moved closer to the rear which in turn has allowed the house to be closer to natural ground. The application has been reviewed by Council's Flooding Engineer who confirms that the flood levels are correct.

The proposal, as amended, complies with all other built form controls with the exception of a minor breach of the side envelope. The proposal presents a single storey built form to the streetscape which is compatible with the character of the surrounding area. The bulk and scale of the dwelling as viewed from the neighbouring properties has been reduced with reduction in

the height, variation in the planes and articulated facades. The height, bulk and scale of the dwelling has been assessed as acceptable.

- **The proposal breaches the building envelope due to the proportions and scale of the proposal.**

Comment:

The amended proposal results in a minor breach of envelope along part of the north-western elevation. The minor breach in the envelope will not result in any unreasonable amenity impacts or visual impacts to the street, refer to discussion under Clause D9.9.

- **No. 38 Bassett St is denied solar light from 12:30pm until sundown (approximately 5 hours mid-winter and 7 hours mid-summer). This significantly covers the kitchen, bathroom, and bedroom in Unit 4, as well as the communal laundry and drying area of the property. This will result in an increased dependence on artificial light by all residence. The proposal will also impact on access to ventilation to neighbouring properties. The proposal will also result in shadow impacts to No. 42 Bassett Street.**

Comment:

Shadow diagrams have been submitted which confirm that there will be some additional shadow cast to the area of open space at No. 38 Bassett Street 3pm and some of the windows in the north-western elevation between 2pm and 3pm. The additional shadow will be cast over the area of private open space to No. 42 Bassett Street at 9am and the south-eastern side window between 9am and 11am. The proposal however complies with the solar access requirements and will not result in unreasonable shadow impacts to the adjoining residential properties. Refer to discussion under Clause C1.4 within this report.

- **The proximity of the dwelling to the side boundary will negatively impact neighbouring amenity considering the location of windows, balconies and living areas. There is also no consideration of acoustic privacy impacts.**

Comment:

The proposal complies with the side setback requirements of the PDGP. The proposal has been amended to include high level windows and screens. In addition, conditions are recommended requiring additional privacy measures to window and balconies in the side elevations, refer to discussion under Clause C1.5 of this report. A condition is also recommended requiring the noise from the pool plant and any air conditioning unit to comply with noise levels.

- **The lack of landscaping on the eastern boundary towards the rear of the site is an issue. An increase in the quality of the landscape screening will provided further privacy for residents especially in units 2 and 4 at No. 38 Bassett Street.**

Comment:

A landscape plan has been submitted which refers to the retention of the existing trees along the eastern boundary to remain to protect privacy. Additional planting is proposed along the rear portion of the eastern boundary including planting adjacent to the pool and lily pill trees. Subject to conditions, Council's Landscape Officer has no objections to the proposal, refer to comments in this report.

- **The development does not consider, maintain or protect the outlook from living areas in the neighbouring residential buildings.**

Comment:

The existing dwelling is single storey which allows for an outlook from the upper level residential units in No. 38 Bassett Street over the roof of the subject dwelling. While the outlook may be affected by the construction of a two storey dwelling the proposal complies with the built form controls including height limit. Further the proposal will not result in any view loss issues.

- **The construction of the large dwelling has the potential to cause damage to neighbouring properties, whether by vibration or changes in ground and/or surface water flow. Should the development go ahead Council should require dilapidation / conditions.**

Comment:

Subject to conditions, Councils Development Engineer has no objections to the proposal in terms of impacts on ground and surface water. A geotechnical report has been submitted which makes recommendation to manage the potential impacts of the development on neighbouring properties. The geotechnical report confirms that the only geotechnical hazard is in relation to the construction of the pool. Should consent be granted a condition requires compliance with the recommendation of the geotechnical report. In addition, conditions require dilapidation reports to be prepared for the properties adjoining the rear eastern portion (near the area of pool excavation) of the site; namely No 2 Orana Street and No 2A Orana Street.

- **Impact on property value.**

Comment:

Impact on property values is not a matter for planning consideration under Section 4.15 of Planning and Assessment Act 1979.

The amended plans were re-notified on the 23 July for a period of two weeks. One additional submission which re-iterated issues raised above.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p>Supported</p> <p>General Comments</p> <p>Site is located within Acid Sulphate Soil Class 4 Area</p> <p>No Acid Sulphate Soil Report has been provided</p> <p>Therefore no works are to be undertaken beneath 2 Metres below ground level</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	Supported subject to conditions

Internal Referral Body	Comments
	<p>The development application is for the construction of a new dwelling, swimming pool, and landscape works.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D9 Mona Vale Locality <p>The application provides a Landscape Plan and a Arboricultural Impact Assessment.</p> <p>The existing site contains many trees including native and exotic, garden planting and lawn areas. Existing trees within adjoining properties are within proximity to the proposed works and tree protection measures are outlined in the Arboricultural Impact Assessment including requirements to protect the trees during widening of the driveway. The Landscape Plan provides retention of existing trees not impacted by development works and proposals to enhance the landscape setting. The Landscape Plan is acceptable subject to conditions of consent, including selection of tree planting to substitute proposed exempt species with native tree species.</p> <p>The Arboricultural Impact Assessment recommends the retention of the following trees within the development site: T6 (x3) Bush Cherry, T20 Bush Cherry, T22 Sweet Viburnum, and T29 Bottlebrush. Within the development site a total of eighteen (18) Exempt Species, by height or by species type, under the DCP exists that may be removed or pruned without Council consent. All trees and vegetation within adjoining property shall be protected. All street trees shall be retained and protected by tree protection fencing. The recommendations for tree protection measures shall be imposed as conditions of consent.</p> <p>A Arboricultural Pruning Plan for the existing tree number 14 located within adjoining property No. 38 and overhanging the development site at No. 40 is provided in additional following Council request for more information on the impact to this neighbouring tree from the proposed development works. The report concludes that 35% of the canopy will be lost to facilitate construction of the development proposal. Council's tree management policy (https://www.northernbeaches.nsw.gov.au/planning-development/tree-management/private-land) permits 10% of the tree's canopy to be pruned in accordance with Australian Standards AS 4373 - 2007.</p> <p>A Tree Permit application shall be submitted to Council's Tree Services section for review and approval prior to Construction Certificate, and shall be accompanied by owners consent from adjoining property No. 38 for the additional pruning. (https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/tree-removal-and-pruning-application/4000-tree-removal-pruning-application-oct2020.pdf).</p> <p>Landscape Referral raise no objections to the proposed landscape works</p>

Internal Referral Body	Comments
	and no objection to the proposed tree removals, and subject to a Tree Permit, no objection to the pruning works proposed.
NECC (Development Engineering)	<p>Supported subject to conditions</p> <p>The proposal includes a below ground pool. Where excavation greater than 1.5m depth is proposed the applicant shall submit a geotechnical report and certified forms in accordance with Pittwater 21 DCP. Additionally the depth of excavation shall be indicated on the plans.</p> <p>Additional Information Provided on 21/6/2021 Geotechnical report has been submitted. No objections to approval subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>Supported subject to conditions</p> <p>This application requires the installation of a sediment arrestor pit to capture coarse sediments and organic matter prior to discharge of stormwater from the land. Provision should be made for safe and easy access to ensure regular maintenance and cleaning is undertaken. Sediment and erosion controls must be installed according to Landcom's Managing Urban Stormwater: Soils and Construction (2004), the controls are to be regularly maintained and removed only once ground cover has been established.</p> <p>There is no information about the depth of excavation that will be required for the pool. If groundwater is encountered during excavation, or if water collects in the excavation, the applicant should contact Council for advice. This application, subject to conditions, is recommended for approval as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported subject to conditions</p> <p>The subject site is identified as flood prone, with flows in the 1% AEP flood event traversing the site. The application is for the demolition of the existing dwelling and construction of a new two-storey dwelling. The proposed design has a stepped ground floor level which is located above the relevant Flood Planning Level across the lot. In addition a suspended piered construction is proposed to ensure there is no net loss of flood storage. The application is recommended for approval subject to conditions.</p>

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 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, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1192083S dated 21 April 2021).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Target Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who offered no objections subject to conditions.

Pittwater Local Environmental Plan 2014

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	*9.14m	N/A	Yes

* Clause 4.3 (2C) of the PLEP allows the Height of Buildings to exceed the 8.5m height limit on land affected by flooding. The site is located in Area 3 and is flood affected. Due to the flood planning levels the building has been raised to comply. The proposal has a maximum height of 9.14m, however, it is below the 8.5m height limit above the Flood Planning Levels and therefore complies with the height development standard and a Clause 4.6 Variation is not required.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

Clause 4.3 (2C) of the PLEP allows the Height of Buildings to exceed the 8.5m height limit on land affected by flooding. The site is mapped as being flood affected and the dwelling has been raised to a maximum height of 9.14m which is below the 8.5m height limit above the Flood Planning Level (FPL).

In addition, the dwelling has been reduced in height by reducing the floor level to RL 5.55 in the mid section of the dwelling, a 400mm reduction, to be consistent with the Flood Planning Level of 5.50. The application has been reviewed by Council's Flooding Engineer who confirms that the flood levels are correct. The proposal complies with the Building Height Development Standard and a Clause 4.6 Variation is not required.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	9.5m	N/A	Yes
Rear building line	6.5m	4.1m to the pool 13.9m to the rear terrace 18.9m to the southern wall of the dwelling	37m N/A N/A	No Yes Yes
Side building line	2.5m	North-West 2.59m	N/A	Yes
	1m	South East 1.1m	N/A	Yes
Building envelope	3.5m	North West breach in envelope 0.4m - nil in height for a length of 8.4m	Refer to details of breach	No
	3.5m	Within envelope	N/A	Yes
Landscaped area	50%	53.6% (575.81sqm)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - 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
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	No	Yes
D9.9 Building envelope	No	Yes
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	No	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.4 Solar Access

Clause C1.4 requires:

The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.

Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).

Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 8.00am and 4.00pm during mid winter.

Developments should maximise sunshine to clothes drying areas of the proposed development or adjoining dwellings.

The proposal must demonstrate that appropriate solar access is achieved through the application of the Land and Environment Court planning principle for solar access.

Comment:

The proposal is assessed against the outcomes of the control as detailed below:

Residential development is sited and designed to maximise solar access during mid-winter.

Comment:

Shadow analysis has been submitted which demonstrates that the proposal is sited to ensure that solar access to the dwelling and neighbouring properties is maximised during winter, refer to discussion below.

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.

Comment:

Shadow to private open space - Shadow diagrams have been submitted in plan and in 3D Model of the side elevation. The diagrams in plan show that the development will cast additional shadow to the areas of private open space at neighbouring dwelling to the immediate west at No. 42 Bassett Street only at 9am. The shadow moves to the east and at 3pm additional shadow is cast to the neighbouring residential flat building to the immediate west at No. 38 Bassett Street at 3pm. The proposal complies with the numerical requirement of the control, namely a minimum of 3 hours of sunlight to be retained to areas of private open space between 9am and 3pm on June 21st.

Shadow to windows to principle living areas -The 3D diagrams shadow that additional shadow will be cast on the windows in the eastern elevation of No. 42 Bassett Street between 9am to 11am. The proposal will not impact on solar access to the side windows outside these hours.

The 3D diagrams in elevation show that the development will cast additional shadows to the lower level windows in the western elevation of No. 38 Bassett Street from 2pm - 3pm. Some of the upper level windows in the western elevation of No. 38 Bassett Street (to the rear), are also cast in additional shadow at 3pm. The proposal will not impact on solar access to the side windows outside these hours. The proposal complies with the numerical requirement of the control in relation to windows to principle living area which are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).

The proposal will have a minor impact on the clothes drying area located within the rear garden of No. 38 Bassett Street at 3pm. On balance, it is considered that a reasonable level of solar access is maintained to neighbouring properties in accordance with this outcome.

Reduce usage and/dependence for artificial lighting. (En)

Comment:

The dwelling receives good solar access and reduces the usage and dependence on artificial lighting. The proposal complies with the numerical requirements of the control and will not result in unreasonable need for an increase in the use of artificial lighting to neighbouring properties.

C1.5 Visual Privacy

Clause C1.5 requires:

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

Comment:

The proposal is assessed against the outcomes of the control as detailed below:

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.

Comment

Habitable rooms - The application has been amended to help address privacy issues with high level windows and screens. The applicant also notes *the portion of the upper floor of the dwelling has been relocated away from the eastern boundary positioning it in a more central location on the site. The separation of this area from the neighbouring properties has increased significantly providing much better privacy.*

Upper floor east facing windows - The upper floor windows to bedrooms are positioned within 3.2m of the eastern boundary and between 5.5m and 7.6m from windows in the neighbouring developments at No. 38 Bassett Street. The applicant has amended windows W30, W31, W32, W33 and W34 to high-level windows. In order to ensure privacy issues are fully addressed a condition also requires that window W35 to the master bedroom is a high level windows. All high level windows shall measure 1.7m above finished ground level in compliance with the control.

The proposal has also been amended to include a privacy screen to the eastern edge of the balcony which adjoins the upper floor master bedroom. A condition also requires a screen be installed along to the western edge of the balcony to prevent overlooking of the rear garden at No. 42 Bassett street. All privacy screens are to be fixed and angled and have a height of 1.7m above floor level.

A balcony is proposed to the upper level office which is positioned to the front of the dwelling. The eastern edge of the balcony is setback 9.6m from the existing upper floor windows in the western elevation of No. 38 Bassett Street. The balcony is considered to be acceptable for the following reasons: The separation distance to window in the adjoining development, the fact that it is accessed via an office which is not be a primary habitable room and given its position to the front of the dwelling the balcony will generally overlooks the public area to the frontage of the site and enhance natural surveillance for added security.

Ground level east facing window - A submission has been received from the owner of unit 4 in No. 38 Bassett Street raising privacy issues with respect to the east facing windows to the laundry room and pantry which are directly opposite the bedroom and bathroom window to the neighbouring unit. The applicant has agreed to a condition requiring these windows to be treated with obscure glazing.

Upper level western windows - The upper floor windows to bedroom 3 are positioned 2.6m to the western boundary and the window to the master bedroom are positioned 5.8m from the western boundary. A balcony is also proposed to the master bedroom that is setback 5.8m from the western boundary. The adjoining dwelling at No.42 Bassett Street is single storey and the windows overlook the roof of the neighbouring dwelling. Despite this a condition requires a screen to be installed on the western edge of the deck to the master bedroom to prevent overlooking of the rear garden to No. 42 Bassett Street.

The ground level windows - Windows to habitable rooms in the western elevation are positioned between 2.7m and 7.3m from the boundary. As the floor level is raised to comply with the flood levels the windows are raised above the opposing west facing windows to No. 42 Bassett Street. In order to

ensure privacy is maintained a condition requires the following windows to be high level windows: W21 and W22 to the family room and W23 and W24 to the guest room. In addition, window W25 to the ensuite shall have obscure glazing.

Outdoor living areas - The proposed pool is setback 1.1m from the eastern rear boundary. A landscape area is proposed within the 1.1m setback which includes screen planting to the boundary. A condition requires the submission of an amended landscape plan which shall include a selection of tree planting to substitute proposed exempt species with native tree species. In addition, it is recommended that a privacy screen be installed along the eastern common boundary adjacent to the planter bed. The screen planting along the eastern edge of the pool combined with the privacy screen will ensure privacy is protected for the future residents and neighbour at No. 2a Orana Street.

The rear terrace is setback 1.2m from the eastern boundary. A condition requires a fixed and angled privacy screen to a height of 1.7m to be installed along the eastern edge of the terrace to ensure privacy is protected to the neighbouring properties.

In summary, the amended design combined with conditions will ensure privacy is maintained in accordance with the requirements and outcomes of the control.

A sense of territory and safety is provided for residents.

Comment:

The proposal allows for casual surveillance to ensure the safety of residents is maintained.

C1.6 Acoustic Privacy

A condition requires noise from the pool/spa motors and air conditioning units not to produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

D9.3 Building colours and materials

Clause D9.3 requires external colours and materials to be dark and earthy tones. Council may consider lighter coloured external walls (excluding white) only for residential development within Area 3 on the Landscaped Area Map. The site is mapped in Landscape Area 3 and the medium tone grey walls are considered acceptable. A condition requires the front fence to be painted in the same medium grey tone as the dwelling as opposed to white.

D9.7 Side and rear building line

Clause D9.7 requires development to be setback 6.5m from the rear boundary. The control allows a variation for swimming pools and spas a 1 metre minimum setback from the boundary to the pool coping subject to the following:

satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and

Council is satisfied that the adjoining properties will not be adversely affected, and the pool or spa is not more than 1 metre above ground level (existing), and that the outcomes of this clause are achieved without strict adherence to the standards, and where the site constraints make strict adherence to the setback impractical, and where strict compliance with these requirements will adversely impact on the views of adjoining

residential properties.

Comment:

The pool is setback 4.5m from the rear boundary and sufficient landscaping screening is proposed to ensure that there will be no unreasonable impacts on the amenity of neighbouring properties. The variation of the rear setback control for the pool is therefore supported. It is noted that the terrace is setback 13.5m from the rear boundary and the northern wall of the dwelling 18.9m both exceeding the minimum 6.5m rear set back control significantly.

D9.9 Building envelope

The proposal results in a minor breach of the building envelope along part of the north-west elevation. The breach represents a triangular area that equates to a height of 0.4m - 0m for a length of 9.4m, refer to image below.



NORTH WEST ELEVATION

Building envelope breach north-west elevation (source Gartner Trovato Architects).

The minor breach in the envelope will not impact on the ability of the development to meet the outcomes of the control as discussed below.

To achieve the desired future character of the Locality.

Comment:

The minor breach of the envelope will not in itself have an unreasonable impact on the ability of the development to achieve the desired future character of the locality.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

Comment:

The minor breach of the envelope will not in itself have an unreasonable impact on streetscape. The breaching element relates to a small portion of the north-west elevation which is setback from the street. The bulk and scale of the dwelling sits below the height of the existing trees.

To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

Comment:

The proposal complies with all other built form controls and responds to the spatial characteristics of the existing natural environment.

The bulk and scale of the built form is minimised.

Comment:

The proposal complies with all other built form controls and the bulk and scale is assessed as acceptable.

Equitable preservation of views and vistas to and/or from public/private places.

Comment

The proposal will not impact on views or vistas from public or private places.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment:

The proposal has been amended to incorporate high-level windows and privacy screens. In addition, conditions are recommended to address any outstanding privacy issues.

Vegetation is retained and enhanced to visually reduce the built form.

Comment

The existing trees within the frontage of the site will be retained to ensure that the built and scale of the built form is reduced from the street.

D9.12 Fences - General

Clause D9.12 requires

a. Front fences and side fences (within the front building setback)

Front and side fences (within the front building setback) shall:

*not exceed a maximum height of 1 metre above existing ground level,
be compatible with the streetscape character, and
not obstruct views available from the road.*

Fences are to be constructed of open, see-through, dark-coloured materials.

Landscaping is to screen the fence on the roadside. Such landscaping is to be trimmed to ensure clear view of pedestrians and vehicles travelling along the roadway, for vehicles and pedestrians existing the site.

Original stone fences or stone fence posts shall be conserved.

Comment

A fence is proposed along the street frontage which comprises a 1.7m high sandstone pillars and 1.5m timber fences, painted white, in between. The proposal has been assessed against the Outcomes of the control as detailed below:

To achieve the desired future character of the Locality.

Comment:

The character of the streetscape is varied in terms of its treatment of the front boundary and comprises a mixture of open frontages, low stone walls and dark timber fences in excess of 1m in height. In order to achieve the desired future character of the Locality a condition required the front fence to be reduced in height to 1.5m high stone pillars and 1.2m high timber fencing painted a darker colour such as the medium tone grey (Triple Sea Fog) proposed on the external walls.

To ensure fences compliment and conserve the visual character of the street and neighbourhood.

Comment:

Subject to the condition detailed above the fence will compliment the visual character of the street and neighbourhood.

To define the boundaries and edges between public and private land and between areas of different function.

Comment:

The front fence will define the boundaries and edges between public and private land

To contribute positively to the public domain.

Comment:

Subject to a slight reduction in the height of the fence and a change to a more recessive colour the fence will contribute positively to the public domain.

An open streetscape that allows casual surveillance of the street.

Comment:

Casual surveillance of the street can be maintained.

Fences, where provided, are suitably screened from view from a public place.

Comment

The fence is setback from the front boundary behind a row of trees /shrubs which will help screen and soften the fence.

Safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.

Comment:

The proposed front fence will not comprise sight lines to the site

Unhindered travel for native animals and pedestrians.

Comment:

The site is not designated as a site with protected wildlife corridors.

To ensure heritage significance is protected and enhanced.

Comment:

There are no heritage items or areas within the vicinity of the site.

To ensure an open view to and from the waterway is maintained.

Comment:

There are no waterways within the vicinity of the site.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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

A monetary contribution of \$13,950 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,395,000.

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;
- Pittwater Local Environment Plan;
- Pittwater 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

Height, bulk and scale

The site is mapped as being flood affected and the proposal complies with the maximum height of 8.5m above the Flood Planning Level of 5.5.

With the exception of a minor breach of the envelope control the proposal complies with all other built form controls. The bulk and scale of the dwelling is considered to be acceptable, a single storey built form is presented to the street and the side elevation are well articulated with increased setbacks to the upper floors. The proposal is compatible with the desired future character of the Mona Vale Locality, subject to a condition requiring the height of the front to be reduced and to be painted a mid grey colour as opposed to white. Landscaping, both existing and proposed, will help soften the visual impact of the development to the street and provide screening to neighbours.

Residential amenity (privacy and overshadowing)

Subject to conditions requiring height level windows, obscure glazing and the installation of fixed privacy screens the proposal will not result in unreasonable impacts on neighbouring residential amenity in terms of privacy. The proposal will result in some additional shadow impact to the residential properties to the immediate east and west. However, the proposal complies with the solar access provisions of the PDCCP and will not result in unreasonable shadow impacts to neighbours. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0487 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 26 DP 6195, 40 Bassett Street, MONA VALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A.01 Rev B Site Plan and Site Analysis	07/07/2021	Gartner Travato Architects
A.02 Rev B Ground Floor Plan	07/07/2021	Gartner Travato Architects
A.03 Rev B First Floor Plan	07/07/2021	Gartner Travato Architects
A.04 Rev B Elevations and Materials	07/07/2021	Gartner Travato Architects
A.05 Rev B Sections	07/07/2021	Gartner Travato Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
SW1 Stormwater Management Plan	16/04/2021	Barrenjoey Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Statement	17/04/2021	Rain Tree Consulting
Arboricultural Pruning Plan Ref-4721	19/06/2021	Rain Tree Consulting
BASIX Certificate Ref 1192083S	21/04/2021	Gartner Travato Architects
Geotechnical Report Ref 3490J	16/06/2021	White Group
Flood Report	April 2021	Barrenjoey Consulting Engineers

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
Landscape Plan	05/05/2021	Cabarita

Waste Management Plan		
Drawing No./Title.	Dated	Prepared By
Waste Management Plan	28/04/2021	Gartner Travato Architects

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	Response Ausgrid Referral	21/05/201

(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 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 sewerage 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. **Compliance with Standards (Crown Land Only)**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$13,950.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$1,395,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

7. Security Bond

A bond (determined from cost of works) of \$10,000 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.

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

The applicant is to lodge a bond of \$1,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

9. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

10. 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 prepared by White Geotechnical Consultants dated 16/6/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Flooding**

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

Flood Effects Caused by Development – A2

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

Building Components and Structural Soundness – B1

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

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the relevant Probable Maximum Flood level, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the relevant Flood Planning Level.

Floor Levels – C1

New floor levels within the development shall be set at or above the relevant Flood Planning Level.

Floor Levels – C3

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

Car parking – D5

The floor level of the proposed garage shall be set at or above the 1% AEP flood level of 4.5m AHD at the location of the garage.

Fencing – F1

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

Storage of Goods – G1

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

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

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

12. 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 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.

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

Reason: Protection of the receiving environment.

13. Water Quality Management

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

14. Amendments to the approved plans

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

- A 1.7m high fixed angled privacy screens shall be installed along both the eastern and western edge of the balcony to the master bedroom.

- A 1.7m high fixed angled privacy screen shall be installed along the eastern edge of the ground level terrace and the eastern edge of the landscape strip adjacent to the pool.
- The following windows shall be high level windows measures from a height of 1.7m above the floor level. Windows W30, W34, W35 in the eastern elevation and W21, W22, W23 and W24 in the west elevation at ground level.
- The following windows shall have obscure glazing W8, W9 and W25.
- The sandstone pillars of the front fence shall be reduced in height to 1.5m and the timber panels to 1.2m. The timber panels shall be painted mid grey colour triple sea fog to match the external walls.

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.

15. **Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

16. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the stormwater connection to the kerb inlet pit in Bassett Street which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

17. **Tree Permit for pruning works**

A Tree Permit application shall be submitted to Council's Tree Services section for review and approval prior to Construction Certificate, and shall be accompanied by owners consent from adjoining property No. 38 for the additional pruning over and above the 10% allowance. (<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/tree-removal-and-pruning-application/4000-tree-removal-pruning-application-oct2020.pdf>).

Reason: Protection of existing tree in adjoining property.

18. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended and identified by tree number in the Arboricultural Impact Assessment):

i) 7 Willow Myrtle, 9 Coast Banksia, 15 Bush Cherry, 16 Bottlebrush, 18 Bottlebrush, and 25 Bottlebrush, subject to replacement.

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment (trees identified as number 8, 12, 17, 19, 21, 23, 24, 26-28, 30-34, and 36-38) do not require Council consent for removal or pruning.

Reason: To enable authorised building works.

20. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

No. 2 Orana Road, Mona Vale
No. 2A Orana Road, Mona Vale

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **Tree and Vegetation Protection**

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

- i) all trees and vegetation (*) within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- (*) the following existing trees are retained: tree number 6 - Bush Cherry (x3), 20 - Bush Cherry, 22 - Sweet Viburnum, and 29 - Bottlebrush.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy unless approved by Council's Tree Services section, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree pruning shall be conducted under the supervision of an Arborist with minimum AQF Level 5 in arboriculture, and in accordance with the Arboricultural Pruning Plan for tree number 14 (Tea Tree), under section 1. Summary of Assessment, section 2. Pruning Recommendations, and section 3. Schedule of Recommended Works.

d) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

- e) The arboricultural works listed in d) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment,
- f) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary

access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

22. **Road Reserve**

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

Reason: Public safety.

23. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by <INSERT> prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

24. **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.

25. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent

visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

26. **Survey Certificate**

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

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

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

27. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 68 are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

28. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 1N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

29. **Dewatering Management**

Tailwater (surface water and rainwater): Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous

dewatering of tailwater.

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact catchment@northernbeaches.nsw.gov.au for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources

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

30. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- i) one replacement native tree within the front setback and one replacement native tree within the rear setback shall be installed at a minimum 75 litre container size, located within a 9m² deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees,
- ii) replacement native trees shall be selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward, and may include the following suggested species: Grey Myrtle - *Backhousia myrtifolia*, Coast Banksia - *Banksia integrifolia*, Willow Bottlebrush - *Callistemon salignus*, or Snow in Summer - *Melaleuca linearifolia*.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

Note: Please consider registering your new tree through the link below to be counted as part of the NSW State Governments 5 Million trees initiative

<https://5milliontrees.nsw.gov.au/>

31. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: Tree and vegetation protection.

32. **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.

33. **Undercroft Area below the 1% AEP Flood Level – (C3)**

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

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

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

34. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

35. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

36. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Arboricultural Impact Statement dated 17/04/2021 prepared by Rain Tree Consulting
- (b) Arboricultural Pruning Plan Ref-4721 dated 19/06/2021 prepared by Rain Tree Consulting
- (c) BASIX Certificate Ref 1192083S dated 21/04/2021 prepared by Gartner Travato Architects
- (d) Geotechnical Report Ref 3490J dated 16/06/2021 prepared by White Group
- (e) Flood Report dated April 2021 prepared by Barrenjoey Consulting Engineers

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

37. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

38. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

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

39. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

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

Reason: To maintain local environmental amenity.

40. **Maintenance of Stormwater Treatment Measures**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

41. **Geotechnical Recommendations**

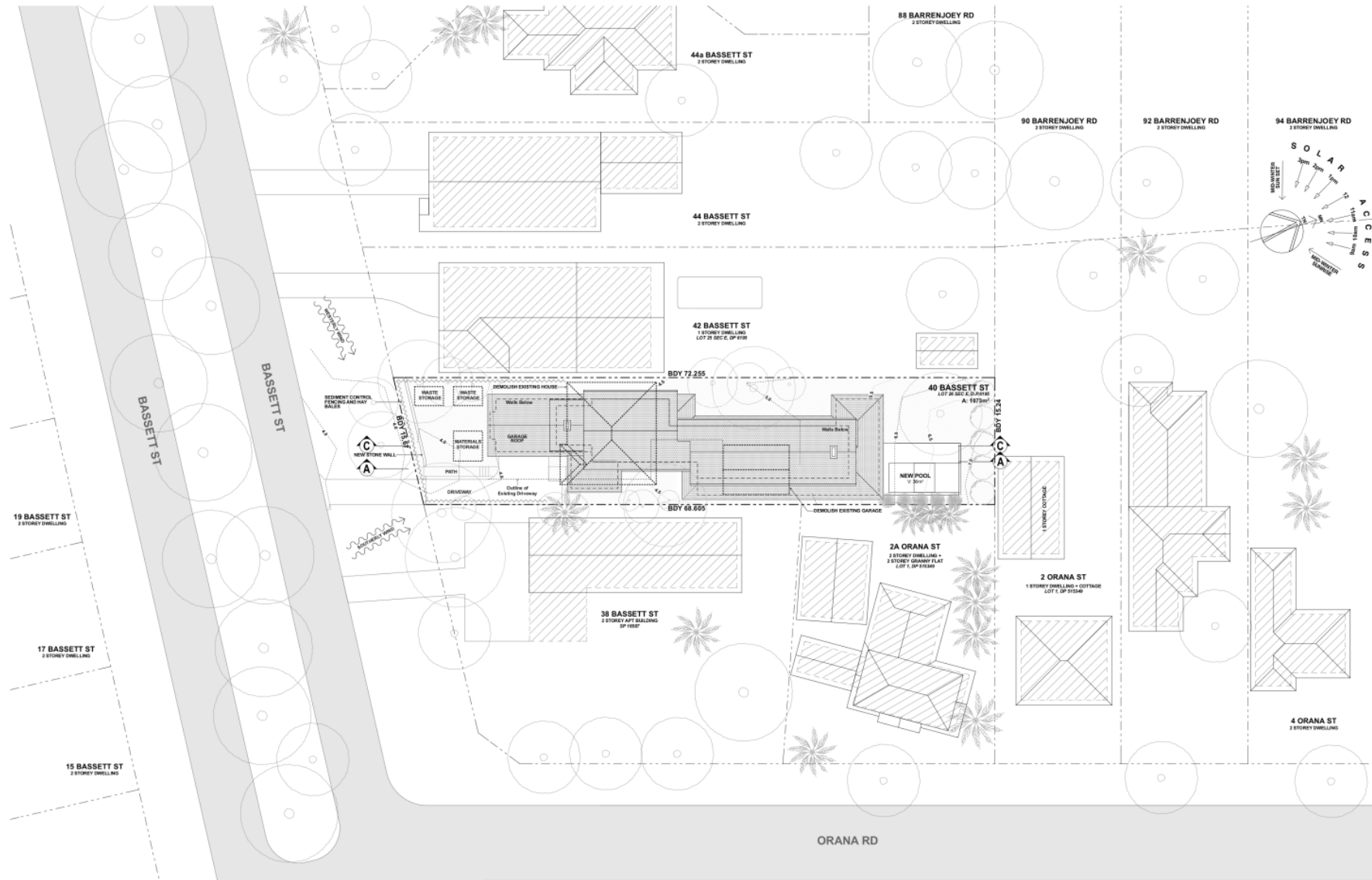
Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

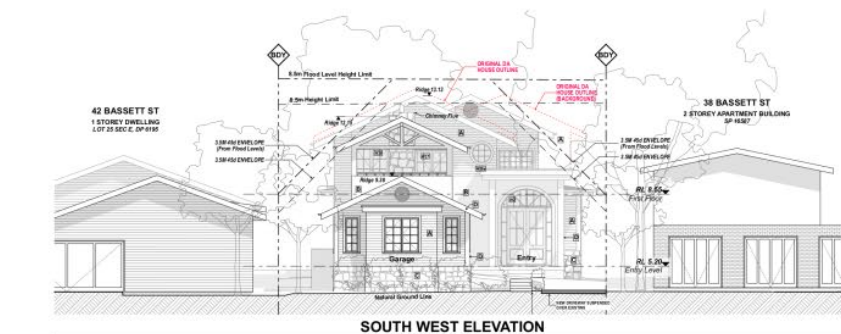
42. **Noise standards**

Noise generating plants including pool/spa motors and air conditioning units shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary. Developments must comply in all respects with the Protection of the Environment Operations Act 1997, and other relevant legislation.

Reason: To protect the amenity of neighbouring properties.

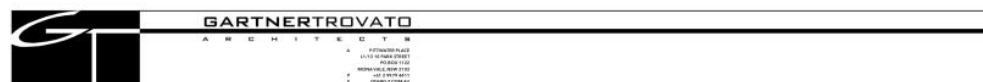


	<p>GARTNERTROVATO ARCHITECTS</p> <p>1/100 MONA VALE PLACE MONA VALE NSW 2205 TEL: 02 9371 4011 WWW.GARTNERTROVATO.COM.AU</p>	<p>DATE: 10/01/21 REV: 1 DESCRIPTION: 10/01/21 B (DA - Revised)</p>	<p>PROJECT: DEVELOPMENT APPLICATION 40 BASSETT STREET, MONA VALE LOT 26, SECT E, DP 6195 FOR SIMON EDWARDS</p>	<p>DRAWING TITLE: SITE PLAN + SITE ANALYSIS</p> <p>PROJECT NO.: 2102 SCALE: 1:200 @ A1</p> <p>DRAWN BY: LT JAB DRAWING NO.: A.01</p> <p>PLOT DATE: 7/1/21 REVISION: B</p>



EXTERIOR FINISHES LEGEND

- (X) WEATHERBOARD, PAINT FINISH "TRIPLE SEA FOG"
- (E) C-CLADDING, DARK GREY PAINT FINISH
- (S) SANDSTONE CLADDING
- (T) TIMBER, WHITE PAINT FINISH
- (B) SHINGLE ROOFING, MID GREY

[illegible]

PROJECT
DEVELOPMENT APPLICATION
40 BASSETT STREET, MONA VALE
LOT 26, SECT E, DP 6195

FOR SIMON EDWARDS

DRAWING TITLE
ELEVATIONS + MATERIALS

PROJECT NO.
2102

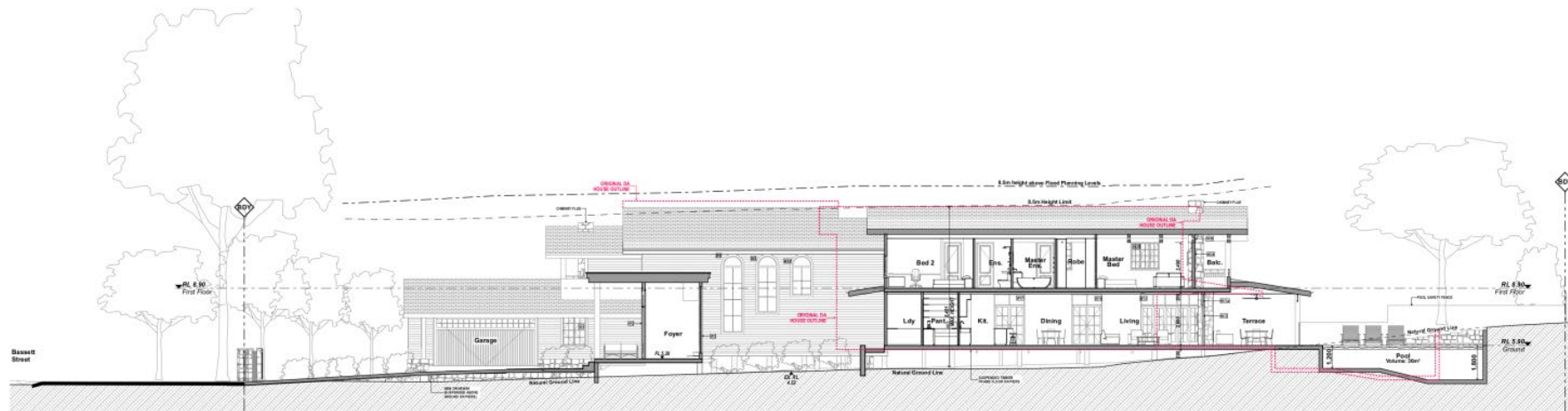
SCALE
1:100 @ A1

DRAWN BY
LT / AB

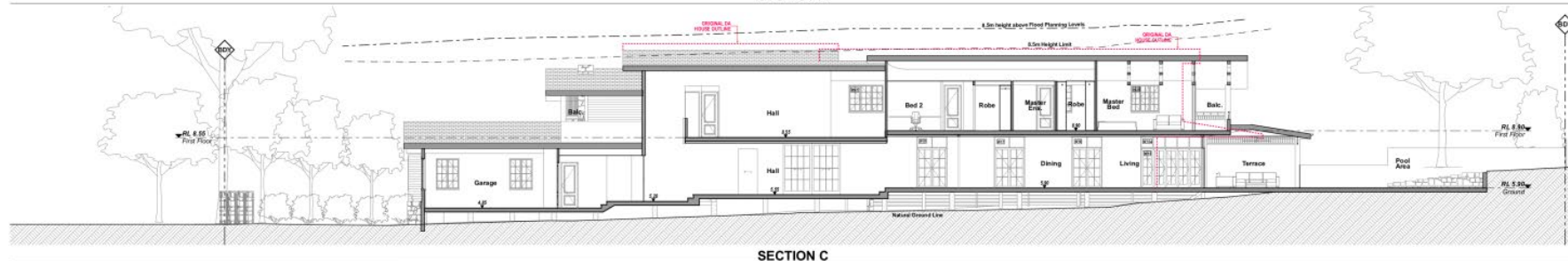
DRAWING NO.
A.04

PLOT DATE
7/7/21

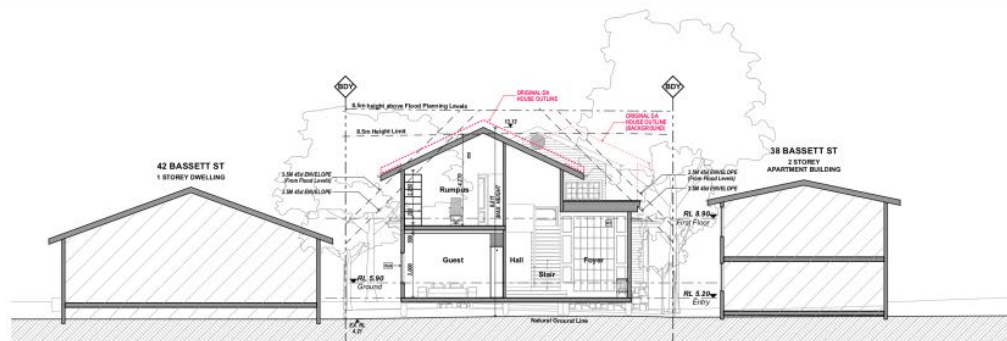
REVISION
B



SECTION A



SECTION C



SECTION B

BASIC NOTES:

- Shingle roof + sarking (roof dark colour)
- R4.0 insulation batts to all ceilings & internal walls adjacent to roof space
- R3.0 insulation to raked ceilings & flat ceiling/flat roof
- Sarking plus R2.5 batts to all external walls
- R2.0 insulation batts to all internal walls
- GF suspended concrete slab (minimum 150mm thickness) + R2.0 under slab insulation
- Framed first floor to include R2.0 underfloor insulation
- Louvre windows U=5.4 SHGC=0.58 (+/-10%)
- All other windows/glass doors are aluminium thermally broken frames/DG/ clear U=3.6 SHGC=0.47 +/-10% (hinged) SHGC=0.54 +/-10% (fixed)
- All windows/door are weather sealed
- All recessed downlights are sealed and to allow for uninterrupted ceiling insulation
- All exhaust fans sealed
- Fireplaces sealed