AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a meeting of the Development Determination Panel will be held via teleconference

WEDNESDAY 26 OCTOBER 2022



Ashleigh Sherry
Manager Business System and Administration

northern beaches council

Agenda for a Meeting of the Development Determination Panel to be held on Wednesday 26 October 2022 via teleconference Commencing at 10:00am

1.0 APOLOGIES & DECLARATIONS OF INTEREST

2.0 MINUTES OF PREVIOUS MEETING

2.1 Minutes of Development Determination Panel held 12 October 2022

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS 5

3.1 DA2022/0511 - 11 Lyly Road ALLAMBIE HEIGHTS - Alterations and additions to a dwelling house including a secondary dwelling and carport 5

3.2 DA2022/1047 - 6 Monash Crescent CLONTARF - Alterations and additions to a dwelling house including a swimming pool.....50

3.3 DA2022/1014 - 18 Urunga Street NORTH BALGOWLAH - Alterations and additions to a dwelling house including a swimming pool.....101

3.4 REV2022/0011 - 14 Prince Alfred Parade NEWPORT - Alterations and additions to a dwelling house.....150

3.5 Mod2022/0440 - 3 Wollombi Road BILGOLA PLATEAU - Modification of Development Consent DA2018/0850 granted for Alterations and additions to a dwelling house including the construction of a new detached garage, secondary dwelling and swimming pool.....187

3.6 DA2021/1718 - 6 / 5 A Wollombi Road BILGOLA PLATEAU -Construction of a dwelling house including a swimming pool.....215

3.7 Mod2022/0397 - 27 & 29 North Avalon Road AVALON BEACH - Modification of Development Consent DA2019/1260 granted for Demolition works and construction of a Seniors Housing development comprising 10 self contained dwellings and site consolidation.....302

2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 12 OCTOBER 2022

RECOMMENDATION

That the Panel note that the minutes of the Development Determination Panel held 12 October 2022 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	**DA2022/0511 - 11 LYLY ROAD ALLAMBIE HEIGHTS - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SECONDARY DWELLING AND CARPORT**
REPORTING MANAGER	**Rod Piggott**
TRIM FILE REF	**2022/653132**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site Plan and 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 DA2022/0511 for alterations and additions to a dwelling house including a secondary dwelling and carport on land at Lot A DP 22132, 11 Lyly Road ALLAMBIE HEIGHTS, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0511

Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot A DP 22132, 11 Lyly Road ALLAMBIE HEIGHTS NSW 2100
Proposed Development:	Alterations and additions to a dwelling house including a secondary dwelling and carport
Zoning:	Warringah LEP2011 - Land zoned 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:	David John Guzzo Maria Galati
Applicant:	David John Guzzo

Application Lodged:	17/05/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	26/05/2022 to 09/06/2022
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 520,521.00

EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to an existing dwelling and the use of a secondary dwelling.

The application is referred to the Development Determination Panel at the discretion of the Executive Manager, Development Assessment based on the history of unauthorised works and ongoing issues on the site.

Prior unauthorised works have been carried out on the site including the construction of two garden

shed structures and the works to convert the approved garage to a secondary dwelling. The vegetation planted within the road reserve adjoining the site is subject to a Minor Encroachments application currently under assessment by Council. Conditions are recommended requiring the removal of both sheds and the lodgement of a Building Information Certificate (BIC) application with respect to the secondary dwelling and any other unauthorised works.

The proposal does not include any variations to the development standards under the WLEP 2013.

Four submissions were received in response to the notification of the application, generally relating to:

- The privacy and overshadowing impacts resulting from the development
- Concerns regarding the previous and proposed ongoing use of the secondary dwelling
- Concerns regarding the impact of the carport and driveway on the streetscape and pedestrian movements
- The history of unauthorised works undertaken on the site
- Stormwater and waste management

As detailed in the report, none of the concerns raised in the submissions warrant the refusal of the application subject to the recommended conditions of consent.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing dwelling as follows:

Lower Ground Floor

- Replace existing store windows
- Demolish existing deck and construct new deck and landing
- Demolish existing bathroom fittings and convert to secondary dwelling store

Ground Floor

- In-fill existing void to create an open plan kitchen, dining and living room
- Extend existing balcony with new roof over
- Changes to doors and windows
- Use of the existing tandem garage as a secondary dwelling comprising kitchen, living and dining, two bedrooms and a bathroom

External

- New driveway, double carport, pedestrian entry stair and associated retaining walls
- Demolish existing garden shed at the southern boundary
- Convert existing spa/pond to sand pit

Unauthorised Works
It is noted that prior unauthorised works/uses have been carried out on the site, including:

- Construction of a garden shed adjacent to the southern boundary;
- Construction of a garden shed encroaching into the adjoining drainage reserve to the north;
- Planting within the Lyly Road road reserve;
- Conversion of the existing/approved tandem garage to a secondary dwelling, including internal fit-out works and changes to windows and doors;
- During the assessment process, Council has been made aware of further potential unauthorised works on the site, including demolition of the lower ground floor deck and excavation works. These works are subject to investigation by Council's Building Control Team.

No consent can be granted to any unauthorised works previously undertaken on the site and conditions are recommended requiring the removal of both shed structures. The vegetation planted within the road reserve adjoining the site is the responsibility of Council's Transport & Civil Infrastructure Assets and is to be resolved separately to this application. Approval can be granted for the use of the secondary dwelling, however the associated physical works require the lodgement and approval of a Building Information Certificate (BIC) application prior to the activation of the development consent. Any remaining unauthorised works for which consent is required are also subject to the BIC application.

Amendments to Proposal
Following lodgement, amendments were made to the proposal to increase the front setback to the carport.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 5.4 Controls relating to miscellaneous permissible uses
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D3 Noise
Warringah Development Control Plan - D6 Access to Sunlight

Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot A DP 22132 , 11 Lyly Road ALLAMBIE HEIGHTS NSW 2100
Detailed Site Description:	The subject site consists of one allotment located on the eastern side of Lyly Road. The site is generally regular in shape with a frontage of 20.15m along Lyly Road and a depth of 40.235m. The site has a surveyed area of 798.1m². The site is located within the R2 Low Density Residential zone and accommodates an existing two-storey dwelling. The site slopes approximately 7.6m from south-west to north-east. The site contains no significant vegetation. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by detached dwelling houses. A drainage reserve adjoins the northern boundary of the site.

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:

DA2008/1164 - Alterations and additions to an existing dweling - Approved 5 December 2008.

DA2021/1348 - Alterations and additions to a dwelling house including a carport - Withdrawn.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.

Section 4.15 Matters for Consideration	Comments
	Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 26/05/2022 to 09/06/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Mr Phillip Ian Williams Mrs Gail Patricia Williams	28 Orara Road ALLAMBIE HEIGHTS NSW 2100
Alex Mesker	4 Lyly Road ALLAMBIE HEIGHTS NSW 2100
Robert Kee	30 Orara Road ALLAMBIE HEIGHTS NSW 2100

Name:	Address:
Withheld Peter Richard Sumner Tony Moody Planning And Development Pty Ltd	MILSONS POINT NSW 2061
Withheld Peter Richard Sumner Tony Moody Planning And Development Pty Ltd	9 Lyly Road ALLAMBIE HEIGHTS NSW 2100

The issues raised in the submissions are addressed as follows:

- **Privacy and Overshadowing**

  The submissions raised concerns that the proposal will adversely impact the privacy of surrounding properties.

  Comment:

  The proposed first floor rear setbacks of 13.4m to the deck and 15m to the windows significantly exceed the 6m control and provide adequate separation to mitigate overlooking of the adjoining properties to the east. The existing hedge planting adjacent to the rear boundary provides supplementary screening but is not relied upon as a primary measure. The deck is located centrally within the site and includes privacy screening at the northern and southern edges extending beyond the rear of the dwelling. The potential privacy impacts resulting from the windows and door at the southern elevation of the secondary dwelling are discussed below and under the D8 Privacy section of this report.

  Based on the location of the proposed works, the rear private open space of No. 9 is unaffected until approximately 12pm and therefore maintains a compliant 3 hours of sunlight access throughout the morning and early afternoon. The proposed overshadowing during the morning is limited to the front yard of No. 9 and during the afternoon there is increasing overshadowing of the northern windows. The overshadowing impacts of the development are assessed against the provisions of D6 in this report and are found to be consistent with the requirements and objectives of the control.

- **Secondary Dwelling**

  The submissions raised concerns that the ongoing use of the unauthorised secondary dwelling, for which consent is sought as part of this application, adversely impacts the visual and acoustic privacy of the adjoining properties. Concerns were raised that the secondary dwelling does not comply with the relevant BCA provisions and does not provide adequate internal amenity. Concerns were raised that the use of the secondary dwelling limits the availability of on-street parking and impacts traffic movements along Lyly Road.

  Comment:

  The use and subsequent environmental impacts of the secondary dwelling are assessed as part of this application. As discussed further below, the associated unauthorised works to convert the approved garage to a secondary dwelling must be considered as part of a subsequent BIC

application, along with the relevant BCA and fire safety requirements. Conditions are imposed requiring the approval of a BIC prior to the activation of the consent.

The secondary dwelling is accessed via a door at the southern elevation and includes a further 2 south-facing windows. It is considered that reasonable use of the secondary dwelling would not adversely impact the amenity of the adjoining property as points of access are used infrequently and the design and location of the 2 windows are appropriate. However, given the proximity of the secondary dwelling entry to various windows of the adjoining dwelling, a condition is recommended requiring the provision of a privacy screen adjacent to the door. There are no applicable controls relating to the internal dimensions of rooms within a secondary dwelling and the internal amenity afforded by the design in considered to be acceptable.

Warringah LEP Clause 5.4 permits a total floor area for secondary dwellings of 60m² or 11% of the total floor area of the principal dwelling, whichever is greater. As such, the proposed secondary dwelling floor area 55.5m² (inclusive of lower ground level storage area) complies with the control. The Warringah DCP does not include any additional car parking requirements for secondary dwellings.

- **Carport and Driveway**

The submissions raised concerns that the proposed carport is inconsistent with the surrounding streetscape character. Concerns are also raised that the proposed carport will adversely impact the amenity of adjoining properties and obstruct pedestrian movement along the footpath.

Comment:

A detailed assessment of the proposed carport is completed under sections B7 and C3 of this report. As discussed in those sections, the carport location is found to be acceptable in this case as the existing driveway access does not comply with Council's required gradients and there is no reasonable alternative location on the site. In the absence of an alternate location, the carport is designed to comply with Council's standard driveway profiles while minimising the resulting visual bulk and streetscape impact. A condition is imposed requiring certification of the elevated carport in accordance with the approval and relevant Australian Standards.
As carports are used infrequently and for limited periods of time, the use of the carport is not considered to result in unreasonable privacy impacts that would necessitate the provision of screening. The carport will overshadow the northern windows of No. 9 Lyly Road from 12pm onwards, however sufficient sunlight access retained throughout the morning and early afternoon. There is no overshadowing of any private open space areas of No. 9 resulting from the carport and compliance with the control is maintained.
The proposed works within the road reserve to accommodate the new driveway and carport have been assessed by Council's Development Engineering and Transport & Civil Infrastructure Assets teams. The works are subject to further approval through an Application for Civil Works in the Public Road under Sections 138 and 139 of the Roads Act 1993. This application requires additional design details and assessment to ensure that the works are constructed in accordance with the relevant standards and Council specifications and will not impact public access or safety. A condition is recommended that requires the submission of this application and outlines the relevant details to be provided.
The approval of the proposed carport is not considered to set a precedent for the streetscape or surrounding locality. The siting of the carport is supportable in this case based on the need to provide safe and accessible off-street car parking and the lack of a suitable alternate location.

Given the limited width of the Council verge between the kerb and the existing safety railing that extends along the width of the subject site and No. 13 Lyly Road, the proposed driveway and

associated structures within the road reserve are not anticipated to unreasonable impede pedestrian movements, noting the required removal of the existing hedge vegetation as part of this application. As previously noted, all works within the road reserve are subject to further assessment and approval under the Roads Act to ensure compliance with the relevant standards.

- **Unauthorised Works**

  The submissions raised concerns regarding the unauthorised works previously undertaken on the site and the unauthorised use of the secondary dwelling.

  Comment:

  The unauthorised works previously carried out on the site that have been identified by Council include the following:
  - Physical works to convert the previously approved tandem garage to a secondary dwelling, and the subsequent unauthorised use of this area;
  - Vegetation planting within the Council verge/road reserve;
  - Construction of a shed within the rear yard; and
  - Construction of a shed encroaching into the adjoining drainage reserve.

  In relation to the physical works to convert the approved garage to a secondary dwelling, these works do not form part of the subject development application, and Council has no authority to retrospectively approve such unauthorised works through a development application. This application may provide consent for the use of the secondary dwelling, subject to the approval of a subsequent BIC with respect to the subject unauthorised works prior to the activation of this consent. The planning impacts of the use of the secondary dwelling are assessed in this report and the relevant BCA matters are to be considered by Council's Building team in the assessment of the required BIC.

  In relation to the unauthorised vegetation planted within the verge, Council's Transport & Civil Infrastructure Assets is responsible for investigating this matter

- **Stormwater Management**

  The submissions raised concerns in relation to the disposal of stormwater on the site.

  Comment:

  There is an existing drainage reserve adjacent to the northern boundary of the site and Council's Development Engineers have recommended conditions of consent requiring the preparation of a stormwater management plan prior to the issue of a Construction Certificate. Any requirement for an on-site detention system will be determined in the Construction Certificate process. It is expected that the proposed rainwater tanks will be incorporated into the stormwater design for the site and that any overflow would discharge into the drainage reserve, along with all other water collected by the existing roof as noted on the architectural plans. Disposal of stormwater in accordance with Council's stormwater policy is intended to result in an improved or neutral outcome in relation to drainage impacts. Based on an inspection of the site, it does not appear that the brick wall below the southern boundary fence is retaining any substantial depth of fill in the location of the proposed rainwater tanks. Regardless, a condition is recommended requiring certification that the proposed rainwater tank platforms are capable of supporting the filled weight of tanks without adversely impacting the adjoining property or wall structure. As consent is sought for the proposed rainwater tanks through this application, the provisions of SEPP

(Exempt and Complying Development) do not apply.

- **Survey Plan**

  The submissions raised concerns that the submitted survey plan does not accurately depict the locations of the existing dwelling and structures on the site.

  Comment:

  The applicant has submitted a revised survey plan confirming that the site boundaries have been identified by survey on site. The existing retaining wall adjacent to the rear boundary is not affected by proposal and is therefore beyond the scope of this assessment.

- **Waste/Asbestos Management**

  The submissions raised concerns that asbestos materials and other waste were previously disposed of at the rear of the property.

  Comment:

  Conditions are recommended requiring the appropriate disposal of all hazardous materials and compliance with a waste management plan during all demolition and construction works.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Buil Certification and Fire Safety Department. There are no concerns with the application sul to inclusion of the attached conditions of approval and consideration of the notes below. *Note: The proposed development may not comply with some requirements of the BCA the Premises Standards. Issues such as this however may be determined at Construc Certificate Stage.*
Landscape Officer	The application seeks consent for alterations and additions to a dwelling house including secondary dwelling and carport. The application is assessed by Landscape Referral against Warringah Local Environmen Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to): • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation and E6 Retaining Unique Environmer Features The plans indicate that no significant landscape features are affected by the proposed wo

Internal Referral Body	Comments
	No objections are raised with regard to landscape issues subject to conditions.
NECC (Bushland and Biodiversity)	The application seeks approval for the construction of a secondary dwelling and carport. Council's Natural Environment Unit - Biodiversity referral team have reviewed the applica for consistency against the relevant environmental legislation and controls, including: **Biodiversity Conservation Act 2016 (BC Act)** **Warringah Development Control Plan (WDCP)** • Clause E2 Prescribed Vegetation • Clause E4 Wildlife Corridors • Clause E6 Retaining unique environmental features The application does not require the removal of prescribed trees or vegetation, nor is it lik to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodivers referral team find the application to be consistent against relevant environmental controls
NECC (Development Engineering)	**22/06/2022:** The application seeks consent for alterations and additions to a dwelling house including secondary dwelling and carport. **Access** Vehicular access is available via a concrete driveway from Lyly Road to a hardstand park area. New double carport, new driveway, new layback and works proposed on the public road reserve will be assessed under Road Act Application (S138A) Civil Works on public road reserve. **Stormwater** Stormwater from the site will be directed to existing approved site stormwater system.
Road Reserve	The proposed development impacts Council's existing concrete crib retaining wall the supports the road formation and pedestrian fence/railing. The plans do indicate removal some landscape elements on the verge however all hedging plants along the Council retaining wall must be removed to ensure future pedestrian access as well as the remova hedging across the verge. Council's Development Engineering Team to require a Civil Works application to be lodge and approval of the works obtained prior to obtaining construction certificate. Application provide details of proposed changes to Council's existing retaining wall and the proposed new retaining walls associated with the proposed planter box and garden on the public ro reserve, together with changes to pedestrian safety railings. Redundant layback, crossings and concrete to be removed and kerb reinstated.

External Referral Body	Comments

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate Nos. A440789 and 1260721S dated 8 February 2022).

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

SEPP (Housing) 2021

Part 1 – Secondary Dwellings

Clause 52 – Development may be carried out with consent	
Standard	**Compliance/Comment**
a) No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land.	The proposed development will result only in the principal dwelling and secondary dwelling on the land.
b) The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument.	Warringah LEP does not contain an FSR control for the site.
c) The total floor area of the secondary dwelling is: i) no more than 60m², or	The total floor area of the secondary dwelling is 55.5m² (inclusive of lower ground level storage area).

ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument - the greater floor area.	

Clause 53 – Non-discretionary development standards	
Standard	**Compliance/Comment**
a) For a detached secondary dwelling - a minimum site area of 450m².	The site area exceeds 450m2.
b) The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	The proposal provides a compliant number of car parking spaces.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Proposed: 6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

5.4 Controls relating to miscellaneous permissible uses

The proposed secondary dwelling floor area of 55.5m² (inclusive of lower ground level storage area) complies with the requirements of Clause 5.4(9).

6.2 Earthworks

The proposed earthworks are appropriately located and are not anticipated to adversely impact adjoining properties or the natural environment.

6.4 Development on sloping land

The site is mapped as Landslip Risk Area B. The submitted Preliminary Geotechnical Assessment confirms that no further geotechnical investigation is necessary in this case.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	4.9m	N/A	Yes
B3 Side Boundary Envelope	4m	N: Within envelope	N/A	Yes
		S: Within	N/A	Yes

		envelope		
B5 Side Boundary Setbacks	0.9m	N: 1.1m	N/A	Yes
		S: 0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Carport: 1.504m	76.9%	No
		Dwelling: 7.9m	N/A	Yes
B9 Rear Boundary Setbacks	6m	13.4m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% 319.2m²	41% 327.3m²	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The proposed 1.504m carport front setback is non-compliant with the 6.5m 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 create a sense of openness.*

  Comment:

  The proposed carport is limited in height and width to minimise the resulting visual bulk. The remainder of the front setback is free of structures and the proposed design is appropriate to maintain a sense of openness at the street frontage.

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

  Comment:

  While not prevalent in the locality, scattered examples of car parking structures within front setbacks exist on the eastern side of Lyly Road. It is noted that the existing driveway on the site does not comply with Council's standard driveway profiles due to the steep gradient of the front setback. Given the constrained vehicle access to the site and the lack of an alternative car parking location, the proposed carport siting is supportable in this case.

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

  Comment:

  The proposed carport is suitably designed to minimise its impact upon the streetscape. The carport height is limited by the selected driveway profile and roof design, and is open and the front, sides and rear to minimise its visual impact within the streetscape.

- *To achieve reasonable view sharing.*

  Comment:

  The proposed front setback breach will not unreasonably impact views from surrounding properties. A detailed assessment is completed under D7 Views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

C3 Parking Facilities

Description of non-compliance

The proposed carport is located forward of the building line and is not integrated into the house design. The proposed carport opening of 6.3m exceeds the 6m maximum width.

Merit consideration

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

- *To provide adequate off street carparking.*

  Comment:

  The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Dwelling house	2 spaces per dwelling	2 spaces	2 spaces	-
Secondary dwelling	0 spaces per secondary dwelling	0 spaces	0 spaces	-
Total	2 spaces	2 spaces	2 spaces	-

  The proposed double carport provides a compliant number of spaces for the development in accordance with Appendix 1.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

  Comment:

  Access to the approved garage is constrained due to the non-compliant gradient of the existing driveway. Given that the proposal is for alterations and additions, it is not possible to integrate the proposed carport into the house design or site the carport in an alternate location. The visual impact of the proposed carport is minimised by its open design and by the use of the selected standard low driveway profile. The minimum required width of a double car space is 6m and is exceeded by 300mm in this case. This minor breach is not considered to result in adverse visual impact and is supportable.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

  Comment:

  The proposed carport is designed so as not to dominate the street frontage, as discussed

above.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D3 Noise

See D8 Privacy assessment.

D6 Access to Sunlight

Compliance with control

The proposed development will cause some overshadowing of the rear private open space area of No. 9 Lyly Road from approximately 12pm and throughout the afternoon. The affected area is relatively minor and more than 50% of the rear yard of No. 9 will retain a minimum of 3 hours sunlight throughout the day. As such, the proposal complies with the requirements of the control.

Due to the non-compliant front setback to the proposed carport and the associated overshadowing of the north-facing windows of No. 9, an assessment against the objectives of the control is completed below.

Merit consideration

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

- *To ensure that reasonable access to sunlight is maintained.*

  Comment:

  The first floor northern windows of No. 9 are unaffected until approximately 12pm, and are impacted to varying degrees throughout the remainder of the afternoon. The retention of at least 3 hours sunlight to the first floor windows throughout the day is considered to be reasonable.

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

  Comment:

  The proposed carport provides a suitable design solution in the context of the subject site, noting the constrained vehicular access to the site.

- *To maximise the penetration of mid winter sunlight to windows, living rooms, and high use indoor and outdoor areas.*

  Comment:

  The proposed carport is adequately set back from the southern side boundary and the adjoining dwelling will maintain substantial sunlight access throughout the morning and early afternoon.

- *To promote passive solar design and the use of solar energy.*

Comment:

The proposal is considered to adequately promote passive solar design.

- *To minimise the need for artificial lighting.*

  Comment:

  The proposal minimises the need for artificial lighting.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D7 Views

Merit consideration

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

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

  Comment:

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

  1. Nature of the views affected

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

  Comment to Principle 1:

  The properties on the western side of Lyly Road (Nos. 4 and 6A) obtain district views and distant horizon views of the ocean to the east. The district views are generally whole views while the limited ocean views available are partial.

  2. What part of the affected property are the views obtained

  "*The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic*".

  Comment to Principle 2:

  The views are available from living areas, bedrooms and decks at the front of the dwellings. The

views are enjoyed from a sitting and standing position across front boundaries.

3. Extent of impact

"*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating*".

Comment to Principle 3:

Given the elevation of the properties on the western side of Lyly Road, the proposal is anticipated to result in a minor impact to the available district views. It is also noted that the proposed carport width is limited to approximately one third of the site frontage.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The proposed carport is non-compliant with the 6.5m front setback control. As discussed further in this report, the proposed carport location is considered to be acceptable given the non-compliant gradient of the existing driveway and the lack of a suitable alternative location on the site. Furthermore, an increased carport front setback would not result in any reduction to the associated view impact.

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

  Comment:

  The proposed carport design is appropriate in the context of the site and surrounding environment.

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

  Comment:

  The proposal will not impact any canopy trees.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D8 Privacy

Compliance with control

Windows and Doors
The proposal includes 1 new glazed door opening centrally onto the extended balcony, which will not result in any adverse privacy impacts.

The proposed in-fill of the existing void space at the rear of the living room allows occupants to approach the windows at the northern side of the rear elevation, which was not previously possible. Similarly, the window at the southern side of the rear elevation, which was previously to the approved garage, is now the window of a habitable bedroom in the secondary dwelling, the use of which this application seeks consent for. Despite the increased intensity in the use of the associated rooms, these windows maintain a minimum rear setback of 15m and are not considered to allow opportunities for unreasonable overlooking of properties to the rear.

The secondary dwelling living room includes 2 south-facing windows, one of which is unapproved. The windows are of limited dimensions and are offset from those of the adjoining dwelling due to the difference in the floor levels of each dwelling. The location of the windows above the kitchen bench also provides increased separation and minimises view lines to the adjoining dwelling. The door to the secondary dwelling is also located at the southern side boundary. As points of access are used infrequently and for short periods, the use of this door is not anticipated to result in significant privacy impacts. Regardless, a condition is recommended requiring the provision of a privacy screen adjacent to the door to discourage and minimise viewing of the adjoining dwelling.

Private Open Spaces
The proposed rear setback to the extended balcony is in excess of 13m and this physical separation to the adjoining properties is considered sufficient to minimise privacy impacts from the balcony. It is also noted that the existing planting adjacent to the rear boundary provides some supplementary screening.

The proposed carport is not a private open space area, nor is it expected to be used for any extended period of time. As such, no unreasonable privacy impacts will arise from the carport.

D9 Building Bulk

Compliance with control

The carport complies with the side setback and envelope controls, and the open, low-profile design further minimises the resulting bulk and associated amenity impacts. The proposed carport location is considered to be acceptable given the constraints presented by the topography of the site and the location of the existing dwelling.

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of $5,205 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $520,521.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

PLANNING CONCLUSION

The application seeks consent for alterations and additions to the existing dwelling and a secondary dwelling.

The key planning issues considered within the assessment are the proposed Warringah DCP built form non-compliances and the resulting amenity impacts of the proposal.

Four (4) submissions were received in relation to the development, and are addressed within the report with suitable conditions imposed were necessary.

Assessment of the application against the Warringah LEP and DCP finds that the development is suitable in the context of the site, and is recommended 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 DA2022/0511 for Alterations and additions to a dwelling house including a secondary dwelling and carport on land at Lot A DP 22132, 11 Lyly Road, ALLAMBIE HEIGHTS, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. **Deferred Commencement - Building Certificate**
An application for a Building Information Certificate shall be lodged and approved with respect to the unauthorised works to and use of the secondary dwelling and any other unauthorised works onsite.

Reason: To regularise unauthorised development.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **Approved Plans and Supporting Documentation**
The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
DA01 Site Plan	Rev. B6. 30 August 2022	Sammy Fedele Architectural Drafting Services
DA04 Lower Ground Floor Plan	Rev. B6. 30 August 2022	Sammy Fedele Architectural Drafting Services
DA05 Ground Floor Plan	Rev. B6. 30 August 2022	Sammy Fedele Architectural Drafting Services
DA06 First Floor Plan (Garage)	Rev. B6. 30 August 2022	Sammy Fedele Architectural Drafting Services
DA07 Elevations - East & West	Rev. B6. 30 August 2022	Sammy Fedele Architectural Drafting Services

DA08 Elevations - North & South	Rev. B6. 30 August 2022	Sammy Fedele Architectural Drafting Services
DA09 Sections	Rev. B6. 30 August 2022	Sammy Fedele Architectural Drafting Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
BASIX Certificate No. A440789	8 February 2022	Sammy Fedele Architectural Drafting Services
BASIX Certificate No. 1260721S	8 February 2022	Sammy Fedele Architectural Drafting Services
Preliminary Geotechnical Assessment	9 December 2020	White Geotechnical Group
Geotechnical Comments for New DA	21 March 2022	White Geotechnical Group

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.

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.

3. **Compliance with Other Department, Authority or Service Requirements**
The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	**EDMS Reference**	**Dated**
Ausgrid	Ausgrid Referral Response	21 June 2022

(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.

4. **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 and secondary dwelling.

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling.

Note—

Dwelling houses are a type of residential accommodation—see the definition of that term in this Dictionary."

(development is defined by the INSERT Local Environment Plan 2011 (as amended) Dictionary)

A secondary dwelling is defined as:

"secondary dwelling means a self-contained dwelling that—

(a) is established in conjunction with another dwelling (the principal dwelling), and

(b) is on the same lot of land as the principal dwelling, and

(c) is located within, or is attached to, or is separate from, the principal dwelling.

Note—

See clauses 5.4 and 5.5 for controls relating to the total floor area of secondary dwellings.

Secondary dwellings are a type of residential accommodation—see the definition of that term in this Dictionary."

(development is defined by the Warringah Local Environment Plan 2011 (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.

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. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

(c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than $25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

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

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

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

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

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

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

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

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

(i) Swimming Pools Act 1992

(ii) Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2018

(iv) Australian Standard AS1926 Swimming Pool Safety

(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

7. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of $5,205.21 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $520,521.00.

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

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

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

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

8. **Security Bond**

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

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

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

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

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

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 site stormwater 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. **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.

11. **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.

12. **Amendments to the approved plans**
The following amendments are to be made to the approved plans:

1. A privacy screen shall be provided inside the property boundary adjacent to the southern door entrance to the secondary dwelling. The screen is to reach the height of the door head and extend 1m to the front and rear of the door. The screen is to be of solid or louvred design (with a maximum spacing of 20mm), in materials that complement the design of the approved development. The screen must be located wholly within the subject site and be self-supporting (not reliant on or attached to the boundary fence for support).

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.

13. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**
The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

14. **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.

15. **National Construction Code (BCA)**

A 'NCC - Building Code of Australia (BCA) Assessment Report' from an appropriately qualified Registered Certifier* will need to be submitted with the Construction Certificate application.

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to satisfy provisions of the Building Code of Australia.

The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building,

including any modifications to be made by the proposed development are appropriate for its intended use to.

**To be regarded as an "appropriately qualified registered certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.*

The 'NCC - Building Code of Australia (BCA) Assessment Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

Reason: To ensure adequate provision is made for Health, Amenity, Access and Fire safety for building occupant health and safety

16. **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 elevated concrete vehicle crossing 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 Engineering details relating to the elevated driveway are to be submitted to Council prior to the release of the Construction Certificate.Each plan/sheet is to be signed by a qualified practicing Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E) and has appropriate experience and competence in the related field.

2) At a minimum, the drawings must show the works in plan view, longitudinal sections and details at a relevant scale including all existing levels, any existing services/ infrastructure to be retained in the area of works.

3) All driveways gradients and safe sight distances etc. shall be designed comply with AS 2890.1:2004 (Off-street Parking Standards).

4) Vehicle crossing width to be 5m wide at kerb plus wings on both sides . The driveway profile to be in accordance with Northern Beaches Council's standard Drawing No A4-3330/3NL

5) Provision of grated channel drain along frontage of proposed carport at the boundary.

6) For the matter of public safety, the elevated vehicle driveway access slab in public domain requires safety barriers on both side of the slab in accordance with AS2890.1-2004.

7) Details of new safety barriers along both side of driveway are to be provided.

8) The hedge planted above Council's crib block retaining wall have the potential to cause damage to the retaining wall and also obstructs pedestrian access along the verge. This hedge must be removed in its entirety to prevent root jacking of the retaining wall as well as the removal of hedging across the verge.

9) The unauthorised hedge parallel to the existing driveway crossing must be removed to permit pedestrian access and ensure adequate safe sight distance is available to vehicles using the driveway.

10) Details of proposed changes to Council's existing retaining wall are to be provided.

11) Details of the proposed new retaining walls associated with the proposed planter box and garden on the public road reserve are to be provided.
12) Details of changes proposed to the existing pedestrian safety railings along frontage of site on the public road reserve are to be provided.

13) Reinstatement of all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate

14) Any adjustment to existing services are to be approved by the relevant service authority with all costs associated borne by the applicant.

15) All vehicles are to be wholly contained on site before being required to stop.

16) To ensure there are no adverse impacts arising from construction works, the applicant must engage a suitably qualified and practicing Civil or Structural Engineer specializing in geotechnical and the hydrogeological field to design.

17) Retaining wall design shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer.

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.

17. **Vehicle Driveway Gradients**
The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

18. **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.

19. **Rainwater Tanks**
Certification shall be provided from a suitably qualified person that the proposed rainwater tank platforms are capable of supporting the filled weight of two selected rainwater tanks, will not impact the structural integrity of the adjacent wall and will not divert drainage flows onto the adjoining property.

Should the proposed rainwater tank location be found to impact the structural integrity of the wall or divert drainage flows onto the adjoining property, the tanks must be moved to an alternative location on site, noting that this may require further consent to be sought from Council.

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.

20. **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.

21. **External Finishes to Roof**
The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

22. **Removal of Unauthorised Works**

Prior to the issue of a Construction Certificate, the following unauthorised works shall be removed from the site:

1. The "garden shed" adjacent to the southern side boundary; and
2. The "garden shed" encroaching into the adjoining Council drainage reserve to the north of the site.

Reason: Orderly development of land.

23. **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.

24. **Waste Management Plan**
A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

25. **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.

Properties:

- 9 Lyly Road, Allambie Heights
- Any public property and public infrastructure (including roads, gutter, footpaths, etc) in proximity to the proposed works .

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 rising 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.

26. **Public Liability Insurance - Works on Public Land**
Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of $20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

27. **Protection of Rock and Sites of Significance**
a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) 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.

c) 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.

28. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected including:
   i) all trees and vegetation within the site outside of the area of approved works, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
   ii) all trees and vegetation located on adjoining properties,
   iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:
   i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
   ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level

5 in arboriculture,

iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,

iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,

vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,

vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,

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

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

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

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

29. **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.

30. **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.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

32. **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.

33. **Waste and Hazardous Materials**
Any asbestos or hazardous material waste on the site shall be disposed of in accordance with the relevant requirements.

All other building waste shall be stored in an appropriate location on site and disposed of in a timely manner in accordance with the waste management plan.

Reason: Public safety.

34. **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.

35. **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.

36. **Notification of Inspections (infrastructure works to be handed over to Council)**
Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:
(a) Installation of Silt and Sediment control devices
(b) Vehicle Crossing form work

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

37. **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.

38. **Vehicle Crossings**
The Applicant is to construct one vehicle crossing 5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 3NLand 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.

39. **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

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

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

41. **No Weeds Imported On To The Site**
No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

42. **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.

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

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.
Written certification is to be provided to the Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

44. **Reinstatement of Kerb**
The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

45. **Certification Elevated Parking Facility Work**
The Applicant shall submit a Structural Engineers' certificate certifiying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

46. **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

47. **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

48. **Protection of Habitat Features**
All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

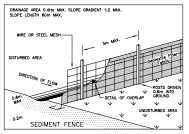
49. **Mechanical Plant**
Any mechanical plant equipment shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

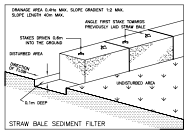
Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

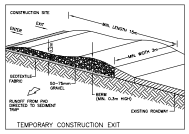
50. **No Structures on Public Land**
The adjoining road reserve and drainage reserve shall remain free of any structures, vegetation or other obstructions in perpetuity, unless otherwise approved by Council.

Reason: Orderly development of land.

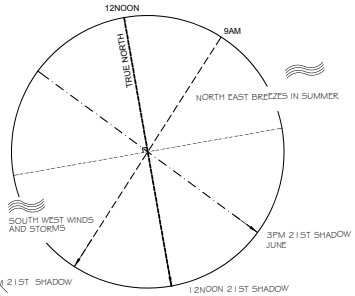
NOTES
1. Do not scale off drawings. **(If in doubt- ask.)**
2. All measurements to be checked on site prior to commencement of construction.
3. Check all levels, roof pitch, location of services and boundary lines, site and building conditions before commencing work or ordering materials.
4. Supply & install selected smoke alarm system to comply with AS3786.
5. All storm water to be connected as per council requirements
6. The work shown on this and associated drawings shall be carried in a tradesmanlike manner and shall be in accordance with the standards, codes, ordinances,regulations, of the Standards Association of Australia, the Building Code of Australia and any statutory authority having jurisdiction over the works.
7. Setting out dimensions shown on the drawings shall be verified by the builder
8. During construction the structure shall be maintained in a stable condition, and no part shall be overstressed.
9. Flashings and damproof course to be placed in accordance with good building principles whether shown on the details or not.
10. Supply and install lift off hinges to all wet area doors .







STANDARD DETAILS



DATA CALCULATION	LEGEND:
LANDSCAPE AREA SITE AREA = 798m2 EXISTING = 325m2 =40.72%	+2000+ +2000+
LANDSCAPE AREA SITE AREA = 798.00m2 PROPOSED = 363m2 =46.11%	+2000+ +2000+

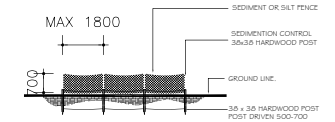
INVESTIGATION OF "DIAL BEFORE YOU DIG" UNDERGROUND SERVICES HAS BEEN MADE. DETECTION OF UNDERGROUND SERVICES IS NOT AN INTEGRAL PART OF THIS SURVEY. ALL RELEVANT AUTHORITIES SHOULD BE NOTIFIED PRIOR TO ANY EXCAVATION ON OR NEAR THE SITE

DEVELOPERS & EXCAVATORS MAY BE HELD FINANCIALLY RESPONSIBLE BY THE ASSET OWNER SHOULD THEY DAMAGE UNDERGROUND NETWORKS.

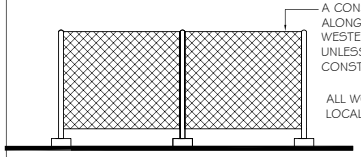
CARELESS DIGGING CAN:
- CAUSE DEATH OR SERIOUS INJURY TO WORKERS AND THE GENERAL PUBLIC
- INCONVENIENCE USERS OF ELECTRICITY, GAS, WATER AND COMMUNICATIONS
- LEAD TO CRIMINAL PROSECUTION AND DAMAGES CLAIMS
- CAUSE EXPENSIVE FINANCIAL LOSSES TO BUSINESS
- CUT OFF EMERGENCY SERVICES
- DELAY PROJECT COMPLETION TIMES WHILE THE DAMAGE IS REPAIRED

MINIMISE YOUR RISK AND DIAL BEFORE YOU DIG.
TEL. 1100

www.dialbeforeyoudig.com.au
DIAL 1100 BEFORE YOU DIG

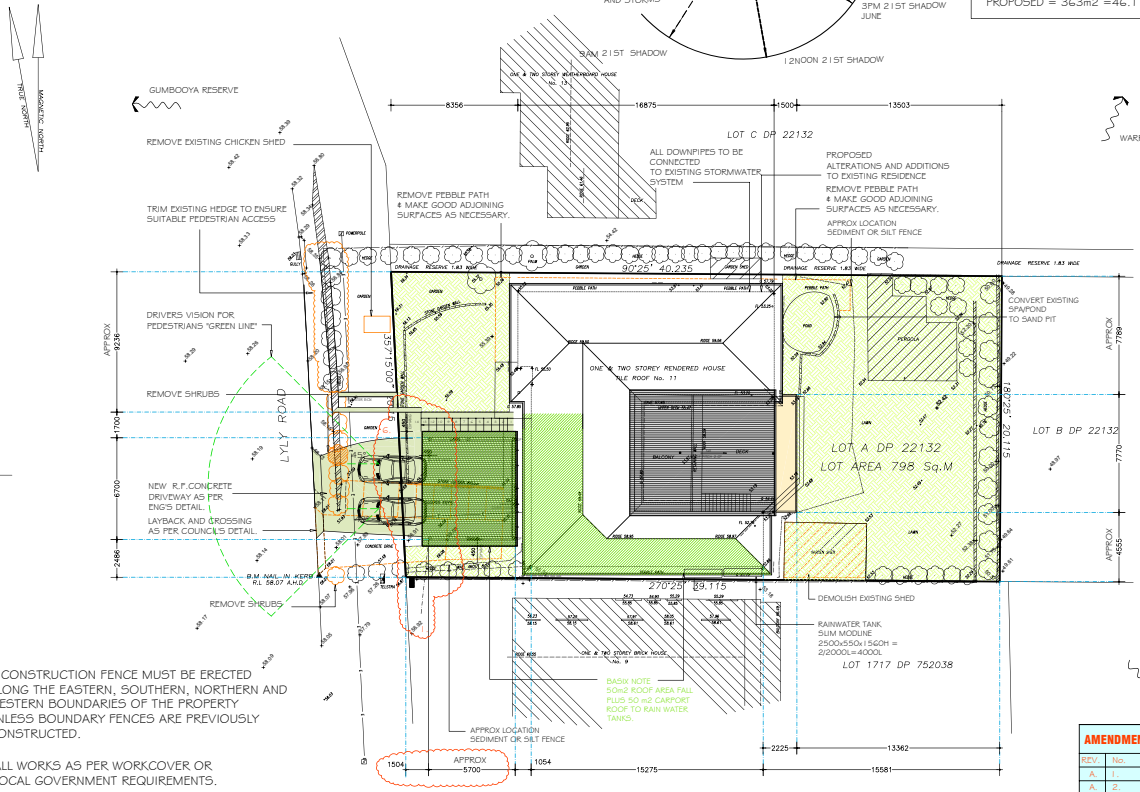


SEDIMENT FENCE DETAIL X
NOT TO SCALE



A CONSTRUCTION FENCE MUST BE ERECTED ALONG THE EASTERN, SOUTHERN, NORTHERN AND WESTERN BOUNDARIES OF THE PROPERTY UNLESS BOUNDARY FENCES ARE PREVIOUSLY CONSTRUCTED.

ALL WORKS AS PER WORKCOVER OR LOCAL GOVERNMENT REQUIREMENTS.



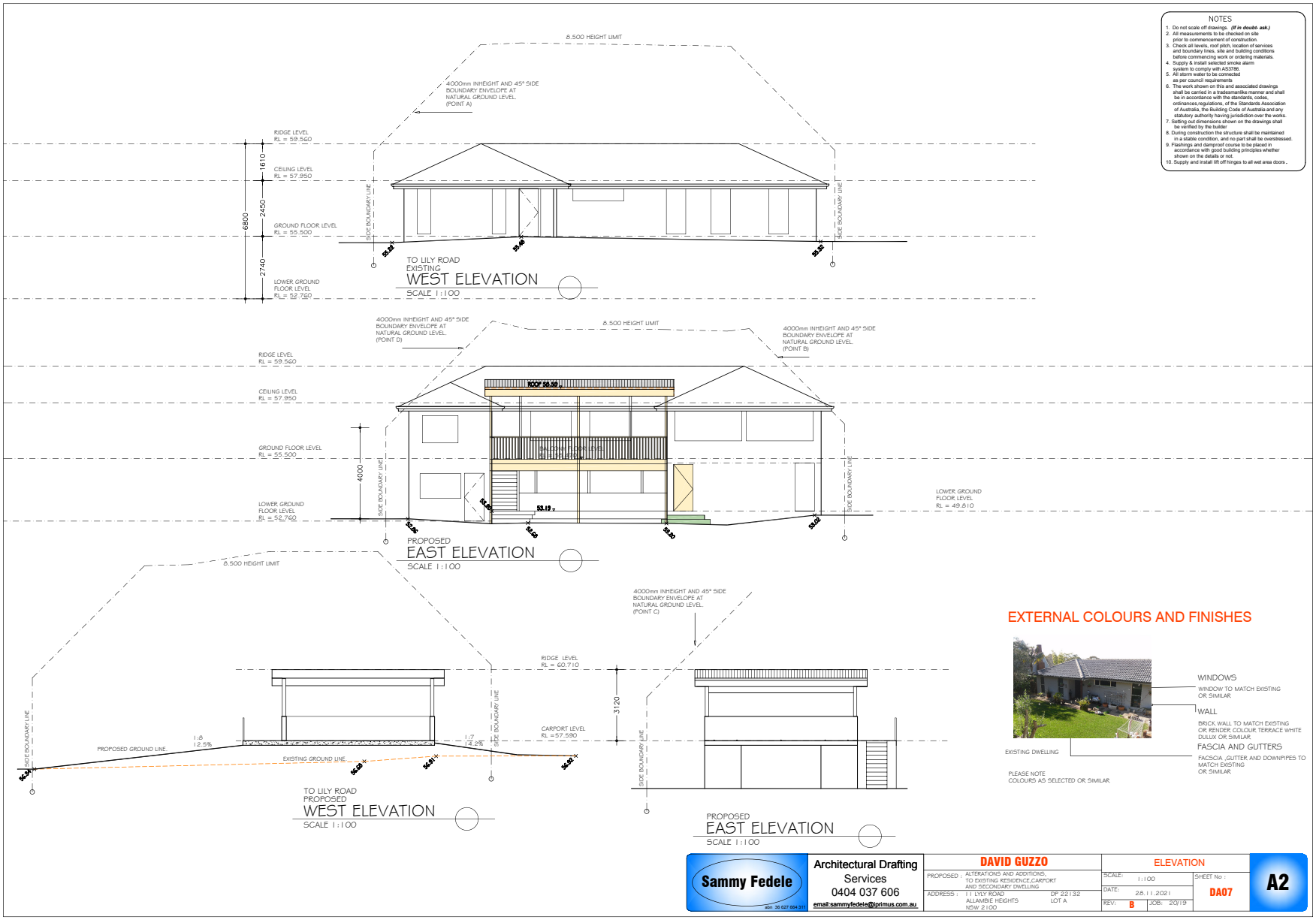
SEDIMENT CONTROL PLAN / WASTE MANAGEMENT /SITE ANALYSIS PLAN AND SITE PLAN

AMENDMENTS 18 11 2021 DA01-DA14			
REV.	No.		DATE
A.	1.	NEW SURVEY AHD	
A.	2.	REMOVE FIRST FLOOR DESIGN	
A.	3.	RELOCATE CARPORT 2486 FROM SOUTH BOUNDARY AND LOWER LEVEL BY 150mm	
A.	4.	NEW REAR DECK	
A.	5.	PROPOSED SECONDARD DWELLING	
B.	6.	REDUCE CARPORT LENGTH FROM 6200 TO 5700 ,NEW CORNER SETBACK, 1504 INTERNAL LENGTH 5400 CARSPACE	30 8 2022

Sammy Fedele
Architectural Drafting Services
0404 037 606
email:sammyfedele@iprimus.com.au
abn: 36 627 664 371

DAVID GUZZO
PROPOSED : ALTERATIONS AND ADDITIONS TO EXISTING RESIDENCE,CARPORT AND SECONDARY DWELLING
ADDRESS : 11 LYLY ROAD ALLAMBIE HEIGHTS NSW 2100
DP 22132 LOT A

SITE PLAN
SCALE: 1:200
DATE: 18.11.2021
REV: B
JOB: 2019
SHEET No : DA01
A2



NOTES

1. Do not scale off drawings. ***(If in doubt- ask.)***
2. All measurements to be checked on site prior to commencement of construction.
3. Check all levels, roof pitch, location of services and boundary lines, site and building conditions before commencing work or ordering materials.
4. Supply & install selected smoke alarm system to comply with AS3786.
5. All storm water to be connected as per council requirements
6. The work shown on this and associated drawings shall be carried in a tradesmanlike manner and shall be in accordance with the standards, codes, ordinances,regulations, of the Standards Association of Australia, the Building Code of Australia and any statutory authority having jurisdiction over the works.
7. Setting out dimensions shown on the drawings shall be verified by the builder
8. During construction the structure shall be maintained in a stable condition, and no part shall be overstressed.
9. Flashings and damproof course to be placed in accordance with good building principles whether shown on the details or not.
10. Supply and install lift off hinges to all wet area doors .

EXTERNAL COLOURS AND FINISHES

EXISTING DWELLING

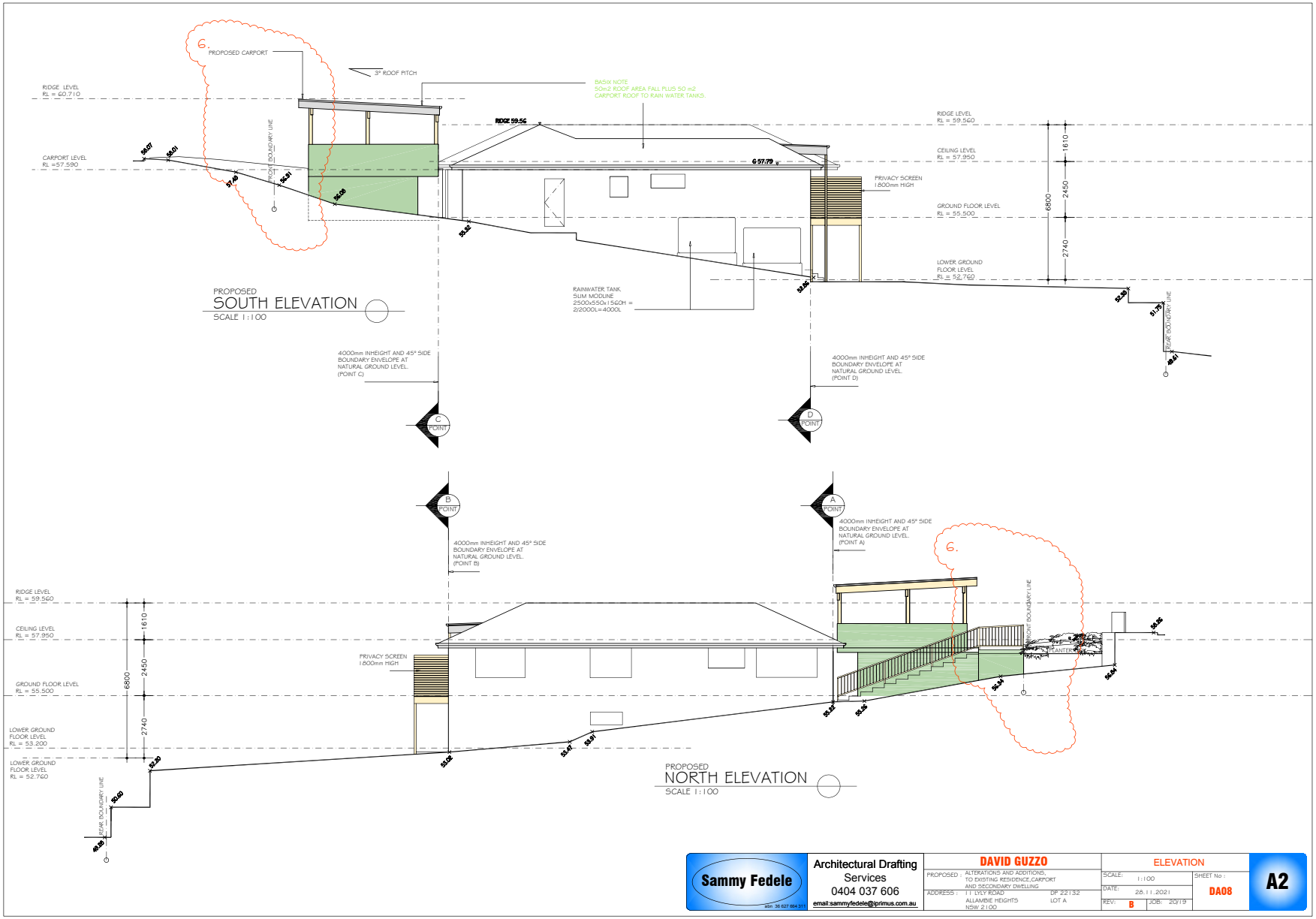
WINDOWS
WINDOW TO MATCH EXISTING OR SIMILAR

WALL
BRICK WALL TO MATCH EXISTING OR RENDER COLOUR TERRACE WHITE DULUX OR SIMILAR

FASCIA AND GUTTERS
FACSCIA ,GUTTER AND DOWNPIPES TO MATCH EXISTING OR SIMILAR

PLEASE NOTE
COLOURS AS SELECTED OR SIMILAR

Sammy Fedele abn 36 627 664 311	Architectural Drafting Services 0404 037 606 email:sammyfedele@iprimus.com.au	**DAVID GUZZO** PROPOSED : ALTERATIONS AND ADDITIONS TO EXISTING RESIDENCE,CARPORT AND SECONDARY DWELLING ADDRESS : 11 LILY ROAD ALLAMBIE HEIGHTS NSW 2100 DP 22132 LOT A	ELEVATION SCALE: 1:100 SHEET No : DA07 DATE: 26.11.2021 REV: B JOB: 2019 A2


PROPOSED CARPORT
3° ROOF PITCH
BASIX NOTE
50m2 ROOF AREA FALL PLUS 50 m2 CARPORT ROOF TO RAIN WATER TANKS.
RIDGE LEVEL RL = 60.710
CARPORT LEVEL RL =57.590
FRONT BOUNDARY LINE
RIDGE 59.56
RIDGE LEVEL RL = 59.560
CEILING LEVEL RL = 57.950
PRIVACY SCREEN 1800mm HIGH
GROUND FLOOR LEVEL RL = 55.500
LOWER GROUND FLOOR LEVEL RL = 52.760
1610
2450
2740
6800
RAINWATER TANK SLIM MODLINE 2500x550x1560H = 2/2000L=4000L
REAR BOUNDARY LINE
PROPOSED SOUTH ELEVATION
SCALE 1:100
4000mm INHEIGHT AND 45° SIDE BOUNDARY ENVELOPE AT NATURAL GROUND LEVEL. (POINT C)
4000mm INHEIGHT AND 45° SIDE BOUNDARY ENVELOPE AT NATURAL GROUND LEVEL. (POINT D)
C POINT
D POINT
B POINT
A POINT
4000mm INHEIGHT AND 45° SIDE BOUNDARY ENVELOPE AT NATURAL GROUND LEVEL. (POINT B)
4000mm INHEIGHT AND 45° SIDE BOUNDARY ENVELOPE AT NATURAL GROUND LEVEL. (POINT A)
PLANTER
PROPOSED NORTH ELEVATION
SCALE 1:100
Sammy Fedele
Architectural Drafting Services
0404 037 606
email:sammyfedele@iprimus.com.au
DAVID GUZZO
PROPOSED : ALTERATIONS AND ADDITIONS, TO EXISTING RESIDENCE,CARPORT AND SECONDARY DWELLING
ADDRESS : 11 LYLY ROAD ALLAMBIE HEIGHTS NSW 2100
DP 22132 LOT A
ELEVATION
SCALE: 1:100
DATE: 26.11.2021
REV: B
JOB: 2019
SHEET No : DA08
A2

ITEM 3.2	**DA2022/1047 - 6 MONASH CRESCENT CLONTARF - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL**
REPORTING MANAGER	**Adam Richardson**
TRIM FILE REF	**2022/652414**
ATTACHMENTS	**1 ⇩Assessment Report** **2 ⇩Site Plan and Elevations** **3 ⇩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 ASSESSMENT MANAGER

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 DA2022/1047 for alterations and additions to a dwelling house including a swimming pool on land at Lot 47 DP 9517, 6 Monash Crescent CLONTARF, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1047

Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot 47 DP 9517, 6 Monash Crescent CLONTARF NSW 2093
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	Manly LEP2013 - Land zoned 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:	Glenn Norman Willis Sharon Gaye Willis
Applicant:	Cadence & Co Design Pty Ltd

Application Lodged:	25/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/08/2022 to 17/08/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.4 Floor space ratio: 35%%
Recommendation:	Approval

Estimated Cost of Works:	$ 1,395,000.00

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to the ground floor and first floor of an existing dwelling.

The application is referred to the Development Determination Panel (DDP) due to a variation to the Floor Space Ratio development standard of greater than 10%. It is noted however, that despite the non-compliance, the development proposes a minor reduction in gross floor area of the overall dwelling, as a consequence of the proposed works.

Minor non-compliances are proposed in relation to side setback distance, roof parapet size and garage

size, however are considered acceptable on merit.

The application was publicly exhibited for 14 days and no submissions were received.

The application was referred to Council's Landscape Officer and Development Engineer who raised no objections to approval, subject to conditions.

This report concludes with a recommendation that DPP grant approval to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application proposes alterations and additions to an existing dwelling including the following works:

Ground Floor
Proposed alterations and additions to existing ground floor level to provide for entry, living room, bar, bathroom, laundry, ensuite and robe to guest bedroom, storage, gym, study, lift and internal access stairs

First Floor
Proposed alterations and additions to existing first floor level to provide for refurbishment of ensuite and walk-in robe to master suite, together with new ensuite and walk-in robe, study nook, guest/rumpus, open plan living, dining, kitchen and pantry, terrace, lift and internal access stairs

External Works
Extension of existing garage to provide additional storage, replacement of existing pool and new retaining walls

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

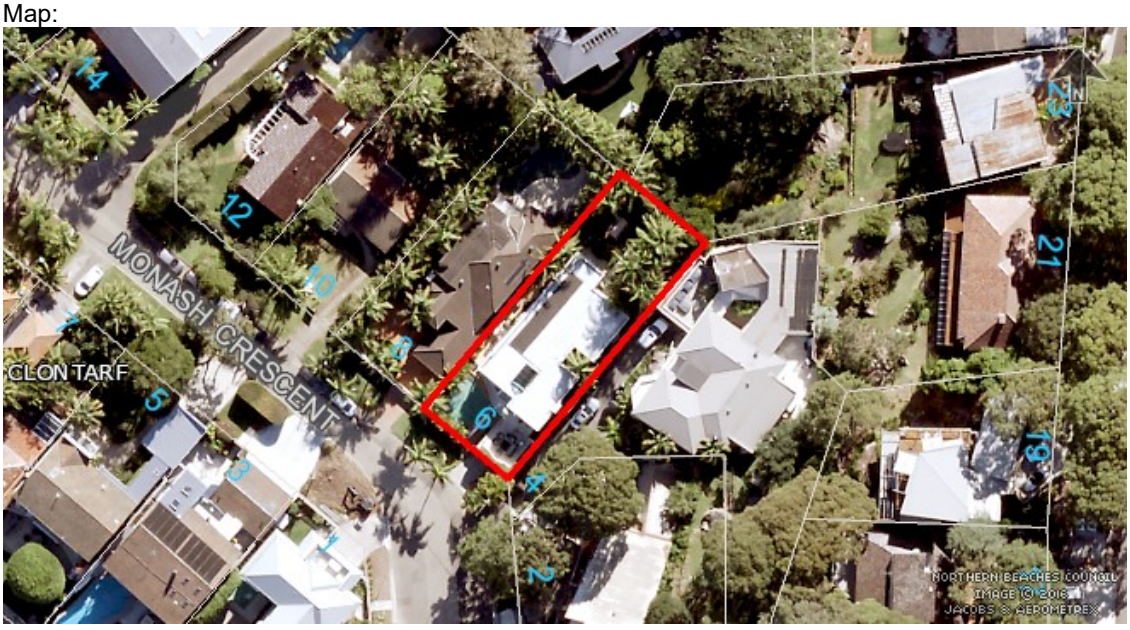
Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

SITE DESCRIPTION

Property Description:	Lot 47 DP 9517 , 6 Monash Crescent CLONTARF NSW 2093
Detailed Site Description:	The subject allotment is described as 6 Monash Crescent, Clontarf, being Lot 47 in Deposited Plan 9517, and is zoned R2 Low Density Residential under the Manly Local Environmental Plan 2013. The site is located on the north-eastern side of Monash Crescent and slopes towards the front western corner of the site, with a fall of approximately 6.9m. The site has a width of 15.24 metres, and a depth of 42.67 metres. The total area of the site is 650.2m^2. Vehicular access is currently available from Monash Crescent via an existing paved driveway, with car parking available in an existing garage at street level. The area surrounding the site is predominantly represented by a mix of residential development of varying architectural styles and sizes.

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:

Application **DA369/01** for Retaining wall at rear of property and landscaping (Approved 12/10/2001)

Application **DA1012/98** for Inground swimming pool (Approved 26/10/1998)

Application **DA0327/97** for Two Storey Dwelling and Garage (Approved 26/11/1997)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	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 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has

Section 4.15 Matters for Consideration	Comments
	been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 03/08/2022 to 17/08/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	**General Comments** Environmental Health have received an email 13.9.22 from the

Internal Referral Body	Comments
	Architects Cadence &Co Pty Ltd confirming that the fire place is for a gas heater and therefore Environmental Health has no objections to the proposal and no conditions.
Landscape Officer	The development application is for alterations and additions to the existing dwelling, as described and illustrated in the Reports and Plans. A Landscape Plan and a Arboricultural Impact Assessment accompany the application and are assessed as part of this Landscape Referral. Council's Landscape Referral section have considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation • 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings where applicable The landscape character of the property includes managed gardens and many palm trees throughout the property and no native canopy prescribed trees exist and the Arboricultural Impact Assessment recommends the retention and protection. It is noted that the existing Tuckeroo (identified as tree 16) is a known environmental weed that self-seeds into natural bushland areas and as an exempt species may be removed subject to replacement with a locally native tree species. The Landscape Plans include landscape proposals to enhance the existing landscape character and no concerns are raised by Landscape Referral.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to the following conditions of consent.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A441777 dated 17 June 2022).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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	7.23m	-	Yes
Floor Space Ratio	FSR: 0.4:1	FSR: 0.54:1	35%	**No**

Note: Despite the percentage variation to the Floor Space Ratio development standard, the proposal reduces the existing gross floor area of the site. A detailed discussion is included under Part 4.6 MLEP 2013 of this report.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.5 Calculation of floor space ratio and site area	No
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor space ratio
Requirement:	0.4:1
Proposed:	0.54:1
Percentage variation to requirement:	35%

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 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 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 applicants written request argues, in part:

- The proposed alterations and additions introduce modulation and architectural relief to the building's facade, without seeing any substantial increase to the building's bulk, which promotes good design and improves the amenity of the built environment (1.3(g).
- The proposed addition will maintain the general bulk and scale of the existing surrounding dwellings and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land (cl 1.3(c)).
- Similarly, the proposed additional floor area will provide for improved amenity within a built form which is compatible with the streetscape of Monash Crescent which also promotes the orderly and economic use of the land (cl 1.3(c)).
- The proposed new works which exceed the gross floor area control and FSR standard of 0.4:1 are considered to promote good design and enhance the residential amenity of the buildings' occupants and the immediate area, which is consistent with the Objective 1.3 (g) of the EPA Act.
- The alterations demonstrate good design and improves the amenity of the built environment by

creating improved and functional living area and also maintains the amenity of the existing dwelling house and neighbours in terms of views by maintaining the existing overall ridge height, together with providing for internal lift access to improve the ability for the occupants to access the levels within the dwelling. (cl 1.3(g)).

The existing dwelling on the site presents a gross floor area of 351.2m² or 0.54:1, which exceeds a floor space control by 91.08m2 or 35%.
Existing and proposed gross floor area calculation have been provided by the applicant which illustrate that the proposed development will result in a minor reduction in the total gross floor area to 351m2 or 0.54:1, and therefore the extent of the variation from the control will be reduced to 90.88m2 or 35%.

It is therefore agreed that the orderly and economic use of the land is maintained in that a more functional living space is provided without compromising the bulk and scale of the proposed development or the visual character of the existing streetscape.

In addition, due to the limited external changes to the existing dwelling, the proposed alterations and additions create an improved modulation of the ground and first floors of the dwelling to better meet the needs of the occupants whilst also promoting good design and amenity of the surrounding environment.

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 Floor space ratio development standard and the objectives of the R2 Low Density 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 proposal creates a reduction to the existing gross floor area of the site. In addition, there is no change to the existing ridge height and compliance with the relevant built form controls under MDCP 2013 is generally maintained.

In addition, the proposal is highly articulated through various design elements and differing boundary setbacks. Overall, the proposal has been appropriately designed and sited to minimise bulk and scale, thereby remaining consistent with the existing and desired streetscape character.

It is considered that the development satisfies this objective.

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:

As outlined, the proposal has been effectively modulated to minimise building bulk. Further, the works do not result in the removal of any significant planting and the proposal includes an enhanced landscaped design within the frontage. Overall, these changes are not expected to cause unreasonable impacts to landscape and townscape features.

It is considered that the development satisfies this objective.

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

Comment:

The proposed dwelling is adequately set back from the frontage and screened by adjoining development and existing vegetation. As such, the proposed additions are of a contemporary design and do not dominate or challenge the existing character, landscape or heritage details. The proposed development does not seek the removal of any significant vegetation, rather it seeks to enhance the site's natural features with an improved landscape design.

It is considered that the development satisfies this objective.

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

Comment:

The proposed development does not encroach upon the amenity or environmental value of adjoining sites in the context of the existing on-site development and site constraints. It is therefore ensured that no adverse environmental impacts (including privacy and overshadowing), will impede upon surrounding sites. Overall, the amenity of adjoining land and the public domain will be reasonably maintained by this proposal.

It is considered that the development satisfies this objective.

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:

This objective does not apply as the site is not within a business zone.

It is considered that the development satisfies this objective.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

  Comment:

  The proposal seeks the alterations and additions to an existing attached dwelling, which is a permissible use in this zone. The proposal is considered to provide for the current housing needs of the occupants of the site and is compatible with that of nearby comparable development.

  It is considered that the development satisfies this objective.

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

  Comment:

  The proposal is considered to result in a development that provides facilities or services to meet the day to day needs of residents.

  It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

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 PS20-002 dated 5 May 2020, 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 2 November 2021, 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: 650.2sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling	1	-	Yes
	Dwelling Size: 90sqm (2 bedrooms + 5 bathrooms)	351m2	-	Yes
4.1.2.1 Wall Height	NW: 6.8m (based on gradient 1:20)	6.23m	-	Yes
	SE: 7.7m (based on gradient 1:5)	6.82m	-	Yes
4.1.2.2 Number of Storeys	2	2	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	<2.5m	-	Yes
	Parapet Height: 0.6m	0.735m	22.5%	**No**
	Pitch: maximum 35 degrees	Flat roof	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Nil (garage - existing)	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	NW: 2.08m (1/3 of wall height)	2.21m (dwelling)	-	Yes
	SE: 2.27m (1/3 of wall height)	1.75m (dwelling) Nil (garage - existing)	22.91% -	**No** Yes
	Windows: 3m	11 windows within 3m of side boundaries	100%	**No**
4.1.4.4 Rear Setbacks	8m	11.45m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area	69.2% (450.5m2)	-	Yes
	Open space above ground 25% of total open space	12.66% (57m2)	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space (180.2m2)	52.92% (238.4sqm)	-	Yes
	3 native trees	No existing prescribed trees on-site, 1 required for installation via condition	-	No but increase to existing
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	-	Yes

4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	6.6m (43.31%)	6.45%	**No**
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	Existing ground level	-	Yes
	1m curtilage/1.5m water side/rear setback	0.8m (north-western side - existing)	-	No but existing
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	Yes

Compliance Assessment

Clause	**Compliance with Requirements**	**Consistency Aims/Objectives**
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	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
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	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)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Description of non-compliance

The control limits the height of parapet roof features to 0.6 metres. The proposed front terrace has a parapet with a height of 0.735 metres, which exceeds the numeric requirement.

Merit consideration

There are no underlying objectives of this control under which to consider the merits of this variation. This clause instead relies on the objectives for the Height of Buildings at Clause 4.3 in the Manly LEP 2013. An assessment against these objectives is as follows:

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The roof form of the proposed front terrace is located below the existing approved ridge height and relates to a terrace which is considered a generally lightweight structure. A generous front setback to the terrace is also provided. In this regard, it is considered that the height and roof form of the garage is consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality.

(b) to control the bulk and scale of buildings,

Comment:

The flat roof profile and the bulk and scale of the proposed terrace roof is generally consistent with the character of surrounding development. Furthermore, the modulation of the front façade, coupled with the retention of the existing side setbacks and recessive external finishes, will ensure the development has an acceptable visual impact when observed from the public domain and surrounding private properties.

(c) to minimise disruption to the following—
(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),

Comment:

As the top of the parapet does not exceed the ridge line of the existing dwelling roofline, the development will not compromise views from surrounding public and private land towards Middle Harbour.

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The additional shadowing created from the modified terrace will be generally confined to the subject site. Existing levels of solar access will be maintained to surrounding private property and will not have an adverse impact on the public amenity.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

The proposed terrace does not necessitate the removal of significant vegetation.

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.

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

Description of non-compliance

The south-east side setback requirement is 1/3 of the proposed wall height or 2.27 metres. The wall on the south-east elevation of the property is setback 1.75m which is 22.91% from the numerical control.

Additionally, Clause 4.1.4.2 of the MDCP 2013 permits no new windows within 3 metres from side boundaries. There are three new windows on the south-eastern side elevation and eight new windows on the north-western side elevation, however it is noted these windows generally replace existing windows.

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 proposal maintains the existing approved side setbacks and will continue to maintain an appropriate visual relationship with the surrounding built environment. The side setback encroachment relates to a front terrace and privacy screening which are considered lightweight structures and shall be visually softened by existing and proposed vegetation to ensure a compatible streetscape outcome.

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 works will not result in unreasonable additional overshadowing of adjoining properties or privacy concerns. The works are adequately screened and separated from the street frontage and therefore, will not reduce road visibility. Overall, the proposal achieves this objective.

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

Comment:

Flexibility is afforded in this circumstance as the existing side setbacks are being maintained and the non-compliance shall not result in an incompatible visual presence.

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:

The proposal complies with the landscaped area requirements of the DCP. Council's Landscape Officer has reviewed the application and raised no objection to approval, subject to recommended conditions including for replanting works to be undertaken as part of this application.

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

Comment:

The site is not bushfire prone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Description of non-compliance

The control states the maximum width of any garage, carport or hardstand area is not to exceed a width equal to 50 percent of the frontage, up to a maximum width of 6.2 metres.

The proposed garage and storage is 6.6 metres which is a 6.45% variation to the required control. It is noted however, the garage does not cover more than 50% of the frontage whilst also replacing an existing garage in the same location, with only a minor extension proposed for storage space.

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 provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Comment:

The proposed car parking space and garage will provide accessible and adequate on site parking for the occupants.

Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Comment:

The proposal will retain the two tandem car parking spaces on site.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.

Comment:

The proposed garage is located forward of the dwelling in a safe and efficient area and is consistent with the pattern of similar development along Monash Crescent.

Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.

Comment:

Minimal excavation is required for the proposed garage. The application has been assessed by Council's Development Engineer who provided support subject to recommended conditions of consent.

Objective 5) To ensure the width and number of footpath crossings is minimised.

Comment:

The proposal utilises the existing vehicle crossover. The application has been assessed by Council's Development Engineer who provided support subject to recommended conditions of consent.

Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.

Comment:

The proposal consists of suitable landscaping to soften the built form.

Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Comment:

The site is located within a residential area with nearby public transport available.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

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 2021;
- 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.

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 DA2022/1047 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 47 DP 9517, 6 Monash Crescent, CLONTARF, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
DA02(A) - Site and Roof Plan	16 May 2022	Cadence & Co
DA05(A) - Ground Floor Plan	16 May 2022	Cadence & Co
DA06(A) - First Floor Plan	16 May 2022	Cadence & Co
DA07(A) - Elevations	16 May 2022	Cadence & Co
DA08(A) - Elevations	16 May 2022	Cadence & Co
DA09(A) - Sections	16 May 2022	Cadence & Co
Materials and Finishes Schedule	Undated	Cadence & C

Engineering Plans		
Drawing No.	**Dated**	**Prepared By**
SW100-A (Stormwater Management Plan)	16 June 2022	RTS Civil Consulting Engineer
SW200-A (Stormwater Drainage Details)	16 June 2022	RTS Civil Consulting Engineer

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
BASIX Certificate (A441777)	17 June 2022	Cadence & Co Design
Arboricultural Impact Assessment Report	26 April 2022	Urban Arbor
Geotechnical Investigation (J4174)	11 April 2022	White Geotechnical Group

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**
667.21 LP GF (Landscape Plan - Ground Floor)	21 April 2022	Adam Robinson Design
667.21 LP L1 (Landscape Plan - Level 1)	21 April 2022	Adam Robinson Design

Waste Management Plan		
Drawing No/Title.	**Dated**	**Prepared By**

Waste Management Plan	12 July 2022	Cadence & Co

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

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

2. **Compliance with Other Department, Authority or Service Requirements**
The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	9 August 2022

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

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

3. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifier for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

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

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

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage.

(iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than $25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

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

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

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

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

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

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

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

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

(i) Swimming Pools Act 1992

(ii) Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2018

(iv) Australian Standard AS1926 Swimming Pool Safety

(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2022

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 (as amended).

The monetary contribution is based on a development cost of $1,395,000.00.

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

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

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

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

6. **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 Certifier prior to the issue of the Construction Certificate.

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

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

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

7. **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.

8. **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 Principal Certifier prior to the issue of the Construction Certificate.

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

9. **External Finishes to Roof**
The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

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

10. **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 Principal Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. **Tree and Vegetation Protection**
a) Existing trees and vegetation shall be retained and protected as recommended in the Arboricultural Impact Assessment, including:
i) all trees and vegetation within the site,
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) 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, 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 complaint 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.

12. **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.

13. **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.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **Survey Certificate**

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

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

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier.

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

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

16. **Landscape Completion**
Landscape works are to be implemented in accordance with the approved Landscape Plans, and inclusive of the following conditions:
i) all tree planting shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
ii) the existing Tuckeroo (identified as tree 16) is a known environmental weed that self-seeds into natural bushland areas and as an exempt species may be removed subject to replacement with a locally native tree species capable of attaining at least 6 metres in height at maturity.

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.

17. **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.

18. **Geotechnical Certification Prior to Occupation Certificate**
A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.
Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

19. **Swimming Pool Requirements**
The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life.

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

20. **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.

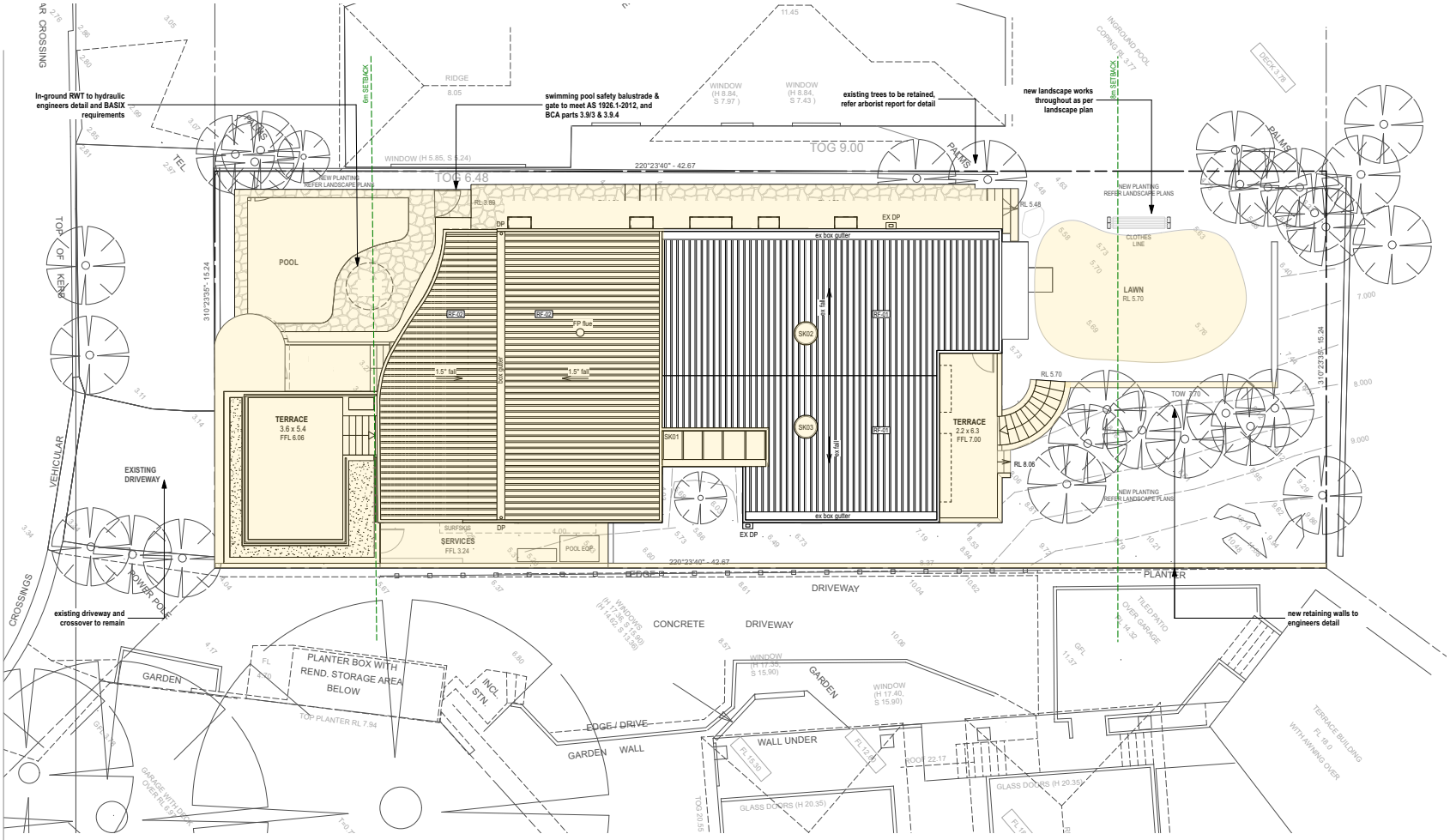
21. **Geotechnical Recommendations**
Any ongoing recommendations of the risk assessment required to manage the hazards

identified in the Geotechnical Report referenced in Condition 1 of this consent are to me maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

22. **Swimming Pool/Spa Motor Noise**
The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.



Legend:

RF-01	Existing metal roof to remain	AL-02	Glass balustrade
RF-02	New metal roof	AL-03	Aluminium louvres
WF-01	Render and paint finish	AL-04	Metal gate
AI-01	Metal balustrade		Proposed New Works

Do not scale off drawings, use figured dimensions only.
These drawings are not to be used for construction.

Revision: A
Date: 16/5/22
For: Development Application

NOT FOR CONSTRUCTION

Project: Proposed Alterations & Additions
Client: Sharon and Glenn Willis
Address: Lot 47, DP 9517
6 Monash Crescent, Clontarf

Drawing Title: Site and Roof Plan
Stage: Development Application
Scale: 1:100 @A2
Drawn: SR
Chkd: MZ

North:
Drawing No: DA02
Rev: A

CADENCE & CO DESIGN
Suite 7, 287 Mona Vale Rd
Terrey Hills NSW 2084
P 94501950
E info@cadenceandco.com.au
ABN: 12 168 714 752
Nominated Architect: Sam Samarghandi NSW ARB 9112
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CADENCE & CO



Legend:

RF-01 Existing metal roof to remain
RF-02 New metal roof
WF-01 Render and paint finish
AL-01 Metal balustrade
AL-02 Glass balustrade
AL-03 Aluminium louvres
AL-04 Metal gate
Proposed New Works

Do not scale off drawings, use figured dimensions only.
These drawings are not to be used for construction.

Revision: A
Date: 16/5/22
For: Development Application

NOT FOR CONSTRUCTION

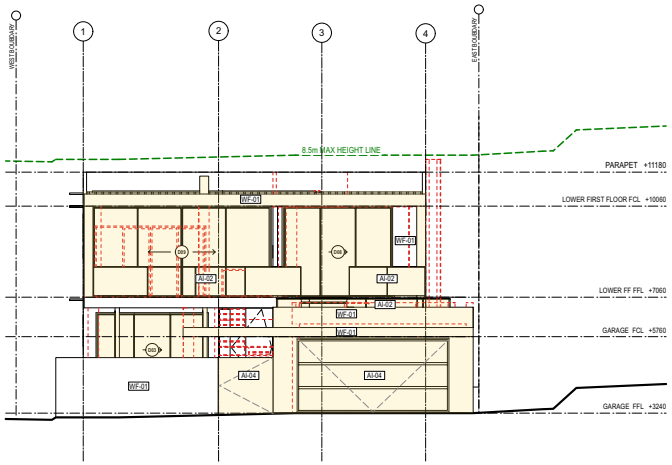
Project: Proposed Alterations & Additions
Client: Sharon and Glenn Willis
Address: Lot 47, DP 9517
6 Monash Crescent, Clontarf

Drawing Title: Elevations - Proposed
Stage: Development Application
Scale: 1:100 @A2
Drawn: SR
Chkd: MZ

North:
Drawing No: DA07
Rev: A

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Nominated Architect: Sam Samarghandi NSW ARB 9112
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CADENCE & CO



1 South Elevation
Scale: 1:100



2 North Elevation
Scale: 1:100

Legend:

RF-01	Existing metal roof to remain	AI-02	Glass balustrade
RF-02	New metal roof	AI-03	Aluminium louvres
WF-01	Render and paint finish	AI-04	Metal gate
AI-01	Metal balustrade		

Proposed New Works

Do not scale off drawings, use figured dimensions only.
These drawings are not to be used for construction.

Revision: A
Date: 16/5/22
For: Development Application

NOT FOR CONSTRUCTION

Project: Proposed Alterations & Additions
Client: Sharon and Glenn Willis
Address: Lot 47, DP 9517
6 Monash Crescent, Clontarf

Drawing Title: Elevations - Proposed
Stage: Development Application
Scale: 1:100 @A2
Drawn: SR
Chkd: MZ

North:
Drawing No: DA08
Rev: A

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APPENDIX 1
CLAUSE 4.6 – FLOOR SPACE RATIO

WRITTEN SUBMISSION PURSUANT TO CLAUSE 4.6 OF MANLY LOCAL ENVIRONMENTAL PLAN 2013

6 MONASH CRESCENT, CLONTARF

FOR THE PROPOSED CONSTRUCTION OF ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING INCLUDING THE REPLACEMENT OF THE EXISTING POOL

VARIATION OF A DEVELOPMENT STANDARD REGARDING THE MAXIMUM FLOOR SPACE RATIO AS DETAILED IN CLAUSE 4.4 OF THE MANLY LOCAL ENVIRONMENTAL PLAN 2013

For:	Proposed construction of alterations and additions to an existing dwelling including the replacement of the existing pool
At:	6 Monash Crescent, Clontarf
Owner:	Sharon & Glenn Willis
Applicant:	Sharon & Glenn Willis C/- Cadence & Co

1.0 Introduction

This written request is made pursuant to the provisions of Clause 4.6 of Manly Local Environmental Plan 2013. In this regard, it is requested Council support a variation with respect to compliance with the maximum floor space ratio development standard as described in Clause 4.4 of the Manly Local Environmental Plan 2013 (MLEP 2013).

2.0 Background

Clause 4.4 restricts the maximum floor space area control within this area of the Clontarf locality and refers to the floor space ratio noted within the "*Floor Space Ratio Map*."

The relevant maximum floor space control in this locality is 0.4:1 or for this site with an area of 650.3m^2, the maximum gross floor area is 260.12m^2 and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

The existing dwelling on the site presents a gross floor area of 351.2m^2 or 0.54:1, which exceeds the floor space control by 91.08m^2 or 35%.

The proposed development will see additions and alterations to the existing dwelling, which will result in a minor reduction in the total gross floor area to 351m^2 or 0.539:1, and therefore the extent of the variation from the control will be reduced to 90.88m^2 or 34.9%.

The controls of Clause 4.4 are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

It is noted that the Council's Manly Development Control Plan 2013 Amendment 14 and in particular Clause 4.1.3.1 provides exceptions to the FSR control where the lot is less than minimum required lot size under Council's LEP Lot Size Map and the development satisfied the LEP Objectives and the DCP provisions.

In this instance the required minimum lot size in the locality is 950m^2, with the DCP permitting a variation to a minimum lot size of 750m^2 and when calculated against this required lot size, the permissible floor area is 300m^2. The proposed development will present a total floor area of 351m^2 or a FSR of 0.466:1, which is marginally in excess of the control when assessed against the minimum lot size in the locality.

Is clause 4.4 of MLEP a development standard?

(a) The definition of "development standard" in clause 1.4 of the EP&A Act means standard is fixed in respect of an aspect of a development and include:

"(d) the cubic content of floor space of a building."

(b) Clause 4.4 relates to floor space of a building. Accordingly, clause 4.4 is a development standard.

3.0 Purpose of Clause 4.6

The Manly Local Environmental Plan 2013 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the Standard Instrument is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the Standard Instrument should be assessed. These cases are taken into consideration in this request for variation.

In particular, the principles identified by Preston CJ in *Initial Action Pty Ltd vs Woollahra Municipal Council* [2018] NSWLEC 118 have been relied on in this request for a variation to the development standard.

4.0 Objectives of Clause 4.6

The objectives of Clause 4.6 are as follows:

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

The decision of Chief Justice Preston in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 ("Initial Action") provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in ***RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 at [1], [4] & [51]*** where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of *Initial Action* the Court held that:

"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of MLEP provides:

(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.

Clause 4.4 (the FSR development standard) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of MLEP.

Clause 4.6(3) of MLEP provides:

(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.

The proposed development does not comply with the FSR development standard pursuant to clause 4.4 of MLEP which specifies an FSR of 0.4:1, however as the proposal will see only a minor change in the building form and a slight reduction in the calculable gross floor area, strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard. The relevant arguments are set out later in this written request.

Clause 4.6(4) of MLEP provides:

(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 Planning Secretary has been obtained.

In *Initial Action* the Court found that clause 4.6(4) required the satisfaction of two preconditions ([14] & [28]). The first precondition is found in clause 4.6(4)(a). That precondition requires the formation of two positive opinions of satisfaction by the consent authority. The first positive opinion of satisfaction (cl 4.6(4)(a)(i)) is that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a)(i) (*Initial Action* at [25]). The second positive opinion of satisfaction (cl 4.6(4)(a)(ii)) is that the proposed development will be in the public interest ***because*** it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out (*Initial Action* at [27]). The second precondition is found in clause 4.6(4)(b). The second precondition requires the consent authority to be satisfied that that the concurrence of the Planning Secretary (of the Department of Planning and the Environment) has been obtained.

Under cl 64 of the *Environmental Planning and Assessment Regulation* 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

Clause 4.6(5) of MLEP provides:

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

Council has the power under cl 4.6(2) to grant development consent for development that contravenes a development standard, if it is satisfied of the matters in cl 4.6(4)(a), and should consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: *Fast Buck$ v Byron Shire Council* (1999) 103 LGERA 94 at 100; *Wehbe v Pittwater Council* at [41] (*Initial Action* at [29]).

Clause 4.6(6) relates to subdivision and is not relevant to the development. Clause 4.6(7) is administrative and requires the consent authority to keep a record of its assessment of the clause 4.6 variation. Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.4 of MLEP from the operation of clause 4.6.

The specific objectives of Clause 4.6 are as follows:

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

The development will achieve a better outcome in this instance as the site will provide for the construction of alterations and additions to an existing dwelling, which is consistent with the stated Objectives of the R2 Low Density Residential Zone, which are noted as:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal will provide for the construction of alterations and additions to an existing dwelling to provide for increased amenity for the site's occupants, together with an internal passenger lift to improve access within the dwelling.

The new works maintain a bulk and scale which is in keeping with the extent of surrounding development, with a consistent palette of materials and finishes, in order to provide for high quality development that will enhance and complement the locality. The existing gross floor area for the dwelling will be reduced from 351.2m² to 351m^2, essentially retaining a compatible bulk and scale with the existing development.

The proposal will not exceed the existing ridge level of the current dwelling.

Notwithstanding the continuing non-compliance with the maximum floor space ratio, together with the fact that the development will see a minor reduction in the total gross floor, the new works will provide attractive alterations and additions to a residential development that will add positively to the character and function of the local residential neighbourhood. It is noted that the proposal will maintain a consistent character with the built form of nearby properties.

The proposed alterations and additions will not see any adverse impacts on the views enjoyed by neighbouring properties.

The works will not see any adverse impacts on the solar access enjoyed by adjoining dwellings.

The general bulk and scale of the dwelling as viewed from the public areas in Monash Crescent from the surrounding private properties will be largely maintained.

5.0 The Nature and Extent of the Variation

5.1 This request seeks a variation to the FSR development standard contained in clause 4.4 of MLEP.

5.2 Clause 4.4 of MLEP specifies an allowable gross floor area for a site in this part of Clontarf of 0.4:1 or for this site, the allowable gross floor area is 250.12m^2.

5.3 The subject site has an area of 650.3m^2.

5.4 The existing dwelling has a gross floor area of 351.2m^2 or FSR of 0.54:1.
The proposal has a calculable gross floor area of 351m^2 or FSR of 0.539:1.

5.5 The total non-compliance with the FSR control is 90.88m^2 or 34.9%, which is a marginal reduction on the existing non-compliance.

5.6 When assessed against a minimum lot area of 750m², the proposal presents an FSR of 0.466:1, which is a reduced extent of non-compliance with the maximum floor space ratio control.

6.0 Relevant Caselaw

6.1 In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* continue to apply as follows:

> *17. The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*
>
> *18. A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
>
> *19. A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
>
> *20. A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
>
> *21. A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*
>
> *22. These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are*

applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

6.2 The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:

1. Is clause 4.4 of MLEP a development standard?

2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:

   (a) compliance is unreasonable or unnecessary; and

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

3. Is the consent authority satisfied that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.4 and the objectives for development for in the C3 zone?

4. Has the concurrence of the Secretary of the Department of Planning and Environment been obtained?

5. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes clause 4.4 of MLEP?

7.0. Request for Variation

7.1 Is compliance with clause 4.4 unreasonable or unnecessary?

(a) This request relies upon the 1st way identified by Preston CJ in Wehbe.

(b) The first way in Wehbe is to establish that the objectives of the standard are achieved.

(c) Each objective of the FSR standard and reasoning why compliance is unreasonable or unnecessary is set out below:

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

The objective of Clause 4.4(1)(a) seeks to ensure buildings, by virtue of their height and scale are consistent with the desired future streetscape character of the locality.

The proposal provides for alterations and additions to an existing dwelling which are intended to provide for a development outcome that benefits the surrounding neighbours by maintaining existing view sharing opportunities.

The contemporary building form with a low profile roof and earthy external finishes are considered to suitably reduce the visual bulk of the dwelling.

Given the minor nature of the reduction in the gross floor area, the development will maintain a compatible bulk and scale to that of the existing dwelling.

Further, the modulation of the front façade, together with the retention of the existing side setbacks and complementary external finishes will ensure the development minimises the visual impact when viewed from the surrounding public and private areas.

The proposal will be consistent with and complement the existing detached style single dwelling housing within the locality and as such, will not be a visually dominant element in the area.

(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,

The proposal will not see the loss of any significant vegetation. The built footprint of the existing dwelling remains largely unchanged, and is therefore not considered to result in any adverse effects on the scenic qualities of the foreshore.

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

The site is considered to be sufficient to provide for the proposed works, with the dimensions of the lot to be unchanged.

The proposal will retain an appropriate area of soft landscaping, and the site will maintain an appropriate balance between the landscaping and the built form.

The proposal is supported by comprehensive Landscape Design prepared by Adam Robinson Design to provide for the enhancement of soft landscaped areas within the site.

On the basis that the proposal maintains the majority of the existing landscaped area, the site is considered to maintain an appropriate balance between the site's landscaping and the built form.

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

The proposed works are wholly contained within the site and will not result in any adverse impacts for any adjoining land.

(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.

The site is not located within a business zone and by providing for the construction of

alterations and additions to an existing dwelling, is not contrary to the viability of any local business activity.

7.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action the Court found at [23]-[24] that:

> *23. 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.*
>
> *24. The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31]*

There are sufficient environmental planning grounds to justify contravening the development standard.

The low pitch roof form further introduces modulation and architectural relief to the building's facade, which further distributes any sense of visual bulk.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposed alterations and additions introduce modulation and architectural relief to the building's facade, without seeing any substantial change to the building's bulk, which promotes good design and improves the amenity of the built environment (1.3(g).

- The proposed addition will maintain the general bulk and scale of the existing surrounding dwellings and maintains architectural consistency with the

prevailing development pattern which promotes the orderly & economic use of the land (cl 1.3(c)).

- Similarly, the proposed additional floor area will provide for improved amenity within a built form which is compatible with the streetscape of Monash Crescent which also promotes the orderly and economic use of the land (cl 1.3(c)).

- The proposed new works which exceed the gross floor area control and FSR standard of 0.4:1 are considered to promote good design and enhance the residential amenity of the buildings' occupants and the immediate area, which is consistent with the Objective 1.3 (g) of the EPA Act.

- The alterations demonstrate good design and improves the amenity of the built environment by creating improved and functional living area and also maintains the amenity of the existing dwelling house and neighbours in terms of views by maintaining the existing overall ridge height, together with providing for internal lift access to improve the ability for the occupants to access the levels within the dwelling. (cl 1.3(g)).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the provision of a building that provides sufficient floor area for future occupants and manages the bulk and scale and maintains views over and past the building from the public and private domain.

These are not simply benefits of the development as a whole, but are benefits emanating from the breach of the floor space ratio control.

It is noted that in *Initial Action,* the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

7.3 Is the proposed development in the public interest because it is consistent with the objectives of clause 4.4 and the objectives of the C3 Environmental Management zone?

(a) Section 4.2 of this written request suggests the 1st test in Wehbe is made good by the development.

(b) Each of the objectives of the R2 Low Density Residential Zone and the reasons why the proposed development is consistent with each objective is set out below.

I have had regard for the principles established by Preston CJ in *Nessdee Pty Limited v Orange City Council [2017] NSWLEC 158* where it was found at paragraph 18 that the first objective of the zone established the range of principal values to be considered in the zone.

Preston CJ found also that "*The second objective is declaratory: the limited range of development that is permitted without or with consent in the Land Use Table is taken to be development that does not have an adverse effect on the values, including the aesthetic values, of the area. That is to say, the limited range of development specified is not inherently incompatible with the objectives of the zone".*

In response to *Nessdee,* I have provided the following review of the zone objectives:

It is considered that notwithstanding the compatible form of the proposed additions which see a minor reduction in the total gross floor area, the proposed alterations and additions to the existing dwelling will be consistent with the individual Objectives of the R2 Low Density Residential Zone for the following reasons:

- ***To provide for the housing needs of the community within a low-density residential environment.***

As found in *Nessdee*, this objective is considered to establish the principal values to be considered in the zone.

Dwelling houses are a permissible form within the Land Use table and is considered to be specified development that is not inherently incompatible with the objectives of the zone.

The R2 Low Density Residential Zone contemplates low density residential uses on the land. The housing needs of the community are appropriately provided for in this instance through the proposed alterations and additions to an existing dwelling which will provide for an appropriate level of amenity and in a form, and respect the predominant bulk and scale of the surrounding dwellings.

The development maintains the existing overall building height of 9.3m.

The proposal will improve the amenity for the buildings' owners by providing new living spaces in a form which complements the architectural style and scale of the surrounding development.

The compatible form and scale of the alterations and additions will meet the housing needs of the community within a single dwelling house which is a permissible use in this low-density residential zone.

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

The subject proposal relates to a residential dwelling and this provision is therefore not relevant.

7.4 Has council obtained the concurrence of the Director-General?

The Council can assume the concurrence of the Director-General with regards to this clause 4.6 variation.

7.5 Has the Council considered the matters in clause 4.6(5) of MLEP?

(a) The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed additions to the dwelling house for the particular site and this design is not readily transferrable to any other site in the immediate locality, wider region of the State and the scale or nature of the proposed development does not trigger requirements for a higher level of assessment.

(b) As the proposed development is in the public interest because it complies with the objectives of the development standard and the objectives of the zone there is no significant public benefit in maintaining the development standard.

(c) there are no other matters required to be taken into account by the secretary before granting concurrence.

8.0 Conclusion

This development proposes a departure from the maximum floor space ratio control for this locality of 0.4:1, with the proposed additions to the existing dwelling to provide a maximum floor space ratio of 0.539:1, which is a minor reduction from the existing non-compliance of 0.544:1.

As discussed, it is noted that the Council's Manly Development Control Plan 2013 Amendment 14 and in particular Clause 4.1.3.1 provides exceptions to the FSR control where the lot is undersized and is less than minimum required lot size under Council's LEP Lot Size Map and the development satisfied the LEP Objectives and the DCP provisions.

In this instance the required minimum lot size in the locality is 750m^2 and when calculated against this required lot size, the development prescribes a FSR of 0.466:1, which presents a substantially lesser variation to the FSR control. Compliance with this control is constrained by the extent of the existing dwelling.

Accordingly, we are of the view that the proposal is consistent with the objectives of the development standard.

In summary, the proposal satisfies all of the requirements of clause 4.6 of MLEP 2013 and the exception to the development standard is reasonable and appropriate in the circumstances of the case.

Vaughan Milligan

VAUGHAN MILLIGAN
Town Planner

ITEM 3.3	**DA2022/1014 - 18 URUNGA STREET NORTH BALGOWLAH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING A SWIMMING POOL**
REPORTING MANAGER	**Adam Richardson**
TRIM FILE REF	**2022/652984**
ATTACHMENTS	**1 ⇩Assessment Report** **2 ⇩Site Plan and Elevations** **3 ⇩Clause 4.6**

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

A. That Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of WLEP 2011 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 DA2022/1014 for alterations and additions to a dwelling house including a swimming pool on land at Lot 11 DP 23447, 18 Urunga Street NORTH BALGOWLAH, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1014

Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 11 DP 23447, 18 Urunga Street NORTH BALGOWLAH NSW 2093
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	Warringah LEP2011 - Land zoned 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:	Black 102 Pty Ltd
Applicant:	Black Label Developments Pty Ltd

Application Lodged:	20/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	28/07/2022 to 11/08/2022
Advertised:	Not Advertised
Submissions Received:	6
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 614,200.00

EXECUTIVE SUMMARY

This matter is referred to the Development Determination Panel (DDP) for the consideration of a Development Application, which seeks approval for alterations and additions to an existing dwelling house, including the construction of a swimming pool, at 18 Urunga Street, North Balgowlah.

The application is referred to the DDP as the proposal has attracted six (6) submissions.

Concerns raised in the objections predominantly relate to;

- Privacy,

- View loss,
- Bulk and scale,
- Overshadowing,
- Landscape impacts,
- Built-form non-compliances,
- Location of pool,
- Fire place,
- Geotechnical impacts.

Critical assessment issues included consideration of significant numerical non-compliance with the wall height, side boundary envelope and front boundary setback control requirements.

The non-compliance with the built form occur principally due to the steep slope of the site, particularly the cliffline located within the middle portion of the site that ranges in height from 3.8 metres to 4.1 metres. This unique topograpical feature causes an abrupt change in topography.

This report concludes with a recommendation that the DDP grant approval to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

Development application DA2022/1014 seeks development consent for alterations and additions to an existing dwelling house. The proposal comprises;

Ground floor:

- Demolition of the carport and construction of double garage.
- Construction of rear addition.
- Internal alterations.
- Provision of lift access to the upper floors.
- Construction of new entry and porch.

First floor:

- Extension of the first floor to the north and west.
- Internal alterations.
- Provision of lift access to the upper and lower floors.

Second floor:

- Construction of new level comprising the primary internal living areas and lift access to the lower levels.

External works:

- Construction of swimming pool.
- Associated landscaping works.
- Alterations to existing driveway to serve new garage.

Amended plans dated 29 September 2022:

Following a preliminary review of the application, Council raised concern with the proposed height breach, LOS non-compliance, classification of works and landscaping impacts. Amended plans and a tree root investigation was received on 29 September 2022. The amendments included:

- Reduction of rear extension below the 8.5 metre height standard.
- Internal alterations to the first floor.
- Changes to windows as indicated on the elevations, including additional screening and removal two first floor eastern windows.
- The addition of a deep soil courtyard garden.

In accordance with the provisions of the Northern Beaches Community Participation Plan, as the amendments are considered to be minor and will result in a lesser environmental impact on nearby properties and the public domain, re-notification of the application was not required. The amended plans form basis of the assessment of this proposal.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 11 DP 23447 , 18 Urunga Street NORTH BALGOWLAH NSW 2093
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Urunga Street. The site is regular in shape with a frontage of 16.2m along Urunga Street and a depth of 39.3m. The site has a surveyed area of 634.1m². The site is located within the R2 Low Density Residential zone and accommodates a two storey dwelling house with attached parking. The middle portion of the site contains a steep rock face with the overall fall being approximately 10.0m to the southern boundary. The site contains planters and turfed areas in the frontage with larger canopy trees and natural rock outcrops contained in the rear. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by low density living.

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:

BC2014/0173
Building information certificate for a alterations and additions to a dwelling approved on 18 March 2015.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended plans. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.

Section 4.15 Matters for Consideration	Comments
	(iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/07/2022 to 11/08/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 6 submission/s from:

Name:	Address:
Catherine Anne Macgregor	18 Urunga Street NORTH BALGOWLAH NSW 2093
Simon Reid Mrs Angela Reid	16 Urunga Street NORTH BALGOWLAH NSW 2093
Mr Andrew Pearson John Smailes Mrs Karen Exton Louise Smailes	20 Urunga Street NORTH BALGOWLAH NSW 2093
Mr Ronald Roger Krueger Victoria Jane Kerr	22 Urunga Street NORTH BALGOWLAH NSW 2093
Mr Luke Jonathan Harper	24 Urunga Street NORTH BALGOWLAH NSW 2093
Janina Harper	24 Urunga Street NORTH BALGOWLAH NSW 2093

Notification of the proposal resulted in six (6) individual submissions. One (1) submission regarding the owner's details was resolved during the assessment process.

The following issues were raised in the submissions:

- **Privacy**,
- **View loss**,
- **Bulk and scale**,
- **Overshadowing**,
- **Landscape impacts**,
- **Built-form non-compliances**,
- **Location of pool**,
- **Fire place,**
- **Geotechnical impacts.**

The above issues are addressed as follows:

- **Privacy**

  The submissions raised concerns that the proposal will give rise to adverse privacy impacts to neighbouring sites.

  Comment:

  The above-mentioned privacy impacts have been discussed in further detail in part 'D8 Privacy' of this report. In summary, these matters have been satisfactorily addressed and mitigated through the mended plans, as the proposal includes suitable design measures to offset any unreasonable privacy impact to the adjoining sites.

  This matter does not warrant the refusal of the application.

- **View loss**

  The submissions raised concerns that the proposal will result in unreasonable view loss for No. 22 Urunga Street.

  Comment:

  This matter has been discussed with further detail in part 'D7 Views' of this report. In short, it was found that the extent of view loss is considered to be minor and acceptable. Therefore, the proposal is deemed reasonable within its context.

  This matter does not warrant the refusal of the application.

- **Bulk and scale**

  The submissions raised concerns that the proposed building bulk represents an over-development of the site.

  Comment:

  The proposal achieves general compliance with the critical controls used to regulate building bulk being building height and side boundary envelope. It is acknowledged, that the rear extension encroaches into the building envelope on both side boundaries, however, this is largely as a consequence of the cliffline located within the middle portion of the site that ranges in height from 3.8 metres to 4.1 metres. Notwithstanding, the proposal has been sufficiently

articulated to reduce building bulk and it will not result in any adverse amenity impacts to adjoining land.

This matter does not warrant the refusal of this application.

- **Overshadowing**

The submissions raised concerns that the proposal will not allow equitable access to sunlight to neighbouring sites. Specifically, concern is raised that the works will significantly overshadow No. 16 Urunga Street's private open space and windows, while limiting the potential for No. 20 Urunga Street to gather solar energy.

Comment:

The proposal complies with the requirements of Part D6 Access to Sunlight of WDCP and has been designed so that there are no unreasonable impacts on the adjoining or nearby properties.

This matter does not warrant the refusal of this application.

- **Landscape impacts**

The submissions raised concerns with the proposed tree removal and maintenance of existing trees.

Comment:

The proposal is supported by an Arborist Report prepared by Blues Bros Arboriculture (dated 24 May 2022) and a supplementary Root Mapping Statement (dated 1 August 2022). This supporting information has been reviewed by Council's Landscape division who is both satisfied with the information and impacts of the proposed development, subject to recommended conditions relating to tree replacement and protection.

This matter has been resolved via the recommended conditions of consent.

- **Built-form non-compliances**

The submissions raised concerns that the proposal results in numerous built form non-compliances.

Comment:

It is acknowledged that the proposal includes built form non-compliances relating to the wall height, building envelope and front setback. As such, the merits of these non-compliances have been assessed against the objectives of the relevant controls. In summary, the works are found to be consistent with the objectives of these controls, as the proposal has responded appropriately to the site constraints, while remaining compatible with the existing built form and not giving rise to any adverse amenity impacts.

This matter does not warrant the refusal of this application.

- **Location of pool**

The submissions raised concerns that the proposed pool will give rise to unreasonable amenity and environmental impacts.

Comment:

The proposed pool has been adequately positioned and appropriately set back from adjoining buildings to minimise the impacts associated with its use. In addition, the proposal's location is suitable having regard to impacts upon vegetation and environmental features, as discussed by Council's Landscape Officer in the 'Referrals' section

This matter does not warrant the refusal of this application.

- **Fire place**

The submissions raised concerns that the proposed fire place includes limited information.

Comment:

Council has confirmed with the applicant that the proposal does not include a solid fuel fireplace, as it will be powered by gas and will not result in unreasonable air pollution.

This matter does not warrant the refusal of this application.

- **Geotechnical impacts**

The submissions raised concerns with the geotechnical hazards that affect the subject site and proposal.

Comment:

The application has been supported by a detailed geotechnical assessment which provides information on the site's subsurface condition and demonstrates that the proposed excavation is acceptable, subject to compliance with the recommendations made in the report. As such, it forms the basis for recommended conditions of consent.

This matter does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The proposal is supported with regard to landscape issues. Additional Information Comment 05/09/22: The Root Mapping Statement by Blues Bros Arboriculture (1/08/22) is noted. The Arborist has completed a tree root investigation which has concluded that "*based on findings of the root mapping excavation, there is no Arboricultural reason to prevent the development from proceeding*", therefore should the development application be approved, tree 1 shall be retained and protected in accordance with the Arborist's recommendations, and the imposed tree protection conditions. It is noted the pool design originally assessed in the Arboricultural Impact Assessment had been amended on the Arborist's advice. The suspended nature of the rear alfresco area will reduce impact to tree 1, as outlined in the Arboricultural Impact Assessment, and a Project Arborist shall be engaged to supervise all

Internal Referral Body	Comments
	work within the tree protection zone of tree 1. Furthermore, any piers or footings required to be constructed in the tree protection zone of tree 1 shall be designed in collaboration with the Arborist, with consideration given to the significant root identified during the tree root investigation. Tree 2 remains proposed to be removed and to offset any canopy loss one locally native replacement tree shall be installed within the property boundary, subject to the imposed conditions. Original Comment: Landscape Referral requested a non-destructive tree root investigation to identify the impact the proposed pool and alfresco area would have on the existing trees. A replacement tree would be conditioned should tree 2 be removed.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A457168_05 dated 11 October 2022).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	8.36m	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

(a) 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, and
(b) to allow earthworks of a minor nature without requiring separate development consent.

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

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.

(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.

(f) the likelihood of disturbing relics

Comment:

The site is not mapped as being a potential location of Aboriginal or other relics.

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

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in 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.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment:

The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, it is considered that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment:

The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. Conditions have been recommended to ensure the stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy. Therefore, it is considered that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. As above, suitable conditions have been recommended to manage stormwater drainage disposal. Therefore, it is considered that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.1m	12.5%	**No**
B3 Side Boundary Envelope	4m - East	Outside envelope	15.0%	**No**
	4m - West	Outside envelope	72.5%	**No**
B5 Side Boundary Setbacks	0.9m - East	1.0m - 4.0m	N/A	Yes
	0.9m - West	0.9m - 3.5m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	6.0m (Entry porch)	7.7%	**No**
B9 Rear Boundary Setbacks	6m	8.7m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	40.1% (254sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposal includes a maximum wall height of 8.1 metres.

The control prescribes a maximum wall height in a continuous plane of 7.2 metres measured from ground level.

Merit consideration:

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

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

  Comment:

  The proposed wall height breach is as a consequence of the cliffline located within the middle portion of the site that ranges in height from 3.8 metres to 4.1 metres. Notwithstanding, the breach is located within the rear portion of the site and is not readily visible from the public domain. In addition, the proposal has been amended to reduce the height of the rear extension below the 8.5 metre height limit. Furthermore, suitable articulation is achieved between the existing dwelling and new rear extension, elements which push and pull the building mass so as to provide visual relief to the elevation. In this regard, whilst the non-compliance would be visible

from the adjoining properties, the scale of the wall is of such proportions that it would not create an unacceptable visual impact to those properties. Overall, the proposal remains consistent with the scale of development anticipated for the site and the development will not have an unreasonable visual impact when viewed from the streetscape and surrounding properties.

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

  Comment:

  The proposed addition is located beneath the existing tree canopy level within the locality.

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

  Comment:

  The matter of view loss is discussed elsewhere in this report. In summary, the non-compliant wall height does not create an unreasonable view sharing scenario.

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

  Comment:

  The proposed rear extension achieves acceptable building separation with compliant boundary setbacks. In addition, the portions of the development that exceed the maximum wall height do not contain any intrusive windows or do they create unacceptable privacy or overshadowing impacts. Further, the proposal's flat roof design minimises overshadowing impacts to adjacent living rooms and private open space on June 21. Overall, the proposed non-compliance is largely as consequence of the slope of the land, notwithstanding, the proposal has been suitably designed to minimises the impact of development on adjoining and nearby properties.

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

  Comment:

  The proposed rear extension's suspended design makes appropriate level changes where required and the roof form sensitively relates to the abrupt slope of the land. Furthermore, the proposal does not involve significant earthworks.

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

  Comment:

  Sufficient scope has been provided to enable the innovative roof form and to remain under the 8.5m building height plane.

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

B3 Side Boundary Envelope

Description of non-compliance

WDCP requires buildings to be sited within a building envelope determined by projecting planes at 45 degrees from 4.0 metres above ground level (existing) at the side boundaries. The proposed rear extension encroaches the prescribed envelope on both boundaries.

The proposal has one encroachment on the eastern elevation up to 0.6 metres for a length of 0.2 metres. This represents a variation of 15%.

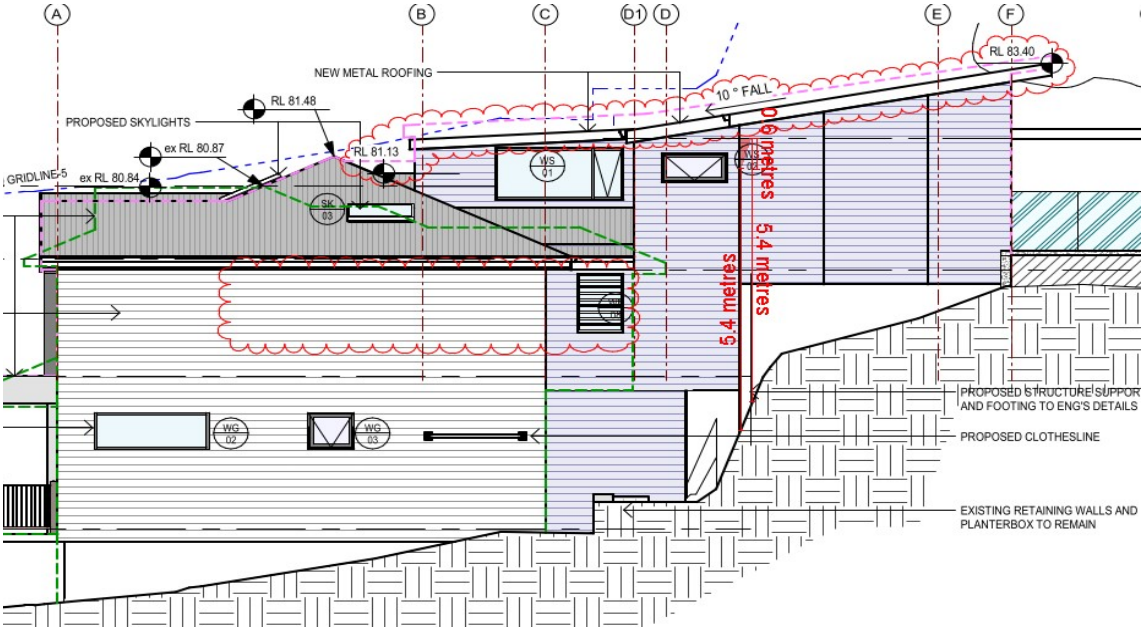


Figure 1. *Extent of eastern side boundary envelope non-compliance.*

The proposal has two encroachments on the western elevation up to 2.9 metres for a combined length of 1.9 metres. This represents a variation of 72.5%.

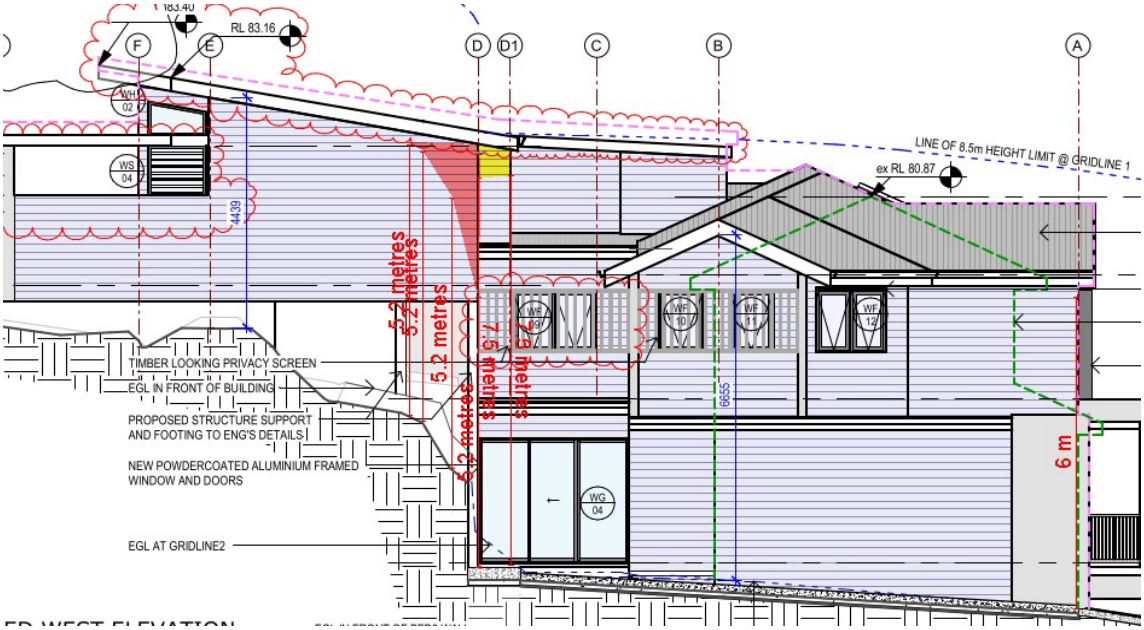


Figure 2. *Extent of western side boundary envelope non-compliance.*

Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

  Comment:

  The proposed development as viewed from the street will have a two storey appearance with an articulated façade and variety of finishes to break up the bulk of the building. The proposed rear extension will not be readily visible from the street as it complies with the 8.5 metre building height development standard and progressively steps in from the existing dwelling. In addition, the built form is appropriately articulated using recessed and modulated walls, fenestration, eaves and changes in materials to break up built form. Furthermore, the amended plans have been provided to ensure the retention and establishment of sufficient deep soil planting, particularly around the built form. Overall, the building, by virtue of its height and scale, remains consistent with the desired character of the locality.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

  Comment:

  The proposed extension provides generous building separation, while containing no windows that sit outside of the prescribed envelope. It is acknowledged that the proposal includes two new windows on eastern elevation, however, these have been sufficiently treated and are associated to the stairwell and ensuite. As such, a reasonable level of privacy will be maintained between buildings.

Furthermore, the submitted shadow diagrams demonstrates compliance with WDCP's access to sunlight control, with at least 50% of the adjoining properties private open space areas receiving a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

Overall, it is considered that the proposal ensures adequate light, solar access and privacy by providing reasonable spatial separation between buildings.

- *To ensure that development responds to the topography of the site.*

  Comment:

  The building makes appropriate level changes where required and includes a roof line that sensitively responds to the slope of the land. In addition, the proposal has made clear attempts within it's design to limit the extent of excavation required for the rear extension.

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

B7 Front Boundary Setbacks

Description of non-compliance

The proposed porch encroaches the front setback with a minimum setback of 6.0 metres. WDCP requires a minimum setback of 6.5 metres.

Merit consideration:

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

- *To create a sense of openness.*

  Comment:

  The proposed porch is an ancillary, subservient structure within the the existing front setback / front building line. The proposed roof structure is lightweight and provides a reasonable level of articulation to the facade, while preserving an acceptable sense of openness. Overall, the front setback area will remain primarily landscaped and generally free of any above ground structures.

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

  Comment:

  The proposal will replace the existing front porch and will maintain ample landscaped areas within the front setback, which is consistent with the Urunga Street streetscape. In this regard, the proposed development will maintain the visual continuity and pattern of buildings and landscape elements.

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

  Comment:

  The proposal is effectively integrated within the land and reasonably screened by vegetation. Therefore, it is considered that the proposal will protect and enhance the visual quality of the streetscape.

- *To achieve reasonable view sharing.*

  Comment:

  The proposal will not result in the loss of views.

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

D7 Views

Concerns were raised by the neighbours to the west at number 22 Urunga Street, regarding view loss.

Merit consideration

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

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

  Comment:

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

  1. Nature of the views affected

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

  Comment to Principle 1:

  The views affected are district views of trees and houses, which are generally obscured by existing canopy trees and existing residential development in the foreground. They are not considered highly valuable views in the context of these principles. In effect, the views are best categorised as an aspect over adjoining properties.



Figure 3. *22 Urunga Street's first floor bedroom window.*

2. What part of the affected property are the views obtained

"*The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic*".

Comment to Principle 2:

The views impacted by the proposal are directly across the side boundaries, from primarily standing positions. The views are from the main bedroom.

3. Extent of impact

"*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating*".

Comment to Principle 3:

The views will be considerably reduced with the construction of the rear extension, with the most significant impacts occurring to the main bedroom. Given the value of the views and that they are directly across the side boundaries, the view loss is considered minor in the context of these principles.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The part of the development that causes the view loss is the proposed rear extension. This part of the building generally complies with the relevant built form controls, including overall height, side and rear setbacks. There are non-compliant elements, including side boundary envelope and wall height, however, these are largely consequence of the abrupt change in topography of land and requiring full compliance would unreasonably constrain the built form with little to no benefit under the context of these principles, given the low value of the view to be protected. In this regard, it is not considered reasonable to require redesign of the development, considering the nature of the view loss as discussed above. The proposal is considered to maintain a reasonable sharing of views, taking into account the considerations discussed above.

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

  Comment:

  Given that the proposal will maintain a reasonable sharing of views, it is considered sufficiently innovative.

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

  Comment:

  The proposal involves the removal of one tree to facilitate the works. The application has been reviewed by Council's Landscape division who are supportive subject to adequate tree replacement.

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

D8 Privacy

Concern has been raised that the proposal will result unreasonable privacy impacts for neighbouring properties. As the perceived impacts are a result of different elements of the proposal, the individual concerns from the surrounding properties are listed below.

16 Urunga Street:
Concern is raised with the proposed east facing windows, as it is considered that limited measures have been implemented to preserve privacy between the buildings.

20 Urunga Street:
Concern is raised that bedroom 3 will have direct and close views into the adjacent bedroom window. In addition, concern is raised with the rear alfresco area given it's elevated design and proximity to the boundary. The submission has also requested for numerous windows to be made opaque (WS04, WF09-12).

61 Woolgoolga Street:
Concern is raised that the proposed rear extension and pool area will result in unreasonable privacy impacts with regards to unobstructed views into the rear yard and dwelling.

Merit consideration

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

  Comment:

  16 Urunga Street: On the ground floor two guest room windows (WG02-03) are proposed on the eastern elevation with minimum sill heights of 1.7 metres above the finished floor level (FFL). The amended first floor includes one new ensuite window (WF08), which is a shutter design and set back 4.0 metres from the eastern boundary. The proposed rear extension includes one stairwell window (WS01) set back 5.7 metres from the eastern boundary and a powder room window (WS02) with a minimum sill height of 1.9 metres above the FFL. Overall, the proposed eastern windows are all associated with low-impact rooms as established in *Meriton v Sydney City Council [2004] NSWLEC 313* where overlooking from a living area is more objectionable than overlooking from the above-mentioned rooms where people tend to spend less waking time. Notwithstanding, the proposed east facing windows include suitable screening devices, such as high sill levels, adequate building separation and shutters to preserve privacy between the subject site and No.16 Urunga Street.

  20 Urunga Street: The proposal has been amended to include an external privacy screen to the bedroom 3 window (WF09) and a 1.8 metre privacy wall to the alfresco area. It is considered that these privacy measures will prevent casual opportunities of overlooking into the concerned site. In addition, it is noted that the submission has requested that the first floor bathroom and alfresco windows are made opaque. The proposed alfresco window (WS04) includes a minimum sill height of 1.9 metres above the FFL and is considered suitably treated, while the

first floor bathroom window (WF12) is proposed to include opaque glazing as per the submitted window schedule. Overall, it is considered that the amended proposal has included sufficient privacy measures along the western elevation to preserve an acceptable level of privacy between subject site and No.20 Urunga Street.

61 Woolgoolga Street: The proposed extension is single storey and comprises an open plan kitchen, living and dining area, which is set back 14.1 metres from the rear boundary. In addition, the proposed swimming pool is in-ground and set back 8.6 metres from the rear boundary. Furthermore, the adjoining dwelling at No. 61 Woolgoolga Street is located up-slope and generously set back from the rear boundary. Overall, adequate physical separation has been maintained between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties.

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

  Comment:

  As discussed above, all efforts have been made to ensure a reasonable level of privacy (both visual and acoustic) is provided to the occupants of the subject site and those of adjoining properties. Overall, the proposal will provide a design that is considered acceptable in the context of the development and the surrounding locality.

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

  Comment:

  The proposed development will result in personal and property security for the occupants of the subject site, and those of adjoining properties.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of $6,142 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $614,200.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

The issues raised in the submissions are considered to be addressed by way of the amended plans and conditions of consent.

Subject to the recommended conditions of consent, it is considered that the proposal will result in a development that displays reasonable size, scale and density which is compatible with the existing site and surrounding development and will 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 DPP 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.
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 DA2022/1014 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 11 DP 23447, 18 Urunga Street, NORTH BALGOWLAH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
A01.01 - Rev4: Ground floor demolition plan	September 2022	y.in Architects
A01.02 - Rev4: First floor demolition plan	September 2022	y.in Architects
A02.00 - Rev4: Site plan	September 2022	y.in Architects
A02.10 - Rev4: Proposed ground floor plan	September 2022	y.in Architects
A02.11 - Rev4: Proposed first floor plan	September 2022	y.in Architects
A02.12 - Rev4: Proposed second floor plan	September 2022	y.in Architects
A02.13 - Rev4: Swimming pool details	September 2022	y.in Architects
A02.14 - Rev4: Proposed roof plan	September 2022	y.in Architects
A03.01 - Rev4: East and south elevations	September 2022	y.in Architects
A03.02 - Rev4: West and north elevations	September 2022	y.in Architects
A04.01 - Rev4: Sections	September 2022	y.in Architects
A05.01 - Rev4: External finishes schedule	September 2022	y.in Architects
A07.01 - Rev4: Window schedule	September 2022	y.in Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Arboricultural Impact Assessment Report	24 May 2022	Blues Brothers Arboriculture
Arborist Report Addendum	01 August 2022	Blues Brothers Arboriculture
BASIX Certificate No. A457168_05	11 October 2022	y.in Architecture
Geotechnical Report	02 June 2022	JK Geotechnics

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	18 April 2022	Joel Black

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	03 August 2022

(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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of $6,142.00 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 (as amended).

The monetary contribution is based on a development cost of $614,200.00.

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

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

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

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

6. **Security Bond**

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

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

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

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

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

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

7. **Pier Footing Design Near Trees to be Retained**
Pier or footing structural layout plans for the external works including the pool and alfresco area shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer. The Arborist shall review, comment, recommend design revision as required and approve the pier or footing layout, to ensure the locations of piers or footings will be manageable in terms of tree protection measures.

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

Reason: Tree protection.

8. **Stormwater Drainage Disposal**
The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council’s Water Management for Development Policy.

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

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction

Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

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

Reason: To ensure satisfactory management of stormwater.

9. **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.

10. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **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, and the recommendations of the Arboricultural Impact Assessment.

a) The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:
i) tree protection measures under section 6 Tree Protection Plan,
ii) works under section 5.3 Construction Recommendations,
iii) additionally, the Project Arborist shall be in attendance and supervise any landscaping works within the TPZ of all existing trees to be retained.

b) Furthermore, the Project Arborist shall acknowledge the recommendations in the Root Mapping Statement, and in particular:
i) "*the significant root pertaining to T1 (Angophora) shall be protected throughout construction. The root shall be protected during the pouring of concrete by way of PVC pipe, cut longitudinally and placed in a way to allow the footing to bridge over the roo*t",
ii) "*piers or footings required for the anchoring of the slab to the ground shall be manually dug*",
iii) "*levels of the existing rock with respect to the finished floor levels of the dwelling should provide ample scope to utilise isolated piers and suspended sections. Piers shall remain flexible*

in location to avoid significant roots, where discovered".

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

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

The 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.

e) 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.

12. **Tree Removal Within the Property**
This consent approves the removal of the following tree within the property (as recommended and identified by tree number in the Arboricultural Impact Assessment):
i) tree 2 - *Glochidion ferdinandi*,
ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised building works.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **Protection of Rock and Sites of Significance**
All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

14. **Tree and Vegetation Protection**
a) Existing trees and vegetation shall be retained and protected, including:
i) all trees and vegetation within the site, 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) 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) 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, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

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

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

Reason: Tree and vegetation protection.

15. **Condition of Trees**
During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from the Project Arborist during the works. In this regard all protected trees shall not exhibit:
i) a general decline in health and vigour,
ii) damaged, crushed or dying roots due to poor pruning techniques,
iii) more than 10% loss or dieback of roots, branches and foliage,
iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
v) yellowing of foliage or a thinning of the canopy untypical of its species,

vi) an increase in the amount of deadwood not associated with normal growth,
vii) an increase in kino or gum exudation,
viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Project Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

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

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

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

17. **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.

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

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

19. **Required Tree Planting**
One (1) locally native tree shall be planted within the property boundary to achieve at least 6 metres height at maturity, and shall be selected from Northern Beaches Council's Native Plant Species Guide - Manly Ward, or Council's Tree Guide, and in accordance with the following:
i) tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
ii) planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until

established, and shall be located at least 3.0 metres from buildings and other trees, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
iii) tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

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

Reason: To maintain environmental amenity.

20. **Condition of Retained Vegetation - Project Arborist**
Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:
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 protection.

21. **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.

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

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

23. **Swimming Pool Requirements**
The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life.

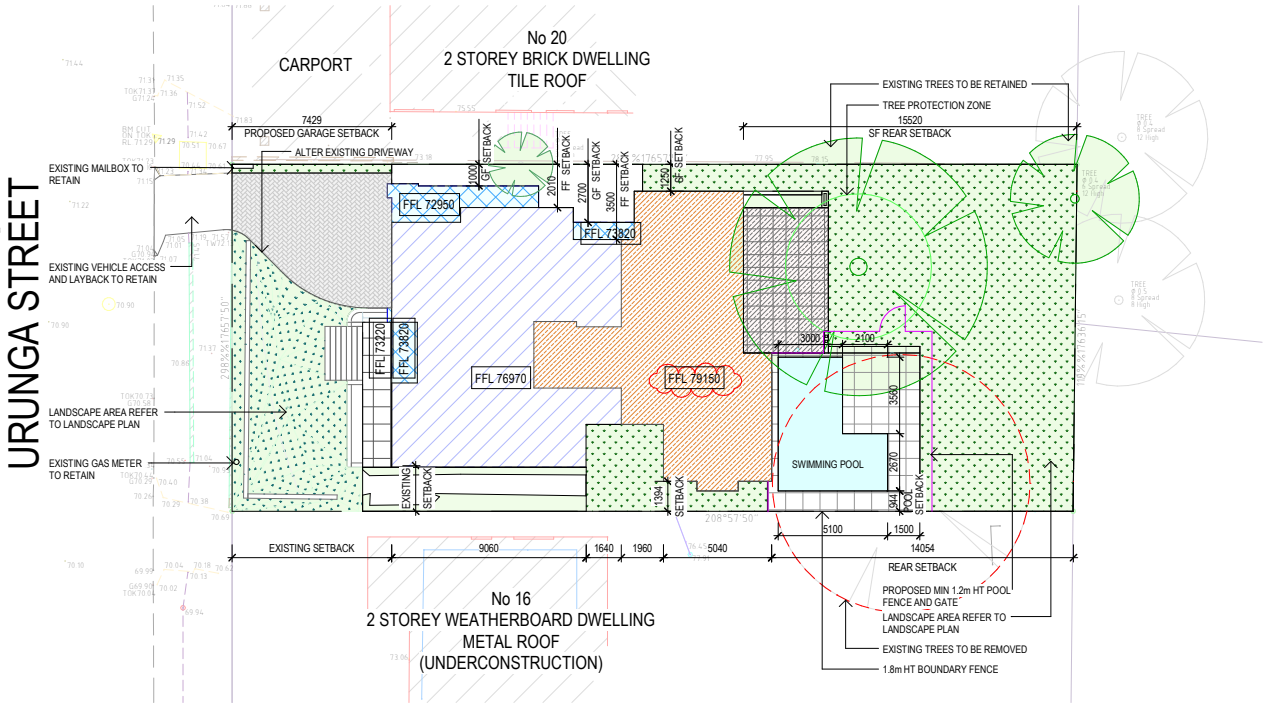
ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

24. **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 me maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

25. **Swimming Pool/Spa Motor Noise**
The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.



LEGEND

- OUTLINE OF PROPOSED SECOND FLOOR
- OUTLINE OF PROPOSED FIRST FLOOR
- OUTLINE OF PROPOSED GROUND FLOOR
- PROPOSED PRIVATE OPEN SPACE
- PROPOSED OUTDOOR AREA
- PROPOSED PATH
- PROPOSED LANDSCAPE AREA
- PROPOSED MIN 1.2M HT POOL FENCE AND GATE
- TREE PROTECTION ZONE
- EXISTING TREE TO RETAIN
- EXISTING TREE TO BE REMOVED

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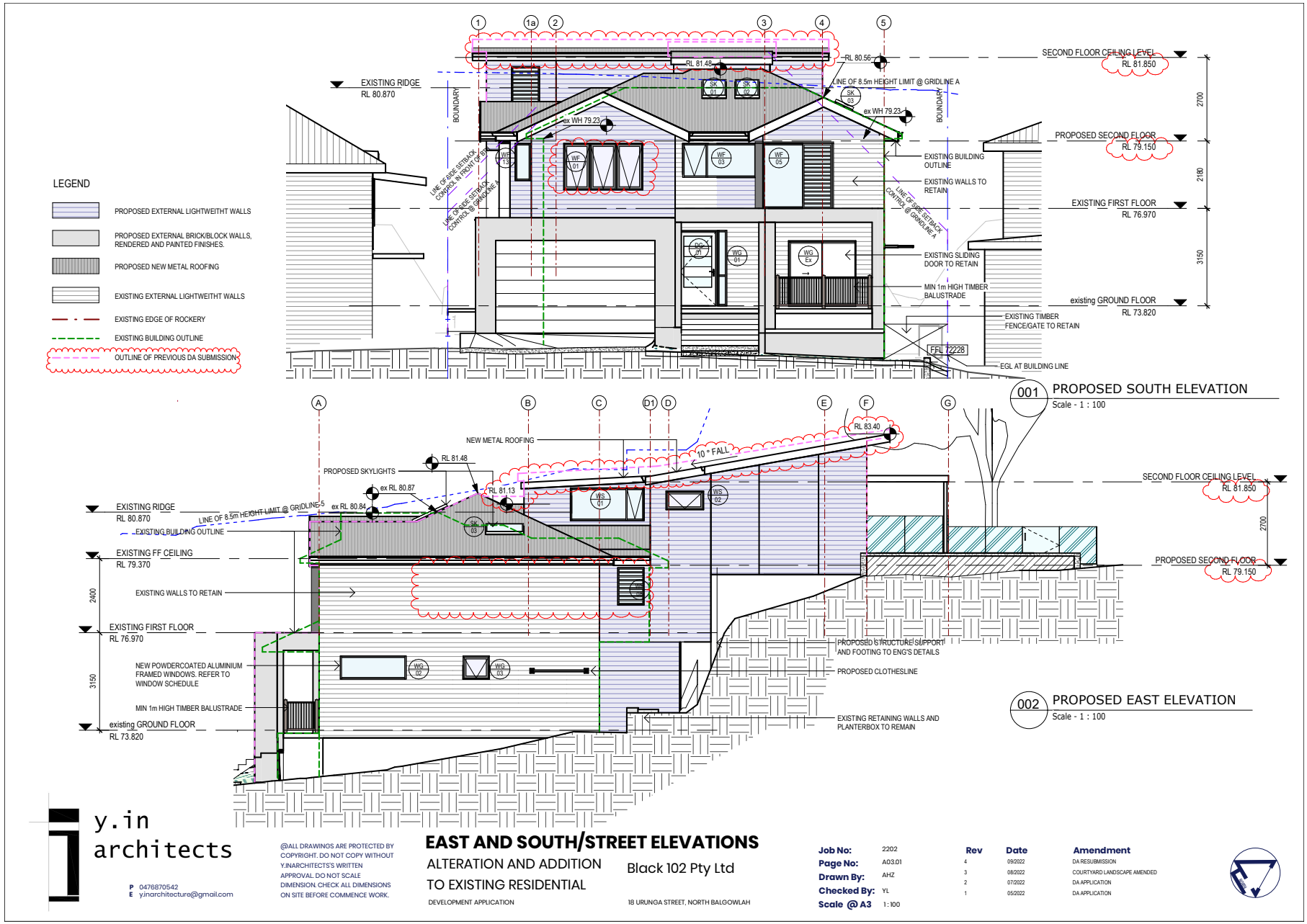
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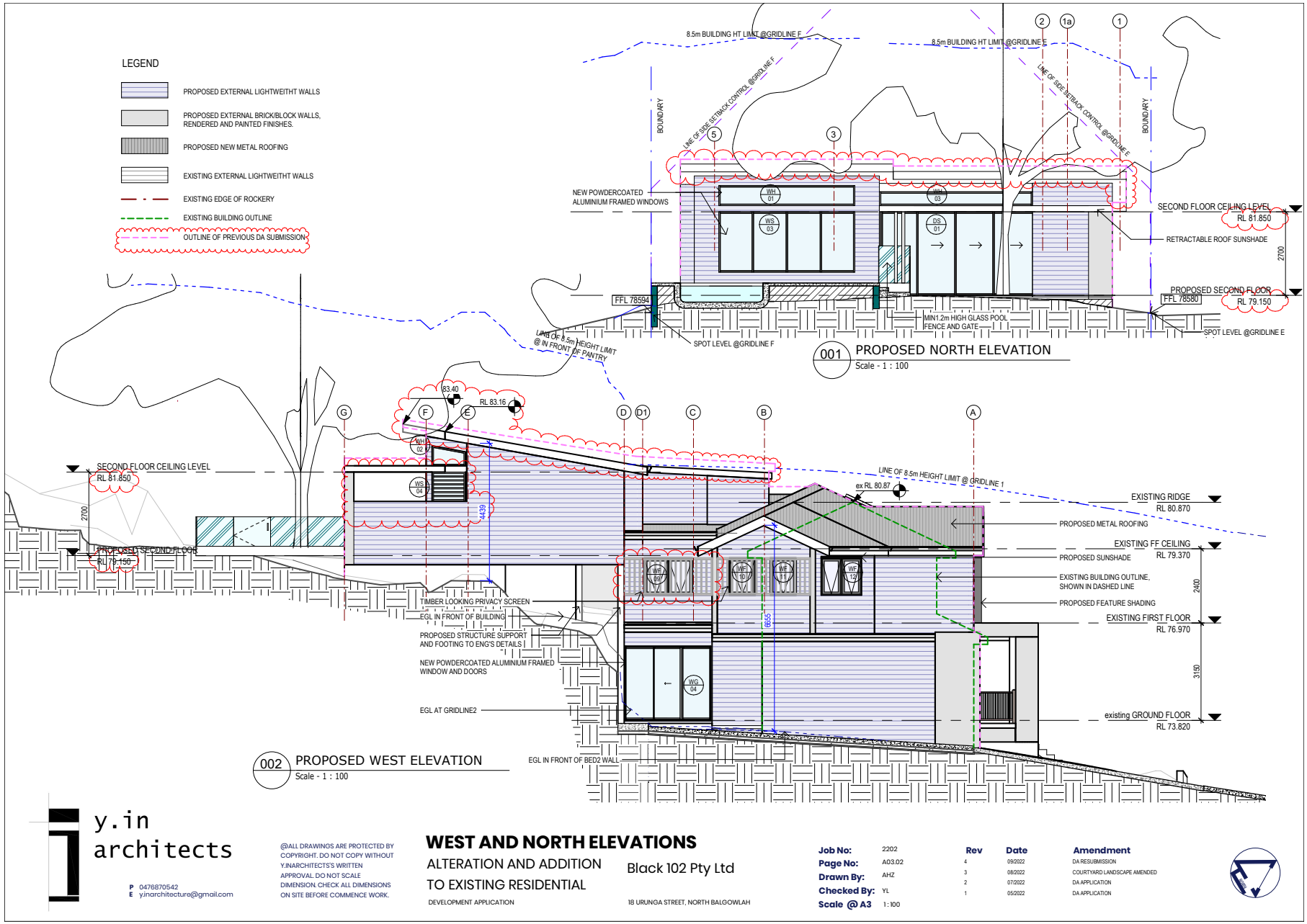
PROPOSED SITE PLAN
ALTERATION AND ADDITION
TO EXISTING RESIDENTIAL
DEVELOPMENT APPLICATION

Black 102 Pty Ltd
18 URUNGA STREET, NORTH BALGOWLAH

Job No:	2202
Page No:	A02.00
Drawn By:	AHZ
Checked By:	YL
Scale @ A3	1:200

Rev	Date	Amendment
4	09/2022	DA RESUBMISSION
3	08/2022	COURTYARD LANDSCAPE AMENDED
2	07/2022	DA APPLICATION
1	05/2022	DA APPLICATION


LEGEND
PROPOSED EXTERNAL LIGHTWEITHT WALLS
PROPOSED EXTERNAL BRICK/BLOCK WALLS, RENDERED AND PAINTED FINISHES.
PROPOSED NEW METAL ROOFING
EXISTING EXTERNAL LIGHTWEITHT WALLS
EXISTING EDGE OF ROCKERY
EXISTING BUILDING OUTLINE
OUTLINE OF PREVIOUS DA SUBMISSION
EXISTING RIDGE RL 80.870
BOUNDARY
RL 81.48
RL 80.56
LINE OF 8.5m HEIGHT LIMIT @ GRIDLINE A
ex WH 79.23
SECOND FLOOR CEILING LEVEL RL 81.850
PROPOSED SECOND FLOOR RL 79.150
EXISTING FIRST FLOOR RL 76.970
existing GROUND FLOOR RL 73.820
2700
2180
3150
EXISTING BUILDING OUTLINE
EXISTING WALLS TO RETAIN
EXISTING SLIDING DOOR TO RETAIN
MIN 1m HIGH TIMBER BALUSTRADE
EXISTING TIMBER FENCE/GATE TO RETAIN
FFL 72228
EGL AT BUILDING LINE
001 PROPOSED SOUTH ELEVATION
Scale - 1 : 100
NEW METAL ROOFING
RL 83.40
10° FALL
PROPOSED SKYLIGHTS
RL 81.48
RL 81.13
ex RL 80.87
ex RL 80.84
LINE OF 8.5m HEIGHT LIMIT @ GRIDLINE 5
EXISTING RIDGE RL 80.870
EXISTING BUILDING OUTLINE
EXISTING FF CEILING RL 79.370
EXISTING WALLS TO RETAIN
EXISTING FIRST FLOOR RL 76.970
NEW POWDERCOATED ALUMINIUM FRAMED WINDOWS. REFER TO WINDOW SCHEDULE
MIN 1m HIGH TIMBER BALUSTRADE
existing GROUND FLOOR RL 73.820
2400
3150
SECOND FLOOR CEILING LEVEL RL 81.850
PROPOSED SECOND FLOOR RL 79.150
2700
PROPOSED STRUCTURE SUPPORT AND FOOTING TO ENG'S DETAILS
PROPOSED CLOTHESLINE
EXISTING RETAINING WALLS AND PLANTERBOX TO REMAIN
002 PROPOSED EAST ELEVATION
Scale - 1 : 100
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EAST AND SOUTH/STREET ELEVATIONS
ALTERATION AND ADDITION TO EXISTING RESIDENTIAL
DEVELOPMENT APPLICATION
Black 102 Pty Ltd
18 URUNGA STREET, NORTH BALGOWLAH
Job No: 2202
Page No: A03.01
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Checked By: YL
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Rev Date Amendment
4 09/2022 DA RESUBMISSION
3 08/2022 COURTYARD LANDSCAPE AMENDED
2 07/2022 DA APPLICATION
1 05/2022 DA APPLICATION



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WEST AND NORTH ELEVATIONS

ALTERATION AND ADDITION TO EXISTING RESIDENTIAL

DEVELOPMENT APPLICATION

Black 102 Pty Ltd

18 URUNGA STREET, NORTH BALGOWLAH

Job No:	2202
Page No:	A03.02
Drawn By:	AHZ
Checked By:	YL
Scale @ A3	1 : 100

Rev	Date	Amendment
4	09/2022	DA RESUBMISSION
3	08/2022	COURTYARD LANDSCAPE AMENDED
2	07/2022	DA APPLICATION
1	05/2022	DA APPLICATION

Milestone

CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARD VARIATION REQUEST – WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011
CLAUSE 4.3 HEIGHT OF BUILDINGS

DEVELOPMENT APPLICATION (DA) FOR PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING SINGLE DWELLING
18 URUNGA STREET, NORTH BALGOWLAH (LOT 11 DP 23447)
JUNE 2022

1. Introduction

The subject site (the site) is located at 18 Urunga Street, North Balgowlah and comprises of one lot legally described as Lot 11 DP 23447. The site has a total site area of 634.10m^2.

This Clause 4.6 Exception to Development Standard Variation Request (Variation Request) accompanies a Development Application (DA) to Warringah Council (Council) for proposed alterations and additions to the existing single dwelling and should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Milestone dated 3 June 2022 and drawings prepared by Y.in Architects, Revision 1, dated May 2022. This Variation Request relates to Clause 4.3 Height of Buildings within the Warringah Local Environmental Plan 2011 (LEP 2011).

This Development Standards Variation Request has been prepared in accordance with the NSW Department's *"Varying development standards: A Guide"* (August 2011) and relevant decisions in the New South Wales Land and Environment Court (Court). The following two recent Court judgements provide a clear outline of the matters required to be addressed under to Clause 4.6, including the structure of such requests:

- *Brigham v Canterbury – Bankstown Council [2018] NSWLEC 1406;* and
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.*

The Court has established principles that are to be addressed in relation to whether a development standard variation should be approved by a consent authority. The relevant tests to be considered are set out in the judgement of Justice Lloyd in *Winten Property Group Ltd v North Sydney Council* [2001] 130 LGERA 79. The relevant tests were revisited by Chief Justice Preston in the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827 (Wehbe). Although the Winton Property Group and Wehbe judgement refer to variations to development standards submitted under *State Environmental Planning Policy 1 – Development Standards* (SEPP 1) the principles and tests contained therein remain applicable to Clause 4.6 of the Standard Instrument as confirmed by the Court in the following judgements:

- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (Four2Five);*
- *Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386;*
- *Moskovich v Waverley Council [2016] NSWLEC 1015; and*
- *SARM Architects Pty Ltd v Wollongong City Council [2015] NSWLEC 1101*

It has been established in case law that the quantum of the numerical variation does not form part of the tests required to be conducted under Clause 4.6. For instance, the Court's decisions with regard to *Moskovich V Waverley Council* (65% exceedance of FSR) and *Micaul Holdings Pty Limited v Randwick City Council* (55% exceedance of height and 20% exceedance of FSR) attest to this.

2. Details of Current and Proposed Height of Building

A maximum Height of Buildings development standard of 8.5m applies to the site under Clause 4.3 of LEP 2011.

The maximum building height of the dwelling as existing is 7.7m (to the existing topmost roof ridge RL80.87). The proposed works will have a maximum height of 8.638m from the existing ground level to the roof ridge (RL82.35). Therefore, the proposal results in a minor non-compliance of 0.123m (refer to **Figure 1**).

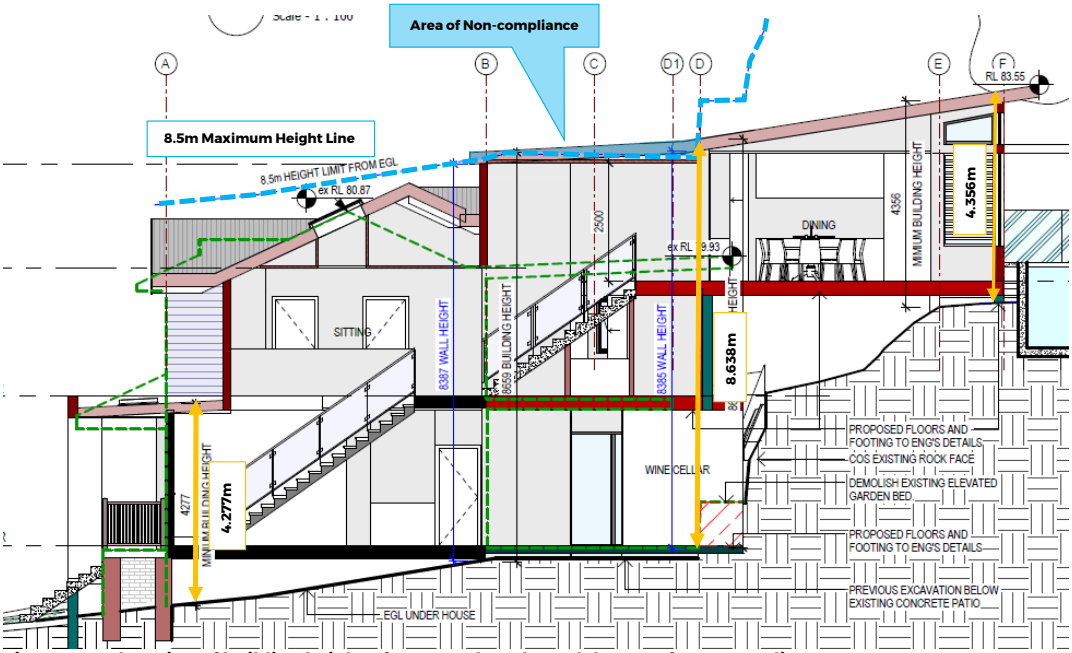


Figure 1: Explanation of building height of proposed works and degree of non-compliance
Source: Y.in Architects, 2022

This proposal results in variation of 1.4% to the development standard relating to the maximum building height required by Clause 4.3 of LEP 2011. In response to the proposed non-compliance, the following Variation Request is provided. We conclude that this Variation is well founded and is worthy of support by the Consent Authority.

3. What are the Objectives of Clause 4.6 and Is the proposal consistent with them?

The objectives of Clause 4.6 of LEP 2011 are:

"(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."

As outlined in the assessment below, the proposed variation is consistent with the objective of Clause 4.6 of LEP 2011. This variation allows flexibility in the application of the building height development standard by allowing a portion of the roof form in the mid-section of the dwelling to allow for a new lift to be incorporated within the internal dwelling layout. This will provide an ease of access across all floor levels for the occupants, most importantly the second floor which provides direct level access to the rear private open space.

4. Is the standard to be varied a Development Standard to which Clause 4.6 applies?

Clause 4.3 is in Part 4 "Principal Development Standards" of LEP 2011. The wording of Clause 4.3 is consistent with previous decisions of the Court in relation to matters which constitute development standards. It is noted that Clause 4.6 does not contain a provision which specifically excludes Clause 4.3 from being able to be varied. On this basis Clause 4.3 is a development standard for which Clause 4.6 applies.

5. Is compliance with the Development Standard unreasonable or unnecessary in the circumstances of this case?

The Court's decision in the *Wehbe* case provides guidance by nominating the five separate tests in which compliance to a development standard can be demonstrated as being unreasonable and unnecessary subject to a variation request. The five methods specified in the Wehbe case include the following:

Test No. 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard.

Test No. 2: The underlying objective or purpose of the standard is not relevant to the development with the consequence that compliance is unnecessary.

Test No. 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

Test No. 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.

Test No. 5: *"The zoning of the particular land"* was *"unreasonable or inappropriate"* so that *"a development standard appropriate for that zoning is also unreasonable and unnecessary as it applied to that land"* and hence compliance with the standard would be unreasonable or unnecessary (i.e. the subject allotment should not have been included in the zone it is located in).

It is our opinion that the proposal satisfies a Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test is considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard.

Despite the proposed development's minor non-compliance with the applicable height development standard, the proposal is consistent with the desired low-density character of the area. The proposal provides a height, bulk and scale that is consistent with that envisaged by Council's controls when viewed from the streetscape.

Reasons why the proposed development is consistent with the objectives of the Height of Buildings standard are explained below.

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

The proposal is of a high-quality architectural design that appropriately responds to the site's topographical conditions, providing a contemporary dwelling with a stepped level design that appropriately responds to the topography of the site and provides a dwelling that is consistent with the desired character of the area. The surrounding development is made up of low-density residential development ranging from one to three levels when viewed from the street to which the proposed development is consistent with.

The part of the proposed development that breaches the development standard relates to a limited portion of the roof form within the mid-section of the dwelling above the proposed lift service, which will provide eased access for the occupants across all floor levels. The non-compliance is contributed to the sloping topography and terraced land on the site. In any case, the proposed dwelling will continue to have a fully compliant building height at the front elevation and present as two storeys within the streetscape, which is consistent with the adjoining dwellings (refer to **Figure 2**).

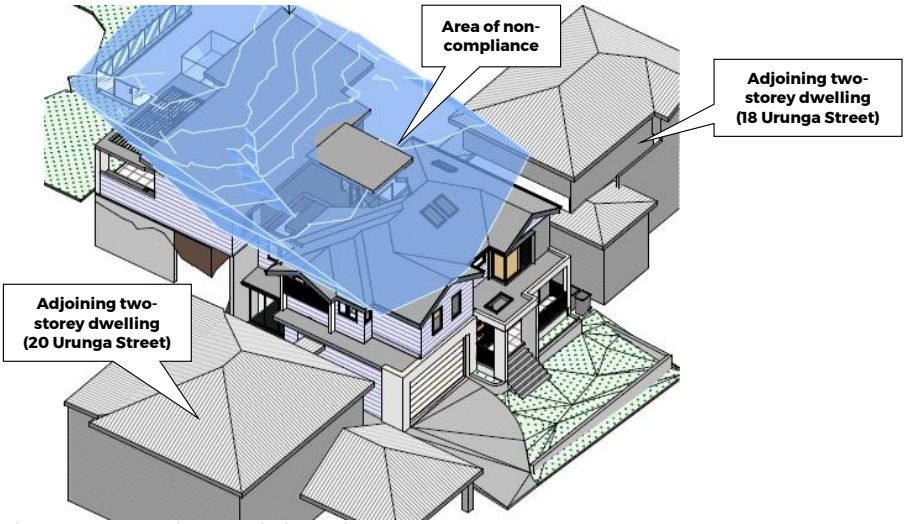


Figure 2: 8.5m Maximum Building Height Plane
Source: Y.in Architects, 2022

In addition to having a compliant building height at the front elevation, all new works are also fully compliant with the boundary setback controls outlined with the Warringah DCP 2011. Therefore, the dwelling on site will remain compatible with the height, bulk and scale of the surrounding development and will have a positive contribution to the desired character of the locality.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

In the assessment of development applications relating to view issues, the Warringah DCP 2011 relies on the principle of the *Tenacity v Warringah Council* [2004] NSWLEC 140. We undertook an assessment in accordance with this principle and determined that due to the geographical location of the site and the mature canopy cover in the surrounding locality, no significant or water views are identified from any of the adjoining properties. Further, consideration has been given to the dwellings north of the site with primary frontage to Woolgoolga Street. These dwellings are elevated due to the topography of the land, and as a result have district sightlines well above the subject site and proposed development (Refer to **Photo 1**).

Therefore, there are no views or sightlines from any of the adjoining properties that will be impacted by the minor non-compliance.



Photo 10: District views from No. 61 Woolgoolga Street, North Balgowlah
Source: www.realestate.com.au

As the area of non-compliance is confined only to a portion of the roof form, it will not result in any additional privacy impacts for the adjoining properties. In terms of solar access, Shadow Diagrams prepared by Y.in Architects and dated May 2022 (Page No. A08.03) indicate some additional shadow to the adjoining dwellings and the street from the proposed development, however, solar access will be achieved for the adjoining properties in line with the requirements of DCP 2011. Considering the minor area of the roof form that breaches the maximum building height plane to a maximum of 0.123m, any additional shadow would be negligible and unlikely to have any significant impact to solar access to adjoining private open space areas or habitable room windows.

Considering the above, the adjoining properties will maintain suitable levels of amenity consistent with the relevant Council DCP controls, despite the minor building height non-compliance.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

The site is approximately 400m east of Bantry Bluff and Middle Harbour also beyond this bushland. Considering the distance, as well as the minor variation to the development standard, there is unlikely to be any impact to the scenic quality of these environments within Warringah. As shown in **Photo 1**, the minor non-compliance with the building height development standard does not have impact on any scenic views currently available from the adjoining development and therefore, will not have any adverse impact on the scenic quality of Warringah's coastal and bush environments when viewed from the adjoining properties or the public domain.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads, and community facilities.

The proposed development on the site is compliant with the building height standard at the street elevation. Therefore, the dwelling remains consistent with the adjoining development when viewed from the street. The minor non-compliance is confined to a portion of the roof form within the mid-section of the dwelling to allow for the provision of an internal lift service across all floor levels. The minor breach of 0.123m is a function of the steep topography of the land, and previous excavation on the site and not an unreasonable development. Therefore, it is unlikely to have any visual impact when viewed from the public domain.

6. Are there sufficient environmental planning grounds to justify contravening the Development Standard?

The decision in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* indicates that merely showing that the development achieves the objectives of the development standard will be insufficient to justify that a development is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6.

The case also demonstrates that the requirement in Clause 4.6(3)(b) of LEP 2011 to justify that there are sufficient environmental planning grounds for the variation, requires identification of grounds particular to the circumstances of the proposed development and not simply grounds that apply to any similar development on the site or in the vicinity. In the *Four2Five* case, the Court found that the environmental planning grounds presented by the applicant in a Clause 4.6 variation request must be specific to the circumstances of the proposed development on that site.

In this instance, there are sufficient environmental planning and design grounds to justify the continued contravention of the maximum building height development standard as it relates to the proposed development in context to the existing dwelling. The proposal will be consistent with the character of the surrounding low density residential environment, which consists of single, two and some three level dwelling houses at the street, incorporating a split-level design that responds to the sloping topography of the land.

As previously mentioned, the height breach is minor in nature and confined to a small part of the roof form at the mid-section of the dwelling. When viewed within the streetscape, the proposal will present as a compliant building form, consistent in height with the adjoining dwellings. The proposal will maintain the amenity of the neighbouring dwellings in respect of privacy, solar access, and views. The breach of the building height control is considered to be negligible and enforcing strict compliance would impact on the

internal amenity of the dwelling for the occupants as the breach relates to the provision of internal lift service across all floor levels.

Given the proposal will not result in any significant adverse impacts to surrounding development and is consistent with the envisaged built form of the locality, the proposed development is considered to have sufficient planning grounds to justify a variation to the maximum building height development standard, as required in Clause 4.6(3)(b).

7. Is the proposed development 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?

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

(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

We submit that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this Variation Request and having regard to the site and locality.

The proposal is consistent with the objectives of the Building Height development standard in LEP 2011 as already demonstrated in **Section 5** of this Variation Request. Further, the proposed development is also consistent with the objectives of the R12 Low Density Zone, as discussed below:

The objectives for development in R2 Low Density Residential Zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The proposal will satisfy the relevant R2 Zone objectives as it will provide for the housing needs for the community in a low density residential environment by maintaining the single dwelling development on the site. The proposed development provides further internal and external amenity for the occupants with high quality alterations and additions that are sympathetic to the surrounding residential amenity and consistent with the desired character of the locality.

The landscape setting of the site will be maintained within the streetscape, retaining the existing level of vegetation within the front setback area. Further, the proposal will maintain the large Smooth Apple Bark tree in the rear setback area, which is visible within the streetscape above the dwelling on site and therefore, contributes to the landscape setting of Urunga Street.

Therefore, the proposed development is in the public interest as it is consistent with the R2 Zone objectives and the objectives of the Height of Building development standard (Clause 4.3 in LEP 2011), as required in Clause 4.6(4)(a).

8. Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The proposal is not considered to raise any matter of significance for state or regional environmental planning. The minor breach with the development standard should be assessed on merit on account of the steep topography and existing excavation already taken place on the site and the limitations this place on development meeting the height development standard on the site, whilst also providing a development with a high level of amenity for the occupants. It has been shown within our assessment that despite this non-compliance, there will not be significant, unreasonable, or unacceptable impacts on the neighbouring

properties or public domain. The environmental amenity of the surrounding residential development, as well as the public domain have been assessed and determined to be maintained within the proposal.

The area of non-compliance relates predominantly to the roof form above the stair and lift service within the dwelling. The addition of a lift provides a higher level of amenity fand ease of access to the primary internal and external living spaces for the occupants. The negligible impacts from the non-compliance are considered to be suitable in this instance when this increased level of amenity and access on site is considered.

9. The public benefit of maintaining the development standard

It is considered that there is no public benefit in strictly applying the height of building development standard to the proposed development. Variation of the Height of Buildings development standard will allow for increased levels of amenity for the occupants with the provision of internal lift service across all floor levels, in particular the second floor which has direct level access to the rear private open space area. The proposal will not result in any unreasonable adverse environmental impacts upon the amenity of the adjoining properties in terms of solar access, privacy and visual amenity, and satisfies the objectives of LEP 2011.

Council's refusal to permit the proposed variation to the maximum building height standard in this instance would not be in the public interest given the minor nature of the non-compliance and the absence of any significant detrimental environmental impacts attributable to the proposed non-compliances.

10.0 Conclusion

This Clause 4.6 Exception to Development Standard Variation Request to vary the height of buildings development standard has adequately addressed the matters required to be demonstrated under Clause 4.6(3) and Clause 4.6(4) of LEP 2011 in order for the Consent Authority to be satisfied that there are sufficient environmental planning grounds to justify contravention of the height of buildings development standard, and to warrant the granting of development consent to the Development Application for alterations and additions to the existing dwelling located at No.18 Urunga Street, North Balgowlah.

Based upon the preceding assessment contained in this submission, a variation of the maximum height of buildings development standard as required by Clause 4.3 of the Warringah LEP 2011 is acceptable and strict adherence to a maximum height of buildings control of 8.5m is unreasonable and unnecessary in the circumstances of the case. There are sufficient environmental planning grounds to justify contravening building height development standard as outlined in this written request.

The variation sought is minor in nature and will allow for the orderly and economic use and development of the land in an appropriate manner, is minor and is contributed to the sloping topography and terracing of the land. The proposed development allows for a high-quality outcome for the dwelling house which follows the natural terracing of the site without impacting on the amenity of the surrounding development and is therefore, considered to be appropriate in this instance.

MILESTONE (AUST) PTY LIMITED

ITEM 3.4	**REV2022/0011 - 14 PRINCE ALFRED PARADE NEWPORT - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE**
REPORTING MANAGER	**Adam Richardson**
TRIM FILE REF	**2022/642959**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site Plan and Elevations
	3 ⇩Clause 4.6

PURPOSE

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

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

A. That Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of PLEP 2014 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 REV2022/0011 for alterations and additions to a dwelling house on land at Lot 171 DP 709495, 14 Prince Alfred Parade NEWPORT, subject to the conditions set out in the Assessment Report.

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2022/0011

Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 171 DP 709495, 14 Prince Alfred Parade NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Corri Jane Marshall Stene Marshall
Applicant:	Grant Vallack

Application Lodged:	15/06/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/06/2022 to 05/07/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	$ 228,500.00

EXECUTIVE SUMMARY

This review application seeks review of the determination of DA2021/1682 for Alterations and additions to a dwelling house which was refused by Northern Beaches Council on 10 February 2022. The reasons for refusal related to the proposed driveway being inconsistent with the provisions of Australian Standard AS/NZS 2890.1-2004: Parking Facilities - Off-Street Car Parking, and in turn, is non-compliant with the requirements and outcomes of clause B6.2 (Internal Driveways) of Pittwater 21 Development Control Plan.

This application is referred to the Development Determination Panel (DDP) as any Review of Determination under Section 8.2 is to be determined by the DDP, pursuant to the instrument of delegation.

The review application has been accompanied by Traffic Reports and cross sections for the proposed driveway to the proposed garage from the kerb, which demonstrate compliant access can be achieved and that the concerns of the engineers of the refused DA has been satisfied.

A submission has been received raising concerns regarding the impacts to privacy and overshadowing created by the proposed carport. A detailed assessment of privacy and solar access is provided under Clause C1.4 and C1.5 respectively. Other assessment issues included front building line, building envelope and landscaped area. Notwithstanding, the variations to the controls have been assessed against the relevant outcomes of the controls and the variations are supportable in this instance.

This report concludes with a recommendation that the DDP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Construction of a storage area, workshop and cellar
- Construction of elevated carport above storage area
- Alterations and additions to internal driveway

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

Environmental Planning and Assessment Act 1979 - Section 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3
Pittwater 21 Development Control Plan - C1.4 Solar Access
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - D10.4 Building colours and materials

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)
Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)
Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 171 DP 709495 , 14 Prince Alfred Parade NEWPORT NSW 2106
Detailed Site Description:	The subject site consists of one (1) allotment located on the western side of Prince Alfred Parade. The site is irregular in shape with a frontage of 20.2 metres and a maximum depth of 58.0 metres. The site has a surveyed area of 1121m^2. The site slopes from the front eastern boundary downwards to the rear western boundary. The site appears on the Pittwater Biodiversity Map and is located within a Geotechnical Hazard Area. The site is currently occupied by a dwelling house, swimming pool and concrete slab. The surrounding development is characterised by residential dwellings of varying architectural design and style. The subject site provides a right of accessway to No. 14a Prince Alfred Parade that is located to the west.

Map:



SITE HISTORY

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

- **EPA2020/0021** - Investigation of building works comprising of concrete slab, retaining walls, and tree removal.

- **BC2020/0167** - Building Information Certificate for Reconstruction of a concrete slab hardstand and retaining wall to the southern elevation of the property. Dated 14 December 2020.

- **DA2021/1682** - Alterations and additions to a dwelling house. The application was refused on 10 February 2022 as the proposed driveway is inconsistent with the provisions of Australian Standard AS/NZS 2890.1-2004: Parking Facilities - Off-Street Car Parking, and in turn, is non-compliant with the requirements and outcomes of clause B6.2 (Internal Driveways) of Pittwater 21 Development Control Plan.

  This application seeks a review of the determination of DA2021/1682.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review of determination and has done so.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 12 months after the date of determination of the development application. The application was determined on 10 February 2022. The review was lodged on 15 June 2022 and at the time the application is referred for determination, the review is within the review period.

Section 8.3 (3) of the Act provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works" section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act

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 21/06/2022 to 05/07/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Mr Andrew Ranucci Mrs Kerrell Ann Ranucci	12a Prince Alfred Parade NEWPORT NSW 2106

The following issues were raised in the submissions:

- Overshadowing
- Privacy

The above issues are addressed as follows:

- **Overshadowing**

  The submissions raised concerns that the height of the carport and storage area will cast a shadow over a bedroom of the adjoining southern property No. 12a. Concerns are raised particularly as this is the only bedroom in their home that faces north and receives winter sun.

  Comment:

  A detailed assessment of overshadowing is provided under Clause 1.4 Solar Access of this report. Notwithstanding this, the control requires solar access to be maintained to private open space and windows of principal living areas. As such, solar access to the window of a bedroom is not a requirement.

- **Privacy**

  The submissions raised concerns that the window S1 on the southern edge of the storage area will create privacy impacts for No. 12a. Additionally, the submission raises concerns about the open carport being able to look into the bedroom at No. 12a and requests privacy screening for the southern edge of the carport.

  Comment:

  A detailed assessment of privacy is discussed under Clause C1.5 Visual Privacy of this report. It is considered that window S1 is to be obscure glazed subject to the recommended conditions in order to mitigate any privacy concerns.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Supported, subject to conditions*** The proposal is for a carport and storage area addition to the frontage of an existing dwelling. The proposed carport and storage area occupies an existing hardstand area, built in proximity to a large Spotted Gum. The site is located in the C4 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, to satisfy the landscape objectives of the C4 Environmental Living zone. The plans indicate that no significant landscape features are affected by the proposed works. The proposed storage/garage being constructed over an existing slab. No objections are raised with regard to landscape issues subject to conditions, including tree protection.
NECC (Development Engineering)	***Supported, subject to conditions*** The application is for the review of DA2021/1682 which involved the construction of an elevated garage and driveway off the existing ROW. The traffic report and plan by Traffix, dated 1/6/2022 provide sections for the proposed driveway to the proposed garage from the kerb. However the concerns raised previously regarding the crossfall across the wheelpath in the transition from the existing ROW to the proposed driveway have not been addressed. The applicant's consultant must demonstrate the safety of the vehicle when entering and exiting the proposed carport. The changing grade between the existing ROW and the new driveway must be in accordance with AS 2890.1. **Additional Information Provided on 9/9/2022** The addendum to the traffic report by Traffix has been reviewed. The design of the driveway extension shall be certified by a Traffic Engineer as conditioned. No objections to approval subject to conditions as recommended.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021,	***Supported, subject to conditions***

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A408695_04 dated 30 May 2022).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 1 Coastal Wetlands and littoral rainforest area

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
    a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
    b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:
The proposed development will not impact on the biophysical, hydrological or ecological integrity, or surface and ground water flows to and from the adjacent littoral rainforest.

Division 3 Coastal environment area
2.10 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:
It is considered that the proposed development is unlikely to cause adverse impacts on the above matters.

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 subsection (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:
The proposed development is sited at the front of the site and avoids adverse impacts to the coastal environment area.

Division 4 Coastal use area
2.11 Development on land within the coastal use area

1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
   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
      ii) platform for members of the public, including persons with a disability,
      iii) overshadowing, wind funnelling and the loss of views from public places to
      iv) foreshores,
      v) the visual amenity and scenic qualities of the coast, including coastal headlands,
      Aboriginal cultural heritage, practices and places,
      cultural and built environment heritage, and
   b) is satisfied that:
      i) the development is designed, sited and will be managed to avoid an adverse
      ii) impact referred to in paragraph (a), or
      iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
      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:
It is considered that the proposed development has been designed and sited to avoid adverse impacts to the above matters.

Division 5 General
2.12 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:

It is considered that the proposed development is not likely to cause increased risk of coastal hazards.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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	6.6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	5.8m	10.8%	**No**
Rear building	6.5m	35.2m	N/A	Yes

line				
Side building line	North - 2.5m	10.4m	N/A	Yes
	South - 1m	1.5m	N/A	Yes
Building envelope	North - 3.5m	Within Envelope	N/A	Yes
	South - 3.5m	Outside envelope (Encroachment between nil and 1.5m for a length of 5.5m)	0-42.9%	**No**
Landscaped area	60%	32.7% (367.1m^2)	45.5%	**No**

Compliance Assessment

Clause	**Compliance with Requirements**	**Consistency Aims/Objectives**
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
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
B5.13 Development on Waterfront Land	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
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
C1.3 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	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.4 Solar Access

A submission has raised concerns that the proposed carport structure will overshadow a bedroom located along the northern facade of No. 12a Prince Alfred Parade.

Under Clause C1.4 of P21 DCP solar access to private open space and the windows of principal living areas is required to be provided. Specifically,

- 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).

As the proposal does not impact solar access to private open space and the window is to a bedroom and not a principal living area, the carport structure is considered to be compliant with the control.

C1.5 Visual Privacy

A submission has raised concerns of the visual privacy impacts caused by the proposed window S1 on the southern edge of the storage room. The concerns surrounding the opportunity for overlooking from S1 into the bedroom window at No. 12a Prince Alfred Parade that is approximately 5.7 metres in distance.

Under Clause C1.5 of P21 DCP, direct views of private open space or any habitable room window within 9 metres can be restricted by opaque glazing to mitigate privacy concerns. As such, it is recommended that window S1 be fitted with obscure glazed subject to a recommended condition.

A submission has raised concerned regarding the potential for overlooking from the proposed carport into the bedroom window at No. 12a Prince Alfred Parade. The proposed carport is to be used for the storage of vehicles and is not a habitable room and is therefore not considered to be used for extended periods of time. Given the low-use, utilitarian nature of the space, the carport is not considered to give rise to unreasonable privacy impacts and privacy screens are not required in this instance. The openness of the carport allows for view sharing and reduces the bulk and scale of the carport structure.

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

D10.4 Building colours and materials

Part D10.4 of the P21 DCP requires external colours and materials to be dark and earthy tones. The architectural plans do not depict the specific external colours and materials to be used and no schedule of materials and colours was provided with the application.

However, it is considered that appropriate recommended conditions ensures that the building is an appropriate colour.

D10.7 Front building line (excluding Newport Commercial Centre)

Description of non-compliance
This control requires development to be setback 6.5 metres from the front boundary. The proposed carport and storage is setback 5.8 metres from the front boundary and presents a variation of 10.8% to 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:

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

  Comment
  The proposal aligns with the desired future character of the Locality.

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

  Comment
  The proposed carport is an open structure with a flat roof which ensure views and vistas are preserved.

- *The amenity of residential development adjoining a main road is maintained.*

  Comment
  The site does not adjoin a main road and as such, this objective is not of relevance.

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

  Comment
  The proposal involves the retention of existing vegetation as the works are sited above an existing hardstand space. As such, no vegetation is required to be removed as part of the proposed development.

- *Vehicle manoeuvring in a forward direction is facilitated.*

  Comment
  The proposed carport has been designed well in response to the existing driveway and vehicular access conditions. The proposal improves the safety and vehicle manoeuvring when entering and exiting the site.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment
The proposed carport complements the existing streetscape as surrounding properties also have parking structures within the front setback as the topography of the area presents challenges for parking facilities. The proposed carport is below the existing tree canopy level and will not become dominant when viewed from the streetscape.

- *To encourage attractive street frontages and improve pedestrian amenity.*

  Comment
  The proposed carport is compatible with the surrounding development and provides suitable parking facilities for the site. As such, pedestrian amenity can be maintained along Prince Alfred Parade.

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

  Comment
  The proposal has been designed well in response to the sloping topography of the site and the existing driveway. The proposed carport is of a height, bulk and scale that is in line with the parking facilities of surrounding properties.

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 (subject to condition), in this particular circumstance.

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of non-compliance
This control requires buildings to be sited within an envelope determined by projecting planes at 45 degrees from a height of 3.5 metres above existing ground level at the side boundaries.

The proposed development breaches the envelope on the southern elevation between nil and 1.5 metres for a length of 5.5 metres.

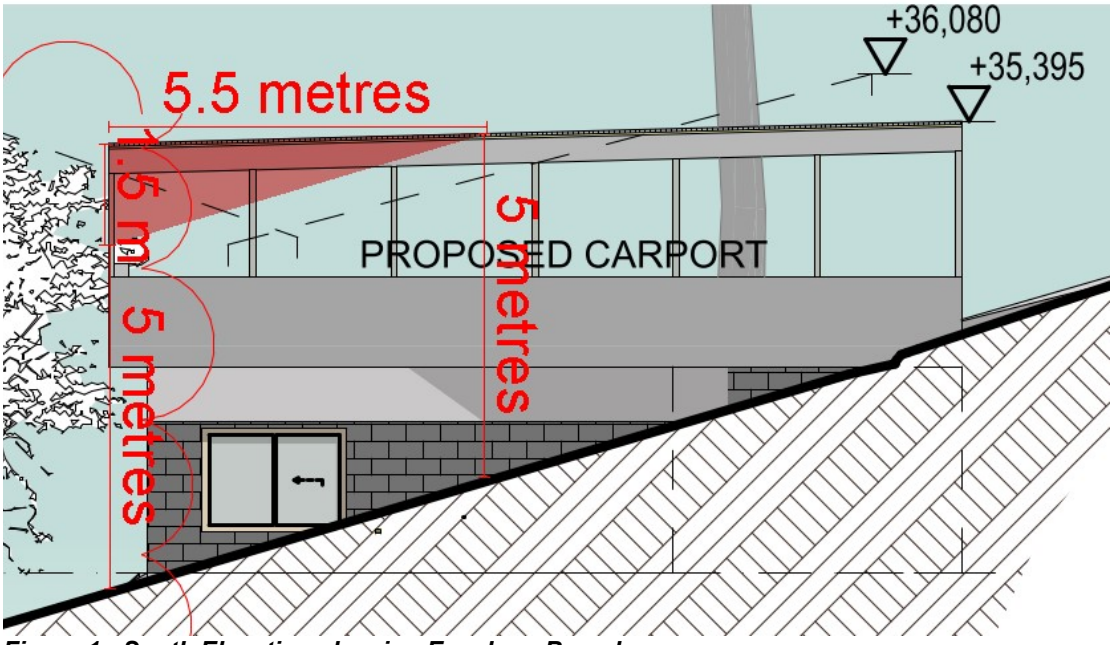


Figure 1 - South Elevation showing Envelope Breach

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

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

  Comment
  The proposal aligns with 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 proposal is compatible with the surrounding development and enhances the existing streetscape. The height of the proposed carport is below the height of the trees of the natural environment and is compliant with the building height control.

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

  Comment
  The proposal retains existing vegetation across the site and does not propose any removal of landscaped areas. The proposed carport is sited over existing hardstand area and is accessed by an existing driveway. As such, the proposal responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

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

  Comment

The proposed carport is open on all sides which ensures the bulk and scale of the built form is minimised. The structure complies with the height of buildings standard and is of a scale compatible with the surrounding development. As such, the bulk and scale of the built form is minimised.

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

  Comment
  The proposed carport is an open structure with a flat roof and will therefore, preserve views and vistas.

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

  Comment
  The proposed carport provides appropriate setbacks to the northern and southern side boundaries which ensures adequate spatial separation from nearby properties. A detailed assessment of solar access and privacy is provided under Clause C1.4 and C1.5 respectively.

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

  Comment
  The proposal does not require the removal of any vegetation and retains landscaped areas to visually reduce the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP 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.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance
This control requires a total landscaped area of 60% of the site area. The proposal provides 32.7% (367.1m^2) landscaped area which does not comply with the control.

The variations provision of the control allows for up to 6% of the site area to be impervious landscape treatment, provided the outcomes of the control are achieved and such areas are used for outdoor recreational purposes only. This includes roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level. As such, this allows the porch at the rear of the dwelling and the paved area around the swimming pool to be included in this 6% calculation as these areas provide space for outdoor recreation. Upon application of such provision, the landscaped area of the site increases to 38.7% (434.4m^2).

It is noted that there is an existing non-compliance with this control as the site currently provides 37.8% (424.2m^2) landscaped area. Additionally, the site is constrained by the driveway which is a right of accessway that winds through the subject site providing vehicular access to 14a Prince Alfred Parade.

Merit Consideration

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

Comment
The proposal aligns with the desired future character of the Locality.

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

  Comment
  The proposed carport is open on all sides which ensures the bulk and scale of the built form is minimised. The structure complies with the height of buildings standard and is of a scale compatible with the surrounding development. As such, the bulk and scale of the built form is minimised.

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

  Comment
  The proposed carport provides appropriate setbacks to the northern and southern side boundaries which ensures adequate spatial separation from nearby properties. A detailed assessment of solar access and privacy is provided under Clause C1.4 and C1.5 respectively.

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

  Comment
  The proposal does not require the removal of any significant vegetation and the existing vegetation assists to visually soften and reduce the built form.

- *Conservation of natural vegetation and biodiversity.*

  Comment
  Conservation of natural vegetation and biodiversity has been considered by Council's Landscape Officer who has deemed the proposal acceptable subject to conditions.

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

  Comment
  Council's Development Engineer has reviewed the proposal with regards to stormwater and deemed it acceptable subject to conditions.

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

  Comment
  The site is not considered to be of rural and bushland character, yet the natural character of the area will be preserved.

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

  Comment
  It is considered that appropriate soft surface has been maximised to provide for infiltration of water to the water table and to minimise run-off to assist with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of $2,285 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $228,500.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- 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

PLANNING CONCLUSION

This review of the determination for Alterations and additions to a dwelling house has been referred to the Development Determination Panel (DDP) as any Review of Determination under Section 8.2 is to be determined by the DDP.

The concerns raised in the objections have been addressed under Clause C1.4 and C1.5 respectively deeming the proposal acceptable subject to opaque glazing to window S1 as per the recommended conditions.

The critical assessment issues included front building line, building envelope and landscaped area. A detailed assessment has been provided for each control, and it is considered that the outcomes have been satisfactorily met and the variations are supportable in this circumstance.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended 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 REV2022/0011 for Alterations and additions to a dwelling house on land at Lot 171 DP 709495, 14 Prince Alfred Parade, NEWPORT, 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**
0.1(c) - Site / Floor Plans	3 November 2021	Matt Thitchener Architect
0.2(c) - Elevations	3 November 2021	Matt Thitchener Architect
0.3(c) - Section / Elevation	3 November 2021	Matt Thitchener Architect
0.8 - Driveway Longsection	28 October 2021	Matt Thitchener Architect

Engineering Plans		
Drawing No.	**Dated**	**Prepared By**
Ground Clearance Assessment	13 April 2022	Traffix

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
BASIX Certificate No. A408695_04	30 May 2022	Matt

		Thitchener
22.138r01v01 and 22.138r02v01	1 June 2022 and 2 September 2022	Traffix
Risk Analysis and Management Report	24 October 2021	Hodgson 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:

Waste Management Plan		
Drawing No/Title.	**Dated**	**Prepared By**
Waste Management Plan	25 March 2021	Grant Vallack

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	Undated

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

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

3. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal 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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of $2,285.00 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 (as amended).

The monetary contribution is based on a development cost of $228,500.00.

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

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

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

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

6. **Security Bond**

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

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

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

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

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

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

7. **Stormwater Disposal from Low Level Property**
The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy Clause 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Water Management for Development Policy 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 the development.

8. **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 Hodgson Consulting Engineers dated 24/10/2022 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.

9. **Certification and Design of Elevated Parking Facility Work**
The Applicant shall submit a Structural Engineers' design and certificate certifying that the elevated parking facility is designed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking,
in particular Section 2.4.5 Physical controls.
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
Reason: Safety and Compliance with this consent.

10. **Amendments to the approved plans**
The following amendments are to be made to the approved plans:

- Window S1 shall be fitted with obscure glazing.

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.

11. **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.

12. **Design and Certification of Vehicle Driveway Gradients**
The existing internal shared driveway levels are to remain unaltered.

The design gradients and transitions of the access driveway extension to the proposed elevated carport shall be certified as fit for purpose by a suitably qualified Traffic Engineer. The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with transition gradients to comply with AS2890.1:2004.

Access levels across the road reserve are to remain unaltered.

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

Reason: To ensure suitable vehicular access to private property.

13. **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.

14. **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.

15. **Schedule of Colours and Materials**
The external finishes to the walls and roof of the carport and storage must comprise dark and earthy tones as shown in Clause 10.4 'Building colours and materials' of the Pittwater 21 Development Control Plan.

A Schedule of Colours and Materials demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure development enhances the visual quality and identity of the streetscape and to minimise excessive glare or reflectivity issues.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. **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.

17. **Tree and Vegetation Protection**

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

i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,

ii) all trees and vegetation located on adjoining properties,

iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,

ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,

iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,

iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,

vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,

vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,

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

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

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

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

18. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works.

In this regard all protected trees shall not exhibit:

i) a general decline in health and vigour,
ii) damaged, crushed or dying roots due to poor pruning techniques,
iii) more than 10% loss or dieback of roots, branches and foliage,
iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
v) yellowing of foliage or a thinning of the canopy untypical of its species,
vi) an increase in the amount of deadwood not associated with normal growth,
vii) an increase in kino or gum exudation,
viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

19. **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.

20. **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.

21. **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.

22. **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

23. **Stormwater Disposal**
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

24. **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.

25. **Certification Elevated Parking Facility Work**
The Applicant shall submit a Structural Engineers' certificate certifiying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

26. **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.

27. **Certification of Vehicle Driveway Gradients**
The as constructed access driveway extension to the proposed elevated carport shall be certified as fit for purpose by a suitably qualified Traffic Engineer.

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

Reason: To ensure suitable vehicular access to private property.

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

28. **Environmental and Priority Weed Control**
All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: Preservation of environmental amenity.

BASIX CERTIFICATE: A408695

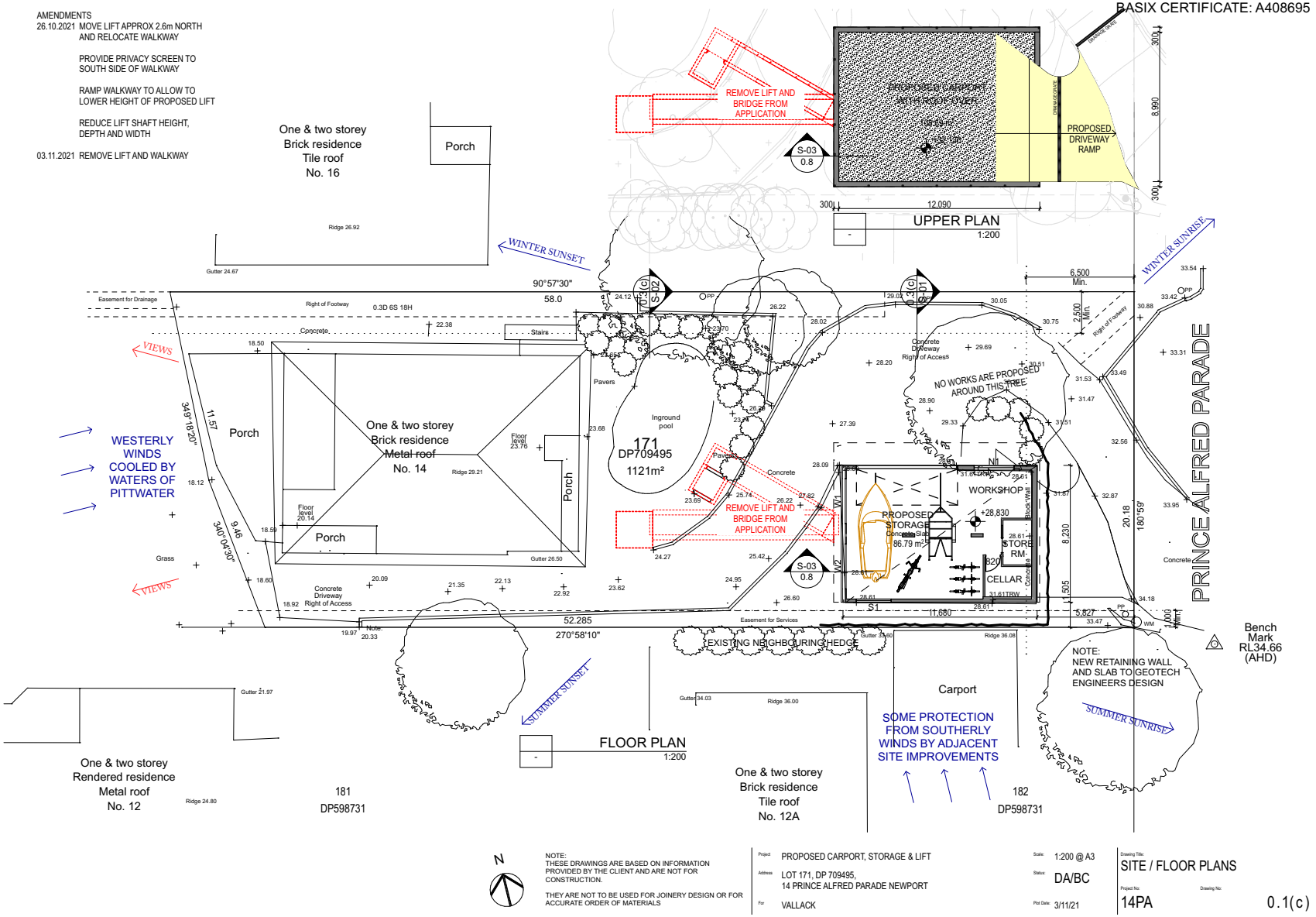
AMENDMENTS
26.10.2021 MOVE LIFT APPROX 2.6m NORTH AND RELOCATE WALKWAY

PROVIDE PRIVACY SCREEN TO SOUTH SIDE OF WALKWAY

RAMP WALKWAY TO ALLOW TO LOWER HEIGHT OF PROPOSED LIFT

REDUCE LIFT SHAFT HEIGHT, DEPTH AND WIDTH

03.11.2021 REMOVE LIFT AND WALKWAY



NOTE:
THESE DRAWINGS ARE BASED ON INFORMATION PROVIDED BY THE CLIENT AND ARE NOT FOR CONSTRUCTION.

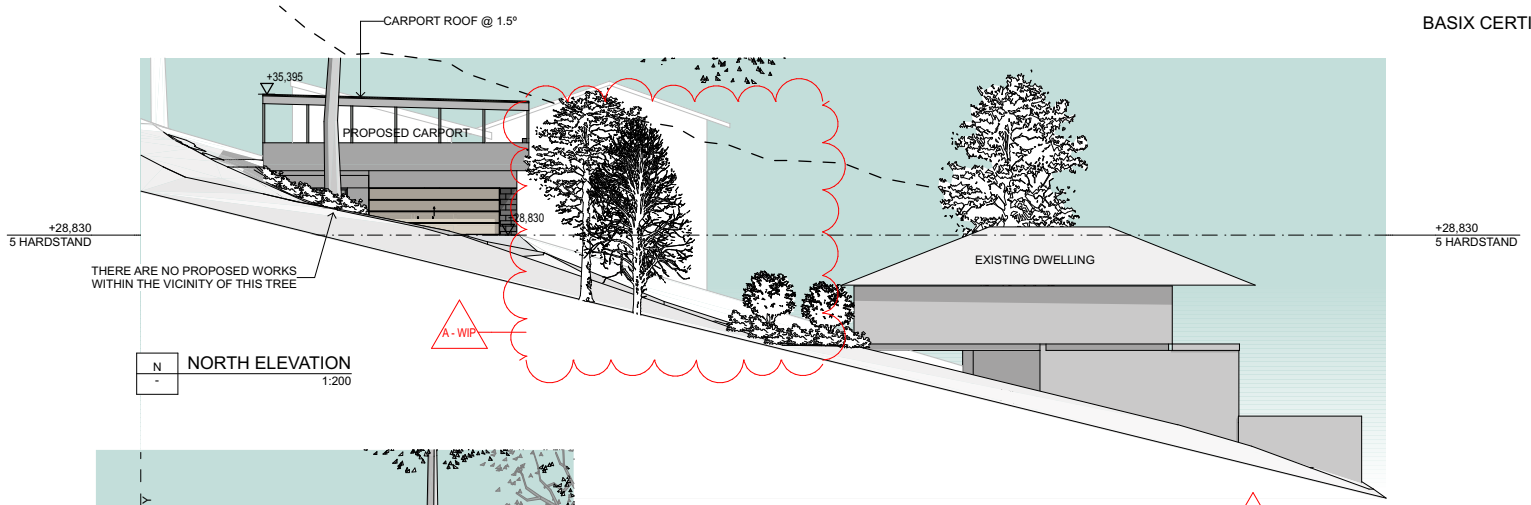
THEY ARE NOT TO BE USED FOR JOINERY DESIGN OR FOR ACCURATE ORDER OF MATERIALS

Project: PROPOSED CARPORT, STORAGE & LIFT
Address: LOT 171, DP 709495, 14 PRINCE ALFRED PARADE NEWPORT
For: VALLACK

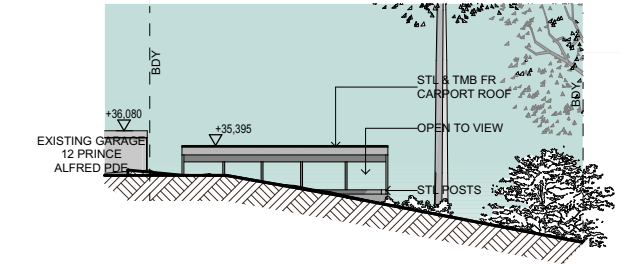
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Plot Date: 3/11/21

Drawing Title: SITE / FLOOR PLANS
Project No: 14PA
Drawing No: 0.1(c)

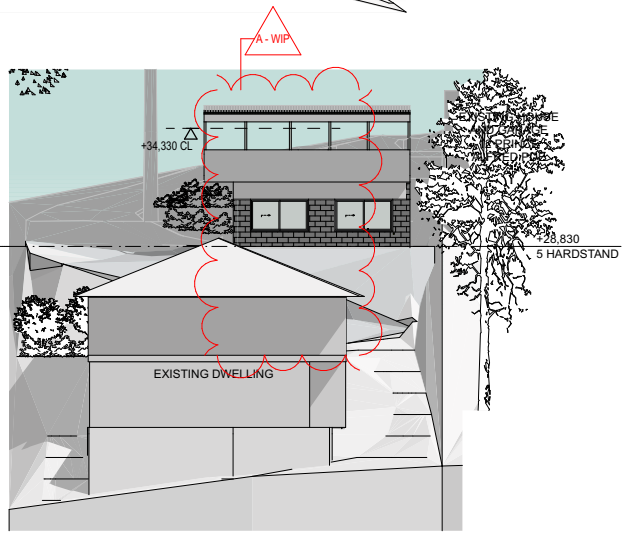
BASIX CERTIFICATE: A408695



N / - NORTH ELEVATION 1:200



E / - EAST ELEVATION 1:200



W / - WEST ELEVATION 1:200

AMENDMENTS
26.10.2021 MOVE LIFT APPROX 2.6m NORTH AND RELOCATE WALKWAY

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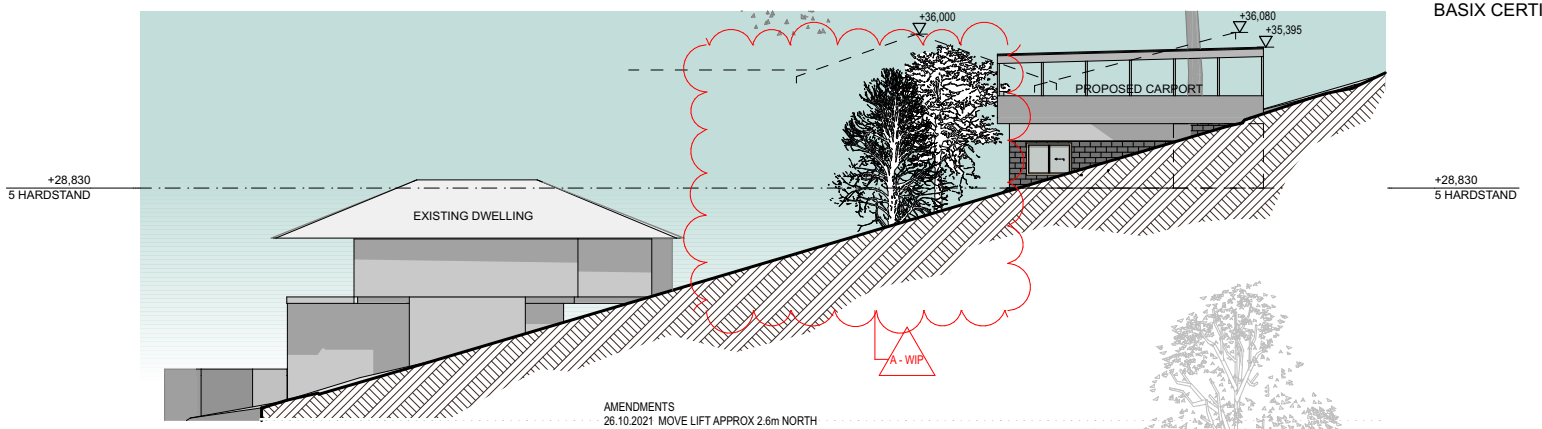
THEY ARE NOT TO BE USED FOR JOINERY DESIGN OR FOR ACCURATE ORDER OF MATERIALS

Project: PROPOSED CARPORT, STORAGE & LIFT
Address: LOT 171, DP 709495, 14 PRINCE ALFRED PARADE NEWPORT
For: VALLACK

Scale: 1:200 @ A3
Status: DA/BC
Plot Date: 3/11/21

Drawing Title: ELEVATIONS
Project No: 14PA
Drawing No: 0.2(c)

BASIX CERTIFICATE: A408695



S — SOUTH ELEVATION
1:200

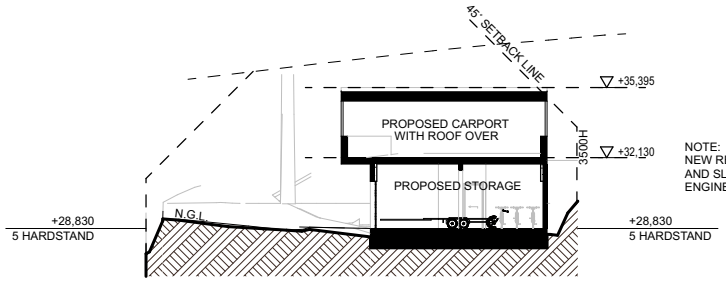
AMENDMENTS
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PROVIDE PRIVACY SCREEN TO SOUTH SIDE OF WALKWAY

RAMP WALKWAY TO ALLOW TO LOWER HEIGHT OF PROPOSED LIFT

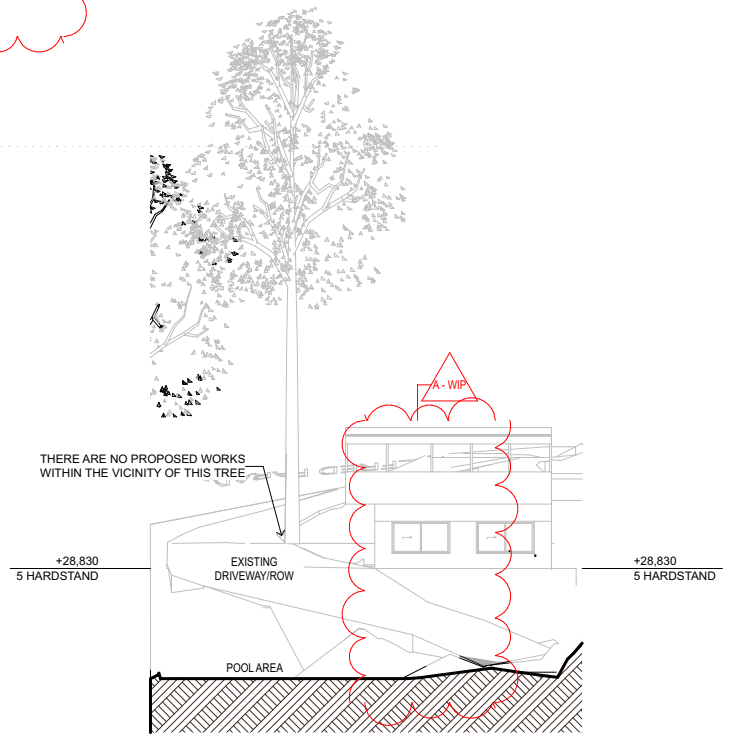
REDUCE LIFT SHAFT HEIGHT, DEPTH AND WIDTH

03.11.2021 REMOVE LIFT AND WALKWAY



NOTE:
NEW RETAINING WALL AND SLAB TO GEOTECH ENGINEERS DESIGN

S-01 — SECTION
1:200



S-02 — SECTION
1:200

NOTE:
THESE DRAWINGS ARE BASED ON INFORMATION PROVIDED BY THE CLIENT AND ARE NOT FOR CONSTRUCTION.

THEY ARE NOT TO BE USED FOR JOINERY DESIGN OR FOR ACCURATE ORDER OF MATERIALS

Project: PROPOSED CARPORT, STORAGE & LIFT
Address: LOT 171, DP 709495, 14 PRINCE ALFRED PARADE NEWPORT
For: VALLACK

Scale: 1:200 @ A3
Status: DA/BC
Plot Date: 3/11/21

Drawing Title: SECTION / ELEVATION
Project No: 14PA
Drawing No: 0.3(c)

Clause 4.6 Application to Vary a Development Standard

The proposal requires an alteration to the height of buildings standard, under Pittwater LEP 2014 Principal Development Standards Clause 4.3 Height of Buildings. An exemption to the development standard as is allowed by Clause 4.6 of Pittwater LEP 2014.

The site is zoned E4 Environmental Living.

The objectives of the zone are as follows:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To provide for residential development of a low density and scale integrated with the landform and landscape.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

The proposed development seeks an exception to Clause 4.3 - Height of Buildings of the Pittwater LEP 2014.

Relevant Development Standard

Clause 4.3 of Pittwater LEP 2014 sets a maximum Building height as shown on the building height map (HOB_17). The site is identified as having a maximum building height of 8.5m.

Extent of Variation to Development Standard

The proposed development has a glazed lift structure and open walkway with a ceiling height of 10.57m and an overall height of 10.87m. The additional height of 2.37m at the highest point is a 28% variation to the development standard.

Reason for the Variation

The height variation has arisen due to the steep slope of the lot and safe access required between the road, proposed carport and existing dwelling lower down the slope.

Why compliance with the development standard is unreasonable or unnecessary in this circumstance.

Compliance with the 8.5m maximum height of buildings requirement is considered unreasonable given the conditions of this site, for the following reasons.

The lift and walkway being at a lower level to the carport roof are obscured from the western street view by the proposed carport. Additionally, due to the small footprint of the lift shaft, views across the site will be impacted minimally.

Objectives of the development standard (cl. 4.3 Pittwater LEP 2014)

The proposal is consistent with the objectives of the development standard 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: Given the sloping natural topography of the site, the proposal is consistent with the character of the Pittwater locality and neighbouring waterfront properties. The proposed carport roof is lower set than adjacent solid clad parking structures.

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

Comment: The carport location and elevation is similar to the neighbouring lots. The proposed carport will be lower building scale in response to the site topography, along with the minimal impact by a compact footprint of the Lift and ramp design.

(c) to minimise any overshadowing of neighbouring properties,

Comment: Due to the topography of the sloping site and existing vegetation within and adjoining the site overshadowing will be minimal, the small footprint of the walkway and lift in addition to the proposed open nature of its construction will create minimal shadowing to the Lots to the south.

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

Comment: Given the proposed open design of the carport and walkway, minimal impact will be imposed on views across the site. Neighbouring buildings are similar in height and the proposal will not take away from their primary views towards the water.
The proposed carport at 14 Prince Alfred will be 685mm lower set than the adjacent solid clad garage structure at 12 Prince Alfred Parade.
The proposal at 14 Prince Alfred Parade allows or greater view sharing than the neighbouring structures.

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

Comment: As the carport and storage under are set into the slope of the lot, nested into an existing excavation, the proposal responds to the site's natural topography. Additionally, the open walkway and lift provide safe access to the existing dwelling on site.

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

Comment: Building over existing structures on site and utilising open construction methods, for the elevated ramp and lift, the visual impact on the natural environment will be impacted minimally as discussed in point (d).
The lot is not specified as being in a heritage conservation area and no heritage items are present.

LEP
https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2014-0320

DCP
https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Pages/Plan/Book.aspx?exhibit=PDCP&hid=11913

ITEM 3.5	**MOD2022/0440 - 3 WOLLOMBI ROAD BILGOLA PLATEAU - MODIFICATION OF DEVELOPMENT CONSENT DA2018/0850 GRANTED FOR ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING THE CONSTRUCTION OF A NEW DETACHED GARAGE, SECONDARY DWELLING AND SWIMMING POOL**
REPORTING MANAGER	**Adam Richardson**
TRIM FILE REF	**2022/652689**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site Plan and Elevations

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 building height standard.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

A. That Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of PLEP 2014 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 MOD2022/0440 for modification of Development Consent DA2018/0850 granted for alterations and additions to a dwelling house including the construction of a new detached garage, secondary dwelling and swimming pool on land at Lot 192 DP 16902, 3 Wollombi Road BILGOLA PLATEAU, subject to the conditions set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0440

Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 192 DP 16902, 3 Wollombi Road BILGOLA PLATEAU NSW 2107
Proposed Development:	Modification of Development Consent DA2018/0850 granted for Alterations and additions to a dwelling house including the construction of a new detached garage, secondary dwelling and swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Claudio Hernan Encina Lucy Marie Encina
Applicant:	Lucy Marie Encina

Application Lodged:	24/08/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	07/09/2022 to 21/09/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 20.36%
Recommendation:	Approval

EXECUTIVE SUMMARY

This development application seeks to modify Development Consent DA2018/0850, which was granted for alterations and additions to a dwelling house including the construction of a new detached garage, secondary dwelling and swimming pool.

The application is referred to the Development Determination Panel (DDP) due to an increased variation to the height of buildings development standard as it applies to detached secondary dwellings in the C4 Environmental Living zone.It is noted that the original DA was determined by Council's DDP in 2018.

No submissions were received in relation to this application.

Critical assessment issues relate to the height of the secondary dwelling and the height of the front fence, both of which are acceptable on merit as detailed in the report.

The increased non-compliance with the height standard arises due to the modified proposals increase of the ridge level for the secondary dwelling. The approved secondary dwelling achieves a maximum height of 6.4 metres (RL 104.03). The modified secondary dwelling achieves a height of 6.62 metres (RL 104.25).

This report concludes with a recommendation that the DDP grant approval to the modification application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify Development Consent No. DA2018/0850, as follows:

- Modifications to the approved secondary dwelling:
  - Reconfiguration of the approved layout including addition of a laundry (resulting in deletion of approved Condition 8 that required laundry facilities within the secondary dwelling);
  - Addition of a deck to the southern elevation;
  - Minor increase in size;
  - Changes to windows and doors;
  - Raised floor and roof levels; and
  - Amendment of the rainwater tank volume.

- Modifications to the dwelling house:
  - Reconfiguration of the approved layouts of each floor, including relocation of the fireplace;
  - Changes to windows and doors; and
  - Addition of stone cladding to elevations;
  - Amendment to eaves.

- External/garage modifications:
  - Amendment of the garage layout, floor level and roof level;
  - Addition of roof over the garage access door;
  - Removal of pizza oven;
  - Addition of a front fence with gates;
  - Amended landscape steps; and
  - Amendment of the rainwater tank volume.

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 Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils
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 Local Environmental Plan 2014 - 7.10 Essential services
Pittwater 21 Development Control Plan - D3.13 Fences - Flora and Fauna Conservation Areas

SITE DESCRIPTION

Property Description:	Lot 192 DP 16902 , 3 Wollombi Road BILGOLA PLATEAU NSW 2107
Detailed Site Description:	The subject site consists of one allotment located on the eastern side of Wollombi Road, Bilgola Plateau. The site is irregular in shape with a frontage of 15.4 metres along Wollombi Road and an average depth of 56 metres. The site has a surveyed area of 865.2m². The site is located within the C4 Environmental Living zone and accommodates a two-storey detached dwelling and carport. The site slopes down approximately 12 metres from west (front) to east (rear) and contains some significant mature vegetation in the front and rear yards. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by one- and two-storey detached dwellings.

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:

- N0384/00 for a single storey addition comprising a double garage and portico, a 1st floor extension comprising a bedroom, ensuite and balcony and a 2 storey addition comprising a family room and rumpus room was approved on 28 July 2000 under delegation.
- N0524/08 for alterations and additions to the existing dwelling including a new studio, pool and garage was approved on 10 December 2008 under staff delegation.
- DA2018/0850 for alterations and additions to a dwelling house including the construction of a new detached garage, secondary dwelling and swimming pool was approved by Council's Development Determination Panel on 10 October 2018.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2018/0850, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2018/0850, given that while there are numerous changes, each is minor and the cumulative impact is not significant.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2018/0850 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and

Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	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 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.

Section 4.15 'Matters for Consideration'	Comments
	(ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in relation to this application
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection. A Bush Fire Report was submitted with the original application (prepared by Ronald Coffey, dated 30 November 2017), stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The modification application is supported by an updated report (prepared by Ronald Coffey, dated 11 April 2022) to the same effect. The recommendations of the updated Bush Fire Report have been included as recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 07/09/2022 to 21/09/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Supported, subject to modified conditions*** The application is for modification of development consent

Internal Referral Body	Comments
	DA2018/0850 and the removal of condition 8. The modification proposal includes: modifications to the approved Secondary Dwelling; modifications to the approved alterations and additions to the principal dwelling, modification to external areas and garage including remove pizza oven, addition of new front fence and gate, and amend landscape steps. An Amended Landscape Plan (revision C) is submitted and minor changes are apparent and these do not alter the landscape outcomes of the development consent. An updated Arborist Statement is submitted and notes that the modification does not impose any further impact to trees other than what was reported in the Arboricultural Impact Assessment in the development application. The updated Arborist Statement shall be included as part of the Approved Plans and Supporting Documentation should the modification application be approved.
NECC (Bushland and Biodiversity)	***Supported without additional conditions*** The application is for modification of development consent DA2018/0850 and the removal of condition 8. An updated Arborist Statement is submitted and notes that the modification does not impose any further impact to trees other than what was reported in the Arboricultural Impact Assessment in the development application.
NECC (Development Engineering)	***Supported without additional conditions*** The proposed modifications do not alter the original assessment of the application by Development Engineering. Development Engineering support the proposal with no additional or modified conditions of consent recommended.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

application hereunder.

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate Nos. A306288_02 and 900978S_02, each dated 26 July 2022). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Housing) 2021

Part 1 – Secondary Dwellings

Clause 52 – Development may be carried out with consent	
Standard	**Compliance/Comment**
a) No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land.	The modified development will result in there being on the land the principal dwelling and secondary dwelling only.
b) The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument.	The amended secondary dwelling has a total floor area of 33.5m^2, in accordance with Clause 5.4(9) of the PLEP 2014.
c) The total floor area of the secondary dwelling is: i) no more than 60m², or ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument - the greater floor area.	As above.

Clause 53 – Non-discretionary development standards	
Standard	**Compliance/Comment**
a) For a detached secondary dwelling - a minimum site area of 450m².	The amended secondary dwelling is wholly separate from the principal dwelling. The subject site has an area of 865.2m^2.
b) The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	The modified development remains compliant in relation to parking requirements.

SEPP (Transport and Infrastructure) 2021

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

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

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management
The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 1 Coastal Wetlands and littoral rainforest area
2.8 Development on land in proximity to coastal wetlands or littoral rainforest

1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:
The proposed modifications are minor in nature and are not anticipated to significantly impact upon the matters at (1)(a) and (b) above.

Division 5 General
2.12 Development in coastal zone generally—development not to increase risk of coastal hazards
Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.
Comment:
The proposed modifications are minor in nature and are not likely to cause increased risk of coastal hazards on the subject site or surrounding land.

As such, the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	Dwelling: 8m	Max. 8m	Unchanged	-	Yes
	Garage: 8.5m	4.1m	4.24m	-	Yes
	Secondary Dwelling: 5.5m	6.4m	6.62m	20.36%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.4 Controls relating to miscellaneous permissible uses	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

4.3 Height of buildings

The proposed height of the secondary dwelling is addressed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the PLEP 2014.

4.6 Exceptions to development standards

Whilst the modification application will result in a secondary dwelling with a height of building that exceeds the maximum permitted by Clause 4.3 of the PLEP 2014, the application does not strictly need to address the requirements of Clause 4.6. This application has been made under Section 4.55 of the Environmental Planning and Assessment (EP&A) Act 1979, which is a free-standing provision that in itself authorises the modifications to the approved development to be approved notwithstanding any

breach of development standards. Section 4.55 is subject to its own stand-alone tests (such as substantially the same test and consideration of all relevant Section 4.15 matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application. Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 4.55 modification applications. In this way, the Applicant is not required to provide a written request to vary the development standard. Notwithstanding these facts, an assessment of the variation is as follows:

Description of non-compliance:

Development standard:	Height of Buildings (Secondary Dwelling)
Requirement:	5.5 metres
Approved	6.4 metres
Proposed:	6.62 metres
Percentage variation to requirement:	20.36%

Assessment of request to vary a development standard:
The following assessment of the variation to the development standard contained within Clause 4.3 Height of Buildings 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 4.3 Height of Buildings 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
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:
As above, the Applicant is not required to provide a written request to vary the development standard.

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 11*8, 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 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.'

Section 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.

Comment:
As above, the Applicant is not required to provide a written request to vary the development standard.

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:
Clause 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 Height of Buildings development standard and the objectives of the C4 Environmental Living zone. An assessment against these objectives is provided below.

Objectives of Development Standard
The objectives of Clause 4.3 Height of Buildings are addressed 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 approved and modified development is for the purpose of alterations and additions to the existing dwelling (compliant with this clause), associated works, and a secondary dwelling. Existing development surrounding the subject site is of a similar or greater bulk and scale, being predominantly two-storey detached dwellings with similar building footprints. Further, Clause A4.3 Bilgola Locality allows for secondary dwellings within the Bilgola Plateau locality. As such, the proposed development is consistent with the desired character of the locality.

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

Comment:
As above, nearby development consists of predominantly two-storey detached dwellings of a similar scale approved development. The modified secondary dwelling is compliant with all other built form controls. As such, the proposed height and scale of the modified development remains consistent with the height and scale of nearby development.

c) to minimise any overshadowing of neighbouring properties

Comment:
The modified secondary dwelling does not result in overshadowing of adjacent properties in the morning or during the middle of the day. The secondary dwelling results in minor overshadowing of the rear yard of the property to the south (No. 5 Wollombi Road), but does not result in significant or unreasonable overshadowing of neighbouring properties.

d) to allow for the reasonable sharing of views

Comment:
The modified secondary dwelling is designed so as not to impact on view sharing for the subject site or adjacent sites.

e) to encourage buildings that are designed to respond sensitively to the natural topography

Comment:
The modified secondary dwelling responds sensitively to the natural topography, as it relies on pier and beam construction rather than excavation. In this way, the proposal is consistent with Clause D3.14 Construction, Retaining Walls, Terracing and Undercroft Areas of the P21 DCP, which is of particular importance in the C4 Environmental Living zone.

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

Comment:
The modified secondary dwelling is not compliant with the height of building control in relation to a portion of the steeply sloped roof form, towards the ridge only. As such, the predominant bulk of the secondary dwelling is compliant and does not result in unreasonable visual impact on the natural environment. The subject site and adjacent sites are not heritage listed, nor within heritage conservation areas.

Objectives of the Zone
The underlying objectives of the C4 Environmental Living zone are addressed as follows:

To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.

Comment:
The modified development remains low impact in that it does not rely on significant earthworks and retains ample vegetation on site. Further, the modified secondary dwelling remains designed and sited so as not result in any unreasonable amenity impacts on the subject site or adjacent sites.

To ensure that residential development does not have an adverse effect on those values.
Comment:
As above, the modified secondary dwelling does not result in any unreasonable amenity impacts on the subject site or adjacent sites. The secondary dwelling is compliant in relation to overshadowing, privacy, and view sharing.

To provide for residential development of a low density and scale integrated with the landform and landscape.
Comment:
The secondary dwelling is proposed to be modified in association with alterations and additions to the existing dwelling. The entire works proposed retain the use of the site for low density residential purposes. The proposed secondary dwelling is adequately integrated with the landform and landscape in that it does not rely on significant earthworks, is set well below the general tree canopy height in the locality, and is to be constructed in conjunction with suitable landscaping works and vegetation.

To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.
Comment:
The modified development retains adequate landscaping and vegetation in order to support and protect wildlife corridors in the locality.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment:
Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS20-002 dated 5 May 2020, 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, the concurrence of the Secretary for the variation to the the development standard contained within Clause 4.3 Height of Buildings is ordinarily assumed by the Local Planning Panel. However, as above, while the application proposes a variation to the development standard contained within Clause 4.3 Height of Buildings of greater than 10%, Clause 4.6 does not apply, as this application is modification to a development consent already granted. Instead, the concurrence of the Secretary for the variation to the development standard contained within Clause 4.3 Height of Buildings is assumed by the Development Determination Panel.

7.1 Acid sulfate soils

Clause 7.1 Acid Sulfate Soils requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map. The proposed modifications are minor in nature and do not rely on significant earthworks. As such the proposed modifications are acceptable with regard to acid sulfate soils.

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 a 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 a suitable quality.

(f) the likelihood of disturbing relics

Comment:
The site is not mapped as being a potential location of Aboriginal or other relics.

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

Comment:
The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(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.

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, it is considered 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, it is considered 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, it is considered 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 recommended 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 suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to recommended 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 recommended 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.

7.10 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

(a) the supply of water,
(b) the supply of electricity,
(c) the disposal and management of sewage,
(d) stormwater drainage or on-site conservation,
(e) suitable vehicular access.

Comment:
The subject site is supplied with the above essential services. The approved development and proposed modifications retain and rely upon these services.

Pittwater 21 Development Control Plan

Built Form Controls
Principal Dwelling:

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	Garage: Min. 5.7m	Unchanged	Yes
		Dwelling: Min. 12.1m	Unchanged	Yes
Rear building line	6.5m	18.7m	Unchanged	Yes
Side building line	S: 2.5m	1.5m (Existing)	Unchanged	Yes
	N: 1m	1m	Unchanged	Yes
Building envelope	S: 3.5m	1.2m outside envelope	Unchanged	Yes
	N: 3.5m	2.2m outside envelope	Unchanged	Yes
Landscaped area	Min. 60% (519.12m^2)	60.4% (523sqm incl. 6% hard space)	Unchanged	Yes

Secondary Dwelling:

Built Form Control	Requirement	Approved	Proposed	Complies
Rear building line	6.5m	10m*	Unchanged	Yes
Side building line	S: 2.5m	10.3m	9.1m	Yes
	N: 1m	1m	Unchanged	Yes
Building envelope	S: 3.5m	Within envelope	Within envelope	Yes
	N: 3.5m	Within envelope	Within envelope	Yes

*The Assessment Report for DA2018/0850 identifies a rear setback of 3.5 metres for the secondary dwelling. However, it is established that the measurement was not taken to the rear boundary, but the marking indicating the 6.5 metres setback line from the rear boundary. Therefore, the rear setback to the secondary dwelling was 10 metres (being 3.5 metres plus 6.5 metres).

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	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
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	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.3 Building colours and materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D3.6 Front building line	Yes	Yes
D3.7 Side and rear building line	Yes	Yes
D3.9 Building envelope	Yes	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D3.13 Fences - Flora and Fauna Conservation Areas	No	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

D3.13 Fences - Flora and Fauna Conservation Areas

The proposed development includes a fence along the front boundary that is generally limited to 1 metre in height, but reaches a maximum of 1.5 metres in height for a small portion, due to a drop in the existing topography of the land at the point of the driveway, as shown below:



The underlying outcomes of the control are considered as follows:

To achieve the desired future character of the Locality.

Comment:
The proposed modifications are consistent with the requirements of Clause A4.3 Bilgola Locality of the P21 DCP, which details the desired future character of the subject site and surrounds.

An open streetscape that allows casual surveillance of the street.

Comment:
The proposed fencing is open in construction, being predominantly a picket-style fence. This, in combination with the height of the fencing, allows for casual surveillance of both the street and the subject site.

Fences, where provided, are suitably screened from view from a public place.

Comment:
The proposed fencing is visible from Wollombi Road, though existing vegetation in the road reserve will assist in softening its appearance from the street.

To ensure fences compliment and conserve the visual character of the street and neighbourhood.

Comment:

The proposed fence is of materials and colours that are complementary to the visual character of the subject site and surrounds.

To define the boundaries and edges between public and private land and between areas of different function.

Comment:
The proposed fence clearly delineates the boundary of the subject site between public and private land.

To contribute positively to the public domain.

Comment:
The proposed fence is open and low in construction and will be of complementary colours and materials. As such, the fence will be a positive visual contribution to the Wollombi Road streetscape.

To enhance safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.

Comment:
The proposed fence is constructed in such a way that will not result in safety concerns or conflicts between pedestrians and motorists.

To ensure heritage significance is protected and enhanced.

Comment:
The subject site and adjoining sites are not heritage listed, nor within a heritage conservation area.

To ensure an open view to and from the waterway is maintained.

Comment:
No view to or from the waterway is impacted by the proposed fence.

To ensure native vegetation is retained.

Comment:
No vegetation impacted by the proposed fence.

To ensure any fencing provides for the safe and unhindered travel of native animals. / Safe and unhindered travel for native animals.

Comment:
The proposed fence is low and open in construction, with sufficient gaps to allow for safe passage of wildlife.

Maintenance of the natural open character of the headland and remnant bushland areas.

Comment:
The proposed fence is of a design that is complementary to the bushland character along Wollombi Road.

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 2022

Section 7.12 contributions were levied on the Development 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 2021;
- 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

PLANNING CONCLUSION

This proposal, for modification of Development Consent DA2018/0850, which was granted for alterations and additions to a dwelling house including the construction of a new detached garage, secondary dwelling and swimming pool, has been referred to the Development Determination Panel (DDP) due to an increased variation to the height of buildings development standard as it applies to detached secondary dwellings in the C4 Environmental Living zone.

No submissions were received in relation to this application.

Critical assessment issues relate to the height of the secondary dwelling and the height of the front fence, both of which are acceptable on merit as detailed in the report.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended 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 approval to Modification Application No. Mod2022/0440 for Modification of Development Consent DA2018/0850 granted for Alterations and additions to a dwelling house including the construction of a new detached garage, secondary dwelling and swimming pool on land at Lot 192 DP 16902,3 Wollombi Road, BILGOLA PLATEAU, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
A100 Floor Plans	29 July 2022	Toni Phillips Design
A101 Site / Roof Plan	29 July 2022	Toni Phillips Design
A200 Elevations + Section	29 July 2022	Toni Phillips Design
A300 Existing Elevations, Sections + Shadow Diagrams	29 July 2022	Toni Phillips Design
A801 Front Fence Elevation	29 July 2022	Toni Phillips Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
BASIX Certificate No. A306288_02	26 July 2022	Greenview Consulting
BASIX Certificate No. 900978S_02	26 July 2022	Greenview Consulting
Arborist Statement	4 May 2022	NSW Trees
Bushfire Report	11 April 2022	Planning for Bushfire Protection

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:

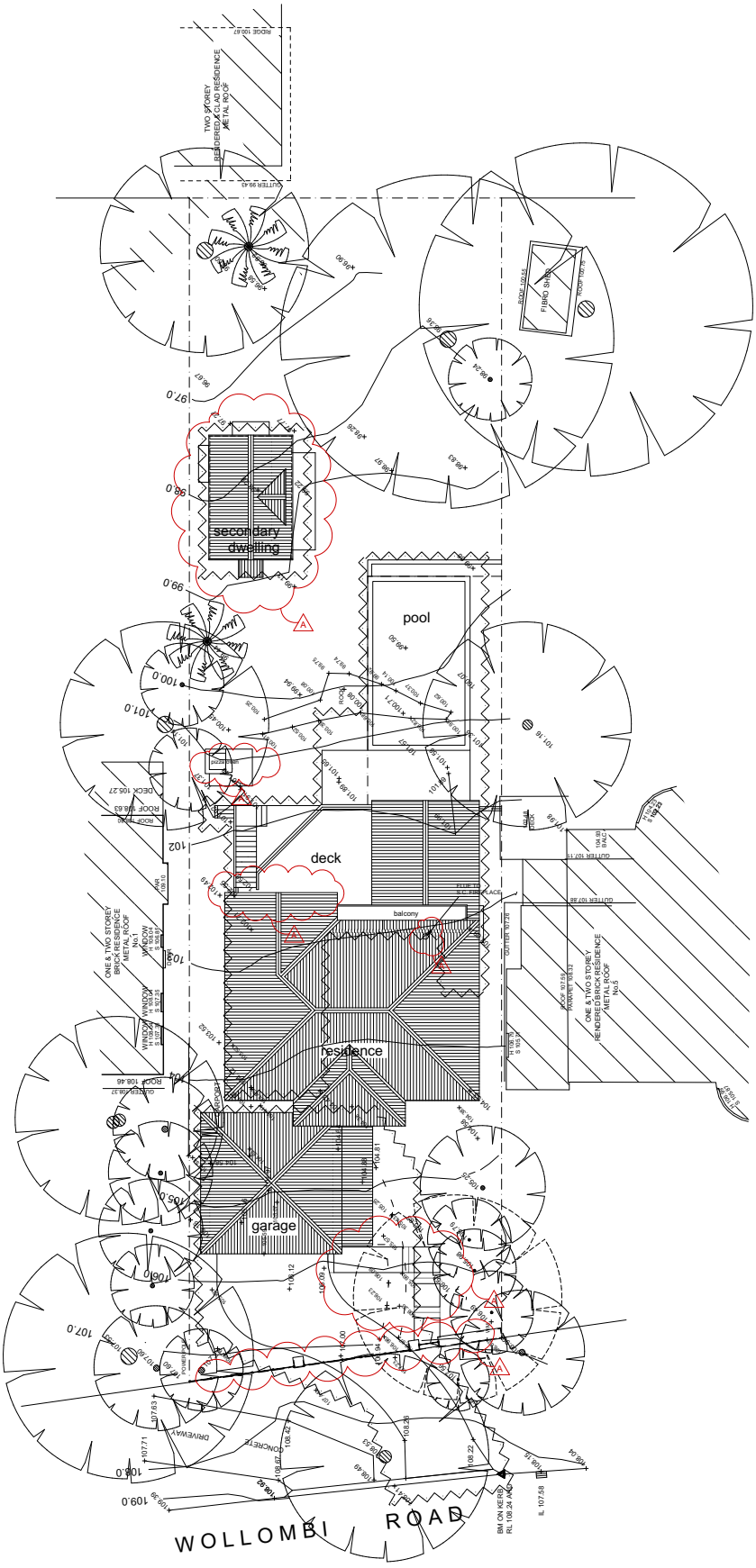
Landscape Plans		
Drawing No.	**Dated**	**Prepared By**

DA1 DA Landscape Plan	May 2022	Volker Klemm Landscape Design

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

B. Delete Condition 8. Laundry Facilities as follows:

DELETED



MILLIMETRES 0 2000 4000 6000 8000
SCALE 1:100

N

NOTE:
This Drawing has been reproduced with permission from Mackenzie International Architects with Revisions as requested by the Client for the purposes of application to council for a Modified DA.

DA Modification Issue - A 29.07.2022
Cottage position on site Revised to suit Sydney Water Surveyed Sewer location, small deck added. Front boundary Fence & Gates added, Entry & steps revised. Windows revised, Kitchen Layout & Fireplace revised. RL's Revised. Notes added.

revision issue date

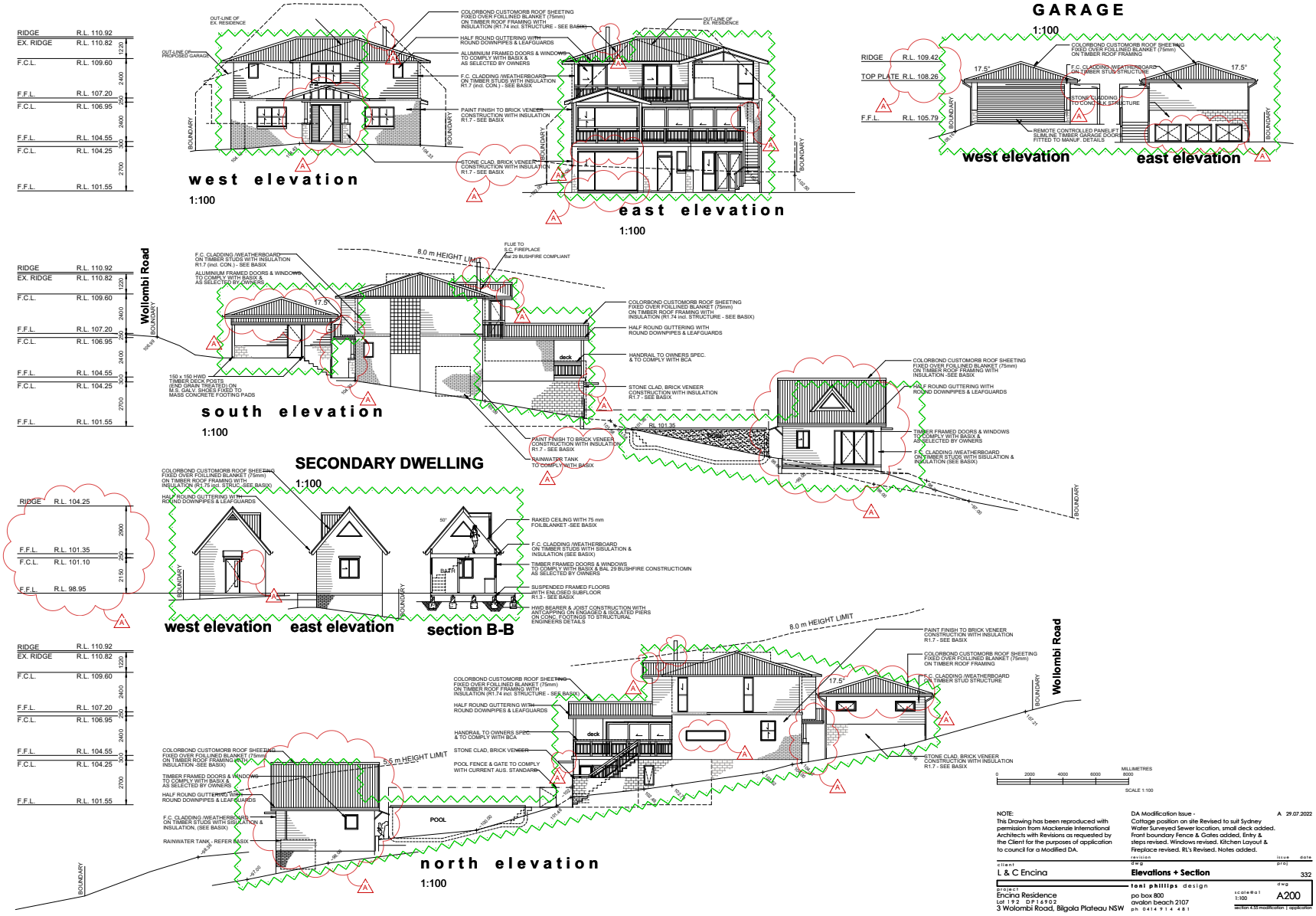
client: L & C Encina
dwg: **Site / Roof Plan**
proj: 332

project: Encina Residence
Lot 192 DP 16902
3 Wolombi Road, Bilgola Plateau NSW

toni phillips design
po box 800
avalon beach 2107
ph 0414 914 481

scale@a1: 1:100
dwg: A101

section 4.55 modification | application


west elevation
1:100
east elevation
1:100
GARAGE
1:100
west elevation
east elevation
south elevation
1:100
SECONDARY DWELLING
1:100
west elevation
east elevation
section B-B
north elevation
1:100
Wollombi Road
8.0 m HEIGHT LIMIT
8.5 m HEIGHT LIMIT
POOL
deck
BATT
RIDGE R.L. 110.92
EX. RIDGE R.L. 110.82
F.C.L. R.L. 109.60
F.F.L. R.L. 107.20
F.C.L. R.L. 106.95
F.F.L. R.L. 104.55
F.C.L. R.L. 104.25
F.F.L. R.L. 101.55
RIDGE R.L. 109.42
TOP PLATE R.L. 108.26
F.F.L. R.L. 105.79
RIDGE R.L. 104.25
F.F.L. R.L. 101.35
F.C.L. R.L. 101.10
F.F.L. R.L. 98.95
COLORBOND CUSTOMORB ROOF SHEETING FIXED OVER FOILLINED BLANKET (75mm) ON TIMBER ROOF FRAMING WITH INSULATION (R1.74 incl. STRUCTURE - SEE BASIX)
HALF ROUND GUTTERING WITH ROUND DOWNPIPES & LEAFGUARDS
ALUMINIUM FRAMED DOORS & WINDOWS TO COMPLY WITH BASIX & AS SELECTED BY OWNERS
F.C. CLADDING /WEATHERBOARD ON TIMBER STUDS WITH INSULATION R1.7 (incl. CON.) - SEE BASIX
PAINT FINISH TO BRICK VENEER CONSTRUCTION WITH INSULATION R1.7 - SEE BASIX
STONE CLAD, BRICK VENEER CONSTRUCTION WITH INSULATION R1.7 - SEE BASIX
HANDRAIL TO OWNERS SPEC. & TO COMPLY WITH BCA
RAINWATER TANK TO COMPLY WITH BASIX
RAKED CEILING WITH 75 mm FOILBLANKET -SEE BASIX
SUSPENDED FRAMED FLOORS WITH ENLOSED SUBFLOOR R1.3 - SEE BASIX
POOL FENCE & GATE TO COMPLY WITH CURRENT AUS. STANDARD
STONE CLADDING TO CONCRETE STRUCTURE
REMOTE CONTROLLED PANELIFT SLIMLINE TIMBER GARAGE DOORS FITTED TO MANUF. DETAILS
MILLIMETRES
SCALE 1:100
NOTE:
This Drawing has been reproduced with permission from Mackenzie International Architects with Revisions as requested by the Client for the purposes of application to council for a Modified DA.
DA Modification Issue - Cottage position on site Revised to suit Sydney Water Surveyed Sewer location, small deck added. Front boundary Fence & Gates added. Entry & steps revised. Windows revised. Kitchen Layout & Fireplace revised. RL's Revised. Notes added.
A 29.07.2022
client L & C Encina
dwg Elevations + Section
issue proj 332
project Encina Residence Lot 192 DP16902 3 Wolombi Road, Bilgola Plateau NSW
toni phillips design po box 800 avalon beach 2107 ph 0414 914 481
scale@a1 1:100
dwg A200
section 4.55 modification | application

ITEM 3.6	**DA2021/1718 - 6 / 5 A WOLLOMBI ROAD BILGOLA PLATEAU - CONSTRUCTION OF A DWELLING HOUSE INCLUDING A SWIMMING POOL**
REPORTING MANAGER	**Steve Findlay**
TRIM FILE REF	**2022/642789**
ATTACHMENTS	**1 ⇩Assessment Report** **2 ⇩Site Plan and Elevations** **3 ⇩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 building height standard.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

A. That Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of PLEP 2014 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 DA2021/1718 for construction of a dwelling house including a swimming pool on land at Lot 6 DP 285704, 6/5A Wollombi Road BILGOLA PLATEAU, subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1718

Responsible Officer:	Adam Susko
Land to be developed (Address):	Lot 6 DP 285704, 6 / 5 A Wollombi Road BILGOLA PLATEAU NSW 2107
Proposed Development:	Construction of a dwelling house including a swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Kristy Fei Pan
Applicant:	Kristy Fei Pan

Application Lodged:	23/09/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	06/10/2021 to 20/10/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 31.25%
Recommendation:	Approval

Estimated Cost of Works:	$ 2,583,636.00

EXECUTIVE SUMMARY

The Development Application ("**DA**") is for the construction of a new detached dwelling house and is reported to the Development Determination Panel ("**DDP**") as the proposed height of building exceeds the standards prescribed under Clause 4.3 of the Pittwater Local Environmental Plan 2014 ("**PLEP**") by more than 10% (31.25%).

The site is vacant of structures and accommodates a large number of mature trees and intersects the mapped Littoral Rainforest under the Department of Planning and Environment's Biodiversity Values Mapping. The site has a fall of approximately 18m to the east down towards the Bilgola Bends.

The assessment of this application has taken an extended period of time given conflicts between the required Asset Protection Zones ("**APZ**") recommended by the applicant's bushfire consultant, and

endorsed by the Rural Fire Services ("**RFS**"), and between the mapped Littoral Rainforest. The proposal, as lodged, required the APZ to extend within the Littoral Rainforest and required 'clearing'. The act of clearing is defined as development and as such, development within the Littoral Rainforest would constitute the application being Designated Development.

The applicant made minor amendments to the architecture of the proposal including improvements to the fire rating of the building, and a reduced APZ which has been authorised by the RFS. This reduced APZ eliminates the impacts to the Littoral Rainforest and as such, the proposal is no longer Designated Development. The DDP therefore has the authority to determine the application.

One submission was received during the course of the assessment of the application, which queried the proposed driveway connection to the shared private driveway, however owner's consent for such works has been provided.

The Clause 4.6 request for the non-compliance with the height of buildings standard is in relation to the north-eastern corner of the garage, as the land beneath it falls steeply towards a natural watercourse. The encroaching corner is positioned around 5.0m from the boundary and is not found to cause any impacts on neighbours.

Given the extreme environmental and topographical constraints experienced by the site, the variation to the height of buildings standard and any other built form non-compliance is considered to be justified.

Therefore, this report concludes with the recommendation that the DDP **APPROVES** the development application.

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for excavation and site preparation works to facilitate the construction of a new three-storey detached dwelling house.

The proposal seeks to obtain level vehicular access from the existing shared driveway to a double garage on the upper level of the house, also accommodating a study, entry foyer and terrace. The two levels below are to accommodate four bedrooms, three and a half bathrooms, an open plan living space and an elevated swimming pool.

The building is proposed to be clad in stone and render and be topped with a metal roof.

The building is designed so that it, and its associated bushfire protection solutions, do not encroach within the mapped Littoral Rainforest that exists on the site, and does not encroach beyond the 'Zone D Line' of the parent subdivision consent. The 'Zone D Line' demarcated portions of the site that are to be left undeveloped. The proposed development and associated APZ do not encroach beyond the Zone D Line.

REVISED INFORMATION

The assessment of this application extended over a prolonged period of time given the original encroachment of the APZ into the mapped Littoral Rainforest. Such encroachment necessitated clearing in the forest which Council considered to constitute Designated Development.

Through various rounds of bushfire reports and biodiversity reports, the encroachment into the rainforest was removed entirely and the application could therefore be considered under this Development Application.

Herein this report assesses a development which does not encroach into the Littoral Rainforest.

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 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater 21 Development Control Plan - B4.17 Littoral Rainforest - Endangered Ecological Community
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - D3.6 Front building line
Pittwater 21 Development Control Plan - D3.7 Side and rear building line
Pittwater 21 Development Control Plan - D3.9 Building envelope

SITE DESCRIPTION

Property Description:	Lot 6 DP 285704 , 6 / 5 A Wollombi Road BILGOLA PLATEAU NSW 2107
Detailed Site Description:	The subject site is legally identified as Lot 6 in Deposited Plan 285704 and is known as 6/5A Wollombi Road, Bilgola Plateau. The site is presently vacant of structures and has a surveyed area of 1,102m^2. The site has never been developed and is part of a community title subdivision. The site is bound by dwellings to the north, south and west, and is bound by bushland and the Bilgola Bends (Barrenjoey Road) to the east). The site accommodates significant vegetation throughout

	including littoral rainforest. Topographically the site falls steeply from west to east by some 20m. Surrounding developments in the wider vicinity consist of detached dwelling houses of varying age, size and construction.

Map:



SITE HISTORY

- **Development Application No. N0356/14** for the construction of a new single level dwelling with double garage, in-ground swimming pool and associated landscaping. Refused by the former Pittwater Council on 16 January 2015.

- **Development Application No. N0050/16** for the construction of a new dwelling house. Withdrawn by the applicant on 1 April 2016.

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) –	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
Provisions of any draft environmental planning instrument	
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)	Division 8A 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. Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to bushland and bushfire regulations which has been provided and assessed as satisfactory. Clause 92 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. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. Clause 98 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. Clause 98 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.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) **Environmental Impact** Upon initial review of the development application significant concerns were raised regarding the impacts of the proposal on bushland and the littoral rainforest. Through revised information and a significant reduction in the extent of the required APZ the concerns pertaining to environmental impacts have been largely ameliorated, and were completely ameliorated through the imposition of appropriate conditions. Therefore the environmental impacts of the development are acceptable, and are discussed in detail elsewhere in this report where relevant. (ii) **Social Impact** The site has always been envisaged as accommodating a dwelling house since the inception of the parent subdivision. To that extent, the

Section 4.15 Matters for Consideration	Comments
	premise of constructing a dwelling on a currently vacant site is anticipated and does not generate any social impacts. The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) **Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by Bushfire Planning Services, dated 27 June 2022). The report stated that the bushfire attack level of the site is “Flame Zone” and the report recommended an alternative solution to comply with Planning for Bush Fire Protection.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 06/10/2021 to 20/10/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:

Name:	Address:
Ms Gail Anne Sadler	5 / 5 A Wollombi Road BILGOLA PLATEAU NSW 2107

The following issues were raised in the submissions:

- Impacts of driveway on communal driveway

The above issues are addressed as follows:

- The submission received raised concern that allowing the proposed driveway to connect to the existing communal driveway would be contrary to by-laws of the Neighbourhood Management Statement.

  Comment:

  The concerns raised were discussed with the property manager who advised that correct processes in obtaining owners consent had been correctly followed. There is no planning basis under the Environmental Planning and Assessment Act 1979 to refuse the application on these grounds, and therefore the matter is considered acceptable for the purpose of the DA.

  Further civil discussions can occur post the issuance of any consent to remedy any by-law issues that may or may not be invoked by the consent.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	*updated comments:* Updated Plans and Reports are submitted that address the concerns including the following: The updated Landscape Plans prepared by Paul Scrivener Landscape, issue F, address the issues previously raise and no further concerns remain. THe landscape proposal includes hard and soft landscape works. Native existing trees are indicated for retention in co-ordination with the Arboricultural Impact Assessment, and additional planting is proposed, as well as the transplanting of endemic Cabbage Tree Palms. The proposal satisfies the landscape outcome intent of the C4 land zone and the Pittwater DCP. A tree root investigation has been carried out within the tree protection zone of the existing Bangalay T3 and two of the four test pier holes found tree roots resulting in the test pier hole relocation where no tree roots were found, and thus the arborist notes that locations for pier holes 1, 2, 3 and 4 as described and illustrated in the site plan in the Root Mapping Addendum to Arboricultural Impact Assessment report prepared by Hugh The Arborist, contained no tree roots and are considered acceptable locations for piers.

Internal Referral Body	Comments
	A total of eleven existing trees are required to be removed should the application be approved, and new trees are proposed as replacement planting. A total four endemic Cabbage Tree Palms are proposed for transplanting. Following review of the information, the previous concerns are now determined to be satisfied and no further concerns remain, and Landscape Referral are able to support the landscape outcome of the proposal subject to imposed conditions. *previous comments:* The development application is for the construction of a new dwelling and swimming pool, and associated landscape works. Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living, and the following Pittwater 21 DCP controls (but not limited to): • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D3 Bilgola Locality The site is located in the C4 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, to satisfy the landscape objectives of the C4 Environmental Living zone. The proposal requires the removal of existing trees impacted by the building footprint to the upper slopes whilst existing trees and vegetation are proposed for retention further downslope. A Arboricultural Impact Assessment and Landscape Plans are submitted with the application. In review of the application documents, Landscape Referral notes the concerns regarding the co-ordination of all documents and design outcomes in the Natural Environment Referral Response - Biodiversity response and shall not be repeated in this referral, including that the specified plant species on the Landscape Plans are not as prescribed under the approved 'Landscape and Bushland Management Plan' (Ecotone Ecological Consultants 2000). Thus amended Landscape Plans information is required to assist with the Landscape Referral assessment. The Arboricultural Impact Assessment includes tree removal of eleven native trees within the site. Four native Cabbage Tree Palms are proposed for transplanting (T5, T8, T17 and T20), and the transplanted palms are located on the Landscape Plans. Five existing native trees within the site in proximity to the development works are proposed for retention including T2 Cheese Tree, T3 and T31 Bangalay, and T19 and T29 Sydney Red Gum. Additionally existing trees and vegetation within the rear of the property beyond T29 and

Internal Referral Body	Comments
	T31, not assessed, shall be retained, except for the removal of weeds. Concern is raised that the assessment of the Bangalay T3 recommended for retention is based upon advice that requires tree sensitive design for pier footings to avoid significant roots, and that the report recommendation requires the location of the piers to be flexible to avoid the structural root zone. It is advised that a sensitive tree root investigation is required prior to determination of the development application in this instance as the Bangalay T3 is a significant tree of high retention and amenity value, such that a root map at this stage will guide the location for pier footings to avoid detrimental impact to the tree. Landscape Referral are currently unable to support the application without additional information pertaining to the Landscape Plans, as the matter raised by Natural Environment Referral Response - Biodiversity, and a sensitive tree root investigation for the existing Bangalay T3.
NECC (Bushland and Biodiversity)	The application seeks approval for the construction of a new three level dwelling comprising four bedrooms and double garage stepping down the site with a swimming pool at the mid-level in a landscaped garden setting. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including: **Biodiversity Conservation Act 2016 (BC Act) and Regulation 2017** **State Environmental Planning Policy (Coastal Management)** • Clause 10 - Development on certain land within coastal wetlands and littoral rainforests area • Clause 11 - Development on land in proximity to coastal wetlands or littoral rainforest **Pittwater Local Environmental Plan (PLEP)** • 7.6 Biodiversity Protection **Pittwater Development Control Plan (PDCP)** • B4.17 Littoral Rainforest - Endangered Ecological Community **Final Recommendation 15/09/2022** Additional information is provided with the application, including a Bushfire Hazard Assessment (Building Code & Bushfire Hazard Solutions Pty Limited Version 1 dated 27/06/2022) and additional information and conditions from the NSW RFS dated 10 September 2022, which supersedes their previous advice dated 18 October 2021. The information provided has addressed and resolved 'Concern 2'.

Internal Referral Body	Comments
	The bushfire consultant has acknowledged the environmental significance of the mapped Littoral Rainforest and characteristics of the subject site and bushfire hazard and concluded that it is not considered necessary to apply a notional 10 metre APZ / defendable space. Subsequently all grounds not built upon within the subject site, excluding the **Zone D** land, be maintained in accordance with an APZ (Inner Protection Area). This will result in the provision of a 4.9 metre APZ to the east, being an ample space for pedestrian access consistent with section 3.2.4 of PBP. This conclusion is supported by the RFS, with the inner protection area of the asset protection zone is not to extend beyond the Zone D line. All works permitted within the Area Designated (D), must conform to the 'Fuel Reduced Zone' (Building Code & Bushfire Hazard Solutions 2000). The protection and maintenance of vegetation is to also comply with the requirements of the Bushland & Landscape Management Plan (Ecotone Ecological Consultants August 2000). **Updated Recommendation - 15/02/2022** Additional information is provided with the application, including amended Landscape Plans, amended Architectural Plans, a Tree Root Investigation for 'Tree 3' and Bushfire Letter. The Biodiversity Referral Team is satisfied by additional information relating to 'Concern 1', including an amended Site Analysis/Site Plan (Atelier 2022) and the Tree Root Investigation letter (Hugh the Arborist 2022) which concludes that Tree 3 (*Eucalyptus botryoides*) can be retained. In addition, objections listed under 'Concern 3' and 'Concern 4' are satisfied and withdrawn following amendments to the Bushfire Risk Assessment and Landscape Plan. With regard to 'Concern 2' the following information is provided: 1. Amended Architectural Plans depicting the proposed 10m APZ, and the Area Designated (D) as set out under the approved covenant. 2. A letter provided by the Bushfire Consultant (hereafter 'Bushfire Letter') responding to 'Concern 2'. Based on the amended Architectural Plans, specifically the Site Analysis/Site Plan (Atelier 2022), is it understood that the proposed 10m APZ will extend into the Area Designated (D), set out under the approved covenant. Within the Area Designated (D), the covenant permits a 'Fuel Reduced Zone' that allows for "*the removal of weeds, introduced plant species and excess ground fuels. Ground fuels may be reduced by hand or other recognised reduction methods*" (Building Code & Bushfire Hazard Solutions 2000). As stated within the Bushfire Letter, it is conclusion of the applicant's Bushfire Consultant that "*The creation of the defendable space will require more than the*

Internal Referral Body	Comments
	"reduction of fuels by removal of weeds, introduce plant species an access ground fuels"". As the application will require additional impacts to native vegetation that were not approved under the original subdivision, and the native vegetation is mapped within both: 1. Department of Planning, Industry and Environment's (DPIE) Biodiversity Values Mapping. Available here: https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap, and 2. s10 and s11 of State Environmental Planning Policy (Coastal Management) 2018. the minimum submission requirements of the application have not been met or adequately addressed within the submitted documentation. The applicant is required to engage an Accredited Assessor under the Biodiversity Assessment Method (https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor) to prepare a Biodiversity Development Assessment Report (BDAR). The BDAR must demonstrate what measures have been taken to avoid and minimise before offsetting of vegetation is applied. Council may not support the proposal, unless minimisation of impacts is clearly demonstrated within the BDAR in accordance with the BAM, and at minimum should be accompanied by a Vegetation Management Plan (VMP) that details the quantity, and species of vegetation to be removed from within the proposed APZ that extends into the Area Designated (D). This plan should be prepared in consultation with the Bushfire Consultant to ensure consistency. The VMP must also provide planting locations for the proposed Cabbage Palm translocation, and necessary erosion and sedimentation controls to minimise indirect impacts. In addition to the Biodiversity Conservation Act 2016 (BC Act), the BDAR must also address the requirements of the Commonwealth Environment Protection Biodiversity Conservation Act 1999 (EPBC Act), and s10 & s11 of State Environmental Planning Policy (Coastal Management) 2018 including to clearly demonstrate how *sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.* On receipt of the requested information, Council's Biodiversity Referral Team can reassess the application. **Original Recommendation - 15/10/2021** Additional information is required prior to the Biodiversity Referral Unit

Internal Referral Body	Comments
	completing assessment of the proposal. The key concerns raised by Biodiversity include: 1. The possible removal of Tree 3 for the purposes of a driveway in the western elevation of the site as noted on the Site Analysis/Site Plan (Atelier 2021) in contradiction of the recommendations of the Aboricultural Impact Assessment. The Site Analysis/Site Plan should be updated to reflect the proposed retention of Tree 3. Tree numbering/identification should be updated within the Arboricultural Impact Assessment to reflect the same tree numbering used in the original subdivision (see Table 5, page 18 of the 'Landscape and Bushland Management Plan' (Ecotone Ecological Consultants 2000)). 2. The Bushfire Risk Assessment does not provide an assessment of compliance or clear map that shows the proposed APZ is compliant with the 'Bushfire Hazard Assessment and Fuel Management Plan' (BCBHS 2000) as required under the Covenant. 3. The Bushfire Risk Assessment incorrectly states that the site (and neighbours) may benefit from the 10/50 Clearing Eligibility. This must be removed from the report due to inaccuracy and potential future confusion caused to the landowner. 4. The submitted Landscape Plan specifies plant species that are not prescribed under the approved 'Landscape and Bushland Management Plan' (Ecotone Ecological Consultants 2000). Further detail on point (1) - (4) is provided below. **(1)** The application requires the removal of 15 trees (Hugh the Arborist 2021), including: • 1 exempt tree (based on height [<5m]) that do not require approval for removal: ○ 1 *Acmena smithii* (T24). • 9 trees located within the approved construction footprint under a previous consent (N0201/97): ○ 3 *Livistona australis* (T8, 17, 20); ○ 5 *Angophora costata* (T9, 10, 11, 15. 21); ○ 1 *Eucalyptus botryoides* (T22); • 5 trees located within the approved 'Fuel Free Zone' (FFZ) approved under a previous consent (N0201/97): • 1 *Livistona australis* (T5); • 3 *Angophora costata* (T14, 16, 23); • 1 *Eucalyptus spp.* (T25).

Internal Referral Body	Comments
	In conflict with the Arboricultural Impact Assessment, the submitted Site Analysis/Site Plan (Atelier 2021) notes the removal of Tree 3 (*Eucalyptus botryoides*) for removal for the purposes of a driveway. Given the driveway is elevated, Tree 3 should be retained in accordance with the recommendations of the Arboricultural Impact Assessment. Tree Numbering/Identification used in the Arboricultural Impact Assessment should be updated to reflect the same tree numbering used within Table 5, page 18 of the 'Landscape and Bushland Management Plan' (Ecotone Ecological Consultants 2000) for ease of comparison. **(2)** Further concern is raised over the recommendation of the submitted Bushfire Risk Assessment (Bushfire Planning Services 2021) to provide an Asset Protection Zone (APZ) of "at least 10m or, if 10m is not achievable due to the proximity of a property boundary, to the property boundary." Vegetation removal for hazard reduction in addition to that already prescribed within the 'Neighborhood Management Statement' and accompanying 'Bushfire Hazard Assessment and Fuel Management Plan' (BHA&FMP) (BCBHS 2000) may not be supported by Council's Biodiversity Referral Team. No assessment of compliance against the approved BHA&FMP (BCBHS 2000) has been provided within the assessment, however the proposed 10m APZ to the east appears to extend beyond the FFZ, into enter into the Fuel Reduced Zone (FRZ) which permits only the reduction of fuels by "removal of weeds, introduced plant species and excess ground fuels". An assessment including clear and accurate maps must be provided by the Bushfire Consultant that demonstrates no additional vegetation removal (beyond what is already approved) is required to achieve the required defendable space. **(3)** Additionally, the following statement must be removed from the Bushfire Risk Assessment: "It is noted that the subject lot is currently within a designated “10/50” bushfire vegetation management area. It is suggested that all the vegetation within the subject block, and, with the neighbours’ permission, any vegetation within the surrounding blocks is managed in accordance with the 10/50 code of practice available". This statement is incorrect, and refers to another irrelevant Lot/DP. Further, hazard reduction works within the subject site must be compliant with the specifications of the Covenant, including those listed in the Neighbourhood Management Statement. **(4)** Species selection in the submitted Landscape Plan (Paul Scrivener Landscape 2021) must be amended (where needed) to reflect the species prescribed in Schedule 1, page 23 of the 'Landscape and Bushland Management Plan' (Ecotone Ecological Consultants 2000). Species selection should be consistent with the '*Littoral Rainforest in the NSW North Coast, Sydney Basin and South East Corner Bioregions'* due to the presence of the EEC on site, and the lower flammability of the species within the community.

Internal Referral Body	Comments
	https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/2004-2007/littoral-rainforest-north-coast-sydney-south-east-corner-endangered-ecological-community-listing The use of exotic species and native-cultivars will not be supported. On receipt of the requested information, the Biodiversity Referral Team can reassess the application.
NECC (Development Engineering)	The submitted stormwater plans including OSD are satisfactory. The submitted overland flow report is satisfactory. The proposed building cantilevers over a portion of the overland flowpath but does not obstruct the flow. This issue is to be assessed by Council's Coast & Catchment Team and Flood Team. The stormwater outlet to the existing creek is to be assessed by the Catchment Team. The proposed driveway grade is acceptable. The submitted Geotechnical report addresses the relevant DCP controls. No objection to the proposal subject to support for the overhang of the building over the overland flow path by Council's Catchment and Flood Teams and conditions as recommended.
NECC (Riparian Lands and Creeks)	This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. The site includes a natural watercourse and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the watercourse, or the quality and quantity of surface and ground water flows that it receives. The proposal is for a development close to a watercourse with a stormwater connection to the watercourse via an outlet. Consideration has been given to the development limitations of the site and the design measures proposed to accommodate the watercourse. The proximity of the proposed development to the watercourse is considered acceptable in this circumstance given the limitations of the site but should be offset with riparian planting as per the NSW Department of Primary Industries Office of Water Guidelines for riparian corridors on waterfront land. As a guideline for the area of offset planting, the area of incursion into the easement should be used. The proposed transplanting of mature palms into the riparian area is not satisfactory as the works required to install the palms could have an unacceptable impact on the watercourse. Plant species used to vegetate the riparian area should be in accordance with the Bushland and Landscape Management Plan for the subdivision of 5a Wollombi Road, Bilgola, prepared by Ecotone Ecological Consultants dated August 2000. The stormwater outlet design must be revised to be consistent with the Department of Primary Industries Office of Water Guidelines for outlet structures on waterfront land. The use of mortar as part of the outlet design is not supported by Council. Council must be consulted if works needs to be done within three (3) metres of the watercourse centreline at any time.

Internal Referral Body	Comments
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed DA generally meets the flood controls in the LEP and DCP. The proposed house has been designed to have a floor level 300mm above the 1% AEP level. The existing watercourse has been retained. Approved by flood team following approval by development engineers.
Strategic and Place Planning (Heritage Officer)	***Supported, without conditions*** Nearby heritage item: Grove of Cabbage Tree Palms Statement of Significance: The Grove of Cabbage Tree Palms (Livistona australis) is a landscape heritage item of local significance with natural, aesthetic, scientific, historic and social significance for the area. Strong and densely established, this grove is emblematic of Bilgola as a locality within the larger peninsula and municipality. The occurrence of cabbage tree palms, said to be the best remaining stand in the Sydney area, add to the natural beauty of the area. The area is an important recreational resource for the people of Sydney. Physical Description: The Grove of Cabbage Tree Palms in the Bilgola Valley covers several properties to the east and west of Barrenjoey Road in Bilgola. Livistona australis (Cabbage Palm) is a tall erect indigenous member of the palm family (Arecaceae) very widely distributed throughout lowland forest and swamps of eastern Australia, occurring in QLD, NSW and VIC. The stems are mostly about 10 metres tall but can grow up to 30 metres. The leaves, borne at the top of the stems, area palmately divided, fan shaped and plicate (folded longitudinally). Comment: The proposal seeks consent for a new 2-3 storey dwelling at the subject property. The heritage item directly adjoins the property along its eastern boundaries. As the dwelling is located in the western portion of the site away from the item and retains a significant unbuilt portion adjoining the item it is considered to not impact upon the item or its significance. It is also noted that a number of cabbage tree palms on the property, which do not form part of the heritage item, are proposed for transplanting on site which Heritage supports. Therefore Heritage raises no objections and requires no conditions.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	***Supported, with conditions*** The proposal was referred to Ausgrid who raised no objections to the development.
Rural Fire Service - Local Branch - EP&A Act, s4.14	***Supported, with conditions*** The NSW RFS recognises that the site is constrained and that the proposed development falls within the Flame Zone. Flame Zone development is high risk development; consequently, in situations such as this, the NSW RFS seeks to improve the overall fire safety of the existing development. This requires greater emphasis on construction standards, landscaping, siting, and vegetation

External Referral Body	Comments
	management practices to ensure improved levels of protection are afforded to the development, its occupants and fire fighters. The Service has undertaken a merit based assessment of the proposal and provides the above advice in accordance with Planning for Bush Fire Protection 2019. Planner note: the aforementioned RFS advice has been endorsed by way of condition of consent.
Aboriginal Heritage Office	***Supported, with conditions*** 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. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. 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.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1199699S dated 24 August 2021).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	91

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

SEPP (Transport and Infrastructure) 2021

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

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

Comment:
The proposal was referred to Ausgrid who raised no objections.

SEPP (Biodiversity and Conservation) 2021

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

a) the need to retain any bushland on the land,

b) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and

c) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

Comment:

The site adjoins land zoned C2 Environmental Conservation which accommodates significant bushland, parts of which constitute littoral rainforest.

The development has been reviewed by Council's Landscape Officer, Bushland and Biodiversity Officer, Riparian Lands and Creek Officer, and the Rural Fire Service who are all satisfied that the proposal will not have any adverse impacts on the quality of the adjoining bushland, nor the public

benefits associated with that bushland.

The development satisfies the requirements of bushland in urban areas.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management
A portion of the site is mapped under the Resilience and Hazards SEPP as being littoral rainforest (as indicated in purple on the below image) and the remainder is land 'in proximity' to the littoral rainforest.



Given the above, the site is subject to the requirements of Chapter 2 of the SEPP.

Division 1 Coastal Wetlands and littoral rainforest area
2.7 Development on certain land within coastal wetlands and littoral rainforests area

1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:

a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
c) the carrying out of any of the following:
    i) earthworks (including the depositing of material on land),
    ii) constructing a levee,
    iii) draining the land,
    iv) environmental protection works,
d) any other development

Comment:

The proposal, as amended, does not include any form of 'development' or works in the land mapped as littoral rainforest, including both the construction of built form, or the removal or modification of vegetation within the rainforest. Council's various referral bodies are satisfied that the development will not have any unreasonable or adverse impacts on the littoral rainforest and therefore, the development is permitted with consent.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
    a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
    b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

The area outside of the purple hatching as shown in the above image is all land 'in proximity' to the littoral rainforest. Council's referral bodies have conducted an extensive review of the proposal and have concluded that the works will not significantly impact on the biophysical, hydrological or ecological integrity of the rainforest, nor the quality and quality of groundwater flows.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land
Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been vacant for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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	8.0m	10.5m	31.25%	**No**

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	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

4.6 Exceptions to development standards

Description of Non-compliance

Development standard:	Clause 4.3 Height of Buildings
Requirement:	8.0m
Proposed:	10.5m
Percentage variation to requirement:	**31.25%**

The northeastern corner of the proposed dwelling encroaches beyond the prescribed 8.0m building height plane, as depicted in the below diagram provided by the project architect:

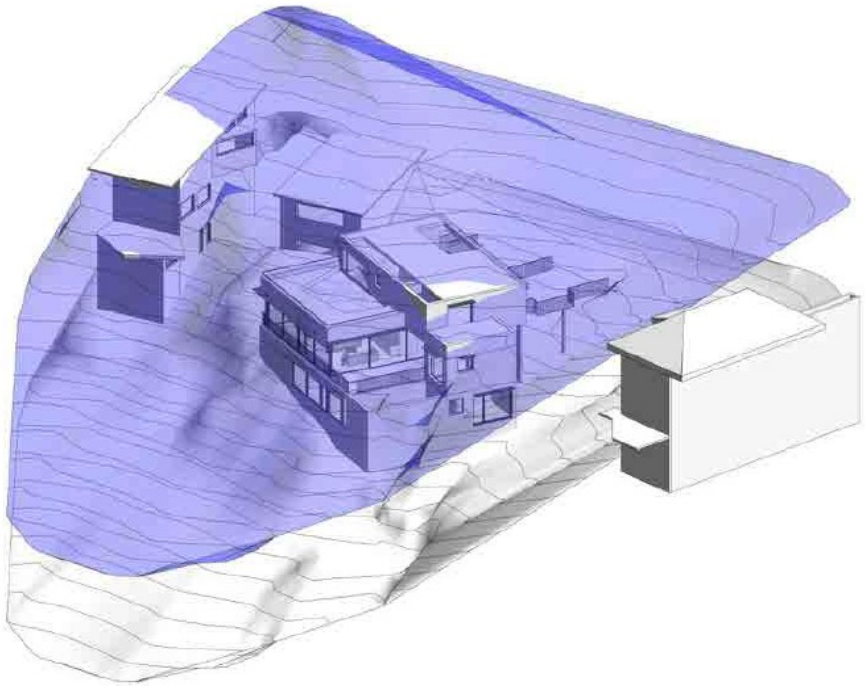


Figure 1 (above): 8.0m height blanket from survey interpolated over CAD model of dwelling (encroaching element shown in white).

Assessment of Request to Vary a Development Standard

The following assessment of the variation to Clause 4.3 - Height of Buildings 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 4.3 - Height of Buildings 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 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 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.

Applicants Written Request

The applicants written request argues, in part:

- *that the building is well-designed and appropriately responds to the topographical and environmental constraints on the land.*
- *that the breach proposed is not inconsistent with breaches on adjoining properties.*
- *that the breach proposed does not give rise to any unreasonable or adverse amenity impacts on adjoining land.*
- *that the dwelling is not readily visible from the public domain, given the site location and elevation.*
- *that the encroaching elements are caused by the proposed garage, and that the location of the garage is the least offensive location on the site.*

It is concurred with that the location of the garage is the most appropriate position on the site which does not necessitate any significant ramping or excavation. The impacts of the encroachment are minimal and largely non-discernible from the public and private domain.

Given the undulating topography of the site which falls in a general north/east orientation, the ability to design a dwelling house within the height limit presents difficulties. The site has steep drop-offs in various locations, including directly under the portion of the building which encroaches the height limit.

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 Height of Buildings development standard and the objectives of the C4 Environmental Living zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 4.3 Height of Buildings of the PLEP 2014 are:

(1) The objectives of this clause are 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:

In their submission, the applicant has demonstrated that other surrounding developments within the same community title subdivision also breach the prescribed 8.0m height limit, which is not surprising given the difficult topography and severe environmental constraints that apply to the land. The proportions and bulk of the development are considered appropriate, well-resolved and compatible with the desired character of the area.

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

Comment:

The height of the development is not considered incongruent with neighbouring properties, nor is the height considered to detract from the natural scenic quality of the site.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposal is not considered to generate any unreasonable overshadowing impacts to neighbouring properties.

d) to allow for the reasonable sharing of views,

Comment:

The proposal is not considered to generate any unreasonable view loss impacts from neighbouring private properties or from the private domain.

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

Comment:

The proposal is generally sited on the upper plateaus of the site which experience the least significant environmental constraints, either by virtue of mapping or the requirements of the original subdivision. The building is considered to be appropriately designed to respond to the topography of the site.

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

Comment:

The development is not considered to have an adverse visual impact on the natural environment, and it is considered that over time, the material palette of the building will sympathetically blend in with the natural environment.

Zone Objectives

The underlying objectives of the C4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

  Comment:

  The site is mapped as having significant ecological and environmental characteristics including valuable bushland and littoral rainforest. The development and its APZ has been appropriately designed to have the lowest possible impact on the natural environment.

- *To ensure that residential development does not have an adverse effect on those values.*

  Comment:

  The assessment of this application by Council's various referral experts has determined that, subject to strict adherence with report requirements and the conditions of consent imposed in this report, the development would not have an adverse impact on the environmental and ecological values of the site.

- *To provide for the continuance of a limited range of existing small-scale water-related business and leisure uses.*

  Comment:

  N/A

- *To ensure that development, by way of its character, design, location and materials of*

construction, is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.

Comment:

It is considered that upon maturity of the building and the re-establishment of a landscaped curtilage that the building will appropriately blend in with the surrounding natural environment and will be of an acceptable visual impact.

- *To protect and enhance the natural landscape by conserving remnant bushland and rock outcrops and by encouraging the spread of an indigenous tree canopy.*

  Comment:

  Achieved. Refer to comments from Council's Landscape Officer and Bushland Biodiversity Officer.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the C4 Environmental Living zone.

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 PS20-002 dated 5 May 2020, 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 2 November 2021, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Height of Building Development Standard associated with a single dwelling house (Class 1 building).

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 suitably 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 (west)	Nil to 6.7m	Up to 100%	No
Rear building line	6.5m (east)	28 to 32m	-	Yes
Side building line	2.5m (north)	2.3 to 3.5m	Up to 8%	**No**
	1.0m (south)	1.5m	-	Yes
Building envelope	3.5m (north)	Outside envelope	-	**No**
	3.5m (south)	Outside envelope	-	**No**
Landscaped area	60% (661.2m^2)	Approx. 75% (836m^2)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	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
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	Yes	Yes
C1.17 Swimming Pool Safety	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
D3.1 Character as viewed from a public place	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	No	Yes
D3.7 Side and rear building line	No	Yes
D3.9 Building envelope	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D3.13 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B4.17 Littoral Rainforest - Endangered Ecological Community

The subject site accommodates land identified as Littoral Rainforest as depicted in green on the below diagram:



Figure 2 (above): Littoral Rainforest map shown in dark green, from Council's database.



Figure 3 (above): Proposed site plan, from architect.

The proposed building and its associated bushfire protection solutions have been designed in a manner which does not encroach into nor interfere with the mapped Littoral Rainforest. Therefore, no further assessment against this clause is required.

C1.3 View Sharing

The proposal is not considered likely to cause any adverse impacts on the provision of views currently enjoyed from neighbouring private properties, nor from the public domain. Any extent of view loss which would occur is considered to be consistent with what could readily be expected from the development of this vacant site.

D3.6 Front building line

Description of Non-Compliance

Clause D3.6 of the Pittwater 21 Development Control Plan 2014 prescribes a front boundary setback requirement of either 6.5m. The proposed building has a minimum front setback of nil and therefore requires a 100% variation to the control. The encroaching portions of development include the southwestern corner of the entry foyer and the suspended driveway.

Merit Consideration

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

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

  Comment:

  Addressed in Clause 4.6 Variation request.

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

  Comment:

  The encroachment of structures into the front setback area are not anticipated to generate any unreasonable view sharing impacts from the private and public domain.

- *The amenity of residential development adjoining a main road is maintained.*

  Comment:

  N/A Wollombi Road is not a main road.

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

  Comment:

  Vegetation removal has been assessed as acceptable by Council's Landscape Officer and Bushland Biodiversity Officer. The proposal is limited in its potential footprint locations and the design proposed, including the encroachment into the front setback area, is considered to adequate achieve this objective.

- *Vehicle manoeuvring in a forward direction is facilitated.*

  Comment:

  Not achieved, however cars will reverse out onto a shared driveway rather than a public road.The act of reversing onto the shared driveway is considered acceptable.

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

  Comment:

  The proposal accommodates approximately 25% of the total site area and is therefore expected to preserve the bushland character of the locality.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*
  Comment:

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

It is only anticipated that the residents of the subject site and 7/5A Wollombi Road would walk past the site frontage. The frontage provided is well designed and considered to be attractive.

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

  Comment:

  The development is considered to appropriately respond to the spatial characteristics of the urban environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant Outcomes of the Pittwater 21 Development Control plan 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.

D3.7 Side and rear building line

Description of Non-Compliance

Part D3.7 Side and rear building lines of the Pittwater 21 Development Control Plan 2014 prescribes a minimum rear building line of 6.5m, and required side setbacks of 1.0m to one side and 2.5m to the other side.

A portion of the building encroaches the 2.5m setback by 8% (200mm) and therefore requires a variation to the control requirements.

The area of non-compliance is less than $1m^2$ and is formed by the north-western corner of the proposal at both Ground and Level 1.

Merit Consideration:

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

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

  Comment:

  Achieved.

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

  Comment:

  The development is found to be of an appropriate bulk and scale. The extent of encroachment to the side boundary does not create any unreasonable visual impact when viewed from the neighbouring property.

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

  Comment:

  The proposed non-compliance and development as a whole is not considered to detract from view sharing.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

  Comment:

  As above.

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

  Comment:

  The development is found to achieve an appropriate level of amenity internally, and retains appropriate amenity to adjacent sites, notwithstanding the variations to the side building line.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

  Comment:

  Council's Landscape Officer and Bushland & Biodiversity Officers are satisfied with the landscape solutions proposed. The building is not readily visible from the public street.

- *Flexibility in the siting of buildings and access.*

  Comment:

  The environmental constraints of the land heavily dictate the available building area, and thus flexibility in the siting of the building is considered warranted.

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

  Comment:

  The variation sought does not necessitate the removal of any significant vegetation.

- *To ensure a landscaped buffer between commercial and residential zones is established.*

  Comment:

  N/A

On balance the non-compliance to the control requirements has been found to succeed against the control outcomes and accordingly, the variation as proposed may be supported.

D3.9 Building envelope

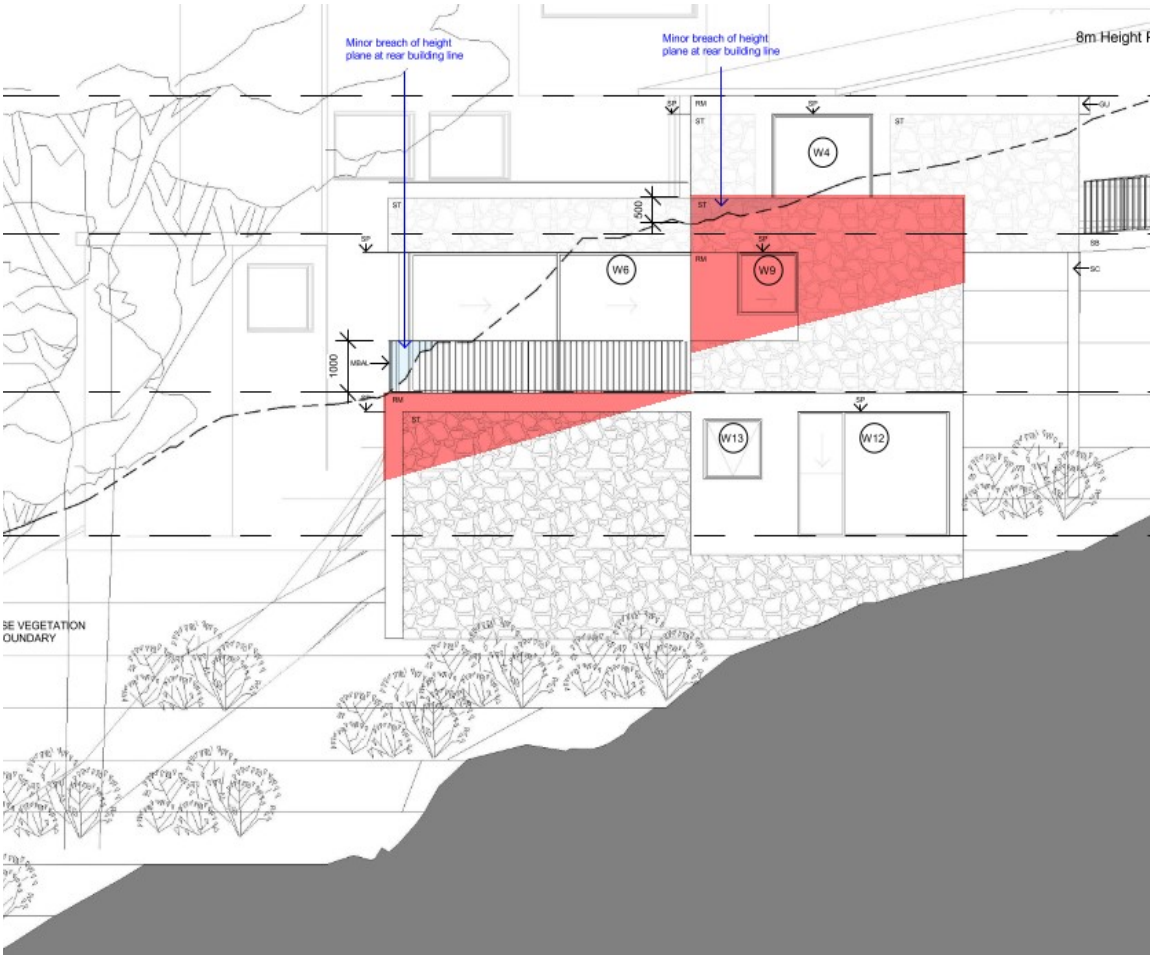
Description of Non-Compliance

Part C3.9 of the P 21 DCP requires a building envelope to be applied at heights of 3.5m and then projecting inwards at 45 degrees.

That Part also includes a variation provision that permits non-compliance in circumstances where the building footprint is situated on slopes over 16.7 degrees.

The building is situated on a slope of approximately 50 degrees which therefore triggers the variation provision.

The variations in question are present on the northern elevation of the dwelling, and are (approximately) shown in red on the below working plans.



Merit Consideration:

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

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

  Comment:

  The desired future character has been addressed elsewhere in this report. Generally, the variation sought to the building envelope control is found to be consistent with the intent of the desired future character.

- *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 generally situated below the height of natural vegetation and is largely not visible from the street or private driveway.

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

  Comment:

  The built form is assessed as being appropriately responsive to the natural topography of the land in that its height and bulk steps in from the outer edges of the site as the land falls. To that extent, the proposal is found to relate to the spatial characteristics of the natural environment.

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

  Comment:

  The development is found to be well resolved and articulated and incorporates an interesting material palette which, in combination with the landscaping, minimise the bulk and scale of the built form.

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

  Comment:

  The variations sought to the envelope control, and the proposal overall, is not found to result in any unreasonable impacts to views from the public or private domain.

- *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 maintains an appropriate level of privacy and solar access to adjoining properties.

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

  Comment:

  Council's Landscape Officer and Bushland Biodiversity Officer are satisfied with the retention of vegetation proposed.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P 21 DCP 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.

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of $25,836 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $2,583,636.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- 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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings 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.

PLANNING CONCLUSIONS

The assessment of this DA has found that the proposed house is well-designed to respond to the environmental constraints of the land, and that the development will not have any unacceptable impacts on the surrounding natural environment.

The amended proposal minimises amenity impacts on neighbouring properties and is free of objection in that respect. The one objection relating to driveway access has been addressed and does not warrant the refusal of the DA.

The variation to the building height development standard under Clause 4.6 of the PLEP 2014 is well-founded and justifies the proposed variations, based on the significant slope of the site and the minimal extent of the non-compliant area and lack of impacts arising.

On balance, this assessment finds that the application, as revised, has addressed the concerns and issues raised by Council and the RFS, and is worthy of approval.

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 4.3 Height of Building development standard pursuant to clause 4.6 of the PLEP 2014 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 DA2021/1718 for Construction of a dwelling house including a swimming pool on land at Lot 6 DP 285704, 6 / 5 A Wollombi Road, BILGOLA PLATEAU, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
035_DA_A101 Rev.C - Site Analysis / Site Plan	31 January 2022	Atelier M
035_DA_A102 Rev. C - Entry Level Plan	26 August 2021	Atelier M
035_DA_A103 Rev. C - Level 1 Floor Plan	26 August 2021	Atelier M
035_DA_A104 Rev. C - Ground Floor Plan	26 August 2021	Atelier M
035_DA_A105 Rev. B - West / "Street" Elevation	26 August 2021	Atelier M
035_DA_A106 Rev. B - North Elevation	26 August 2021	Atelier M
035_DA_A107 Rev. B - East Elevation	26 August 2021	Atelier M
035_DA_A108 Rev. B - South Elevation	26 August 2021	Atelier M
035_DA_A109 Rev. B - Sections A & B	26 August 2021	Atelier M
035_DA_A110 Rev. B - Schedule of Colours & Materials	26 August 2021	Atelier M
035_DA_A113 Rev. B - Excavation Plan	26 August 2021	Atelier M

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Arboricultural Impact Assessment	24 April 2021	Hugh The Arborist
BASIX Certificate No. 1199699S	24 August 2021	Integreco Consulting Pty Ltd
Bushfire Assessment Report (ref:224244)	27 June 2022	Building Code & Bushfire Hazard Solutions Pty Limited
Overland Flow Study	13 August 2021	Taylor Consulting
Preliminary Geotechnical Assessment (ref:P2108374JR01V02)	18 August 2021	Martens
Root Mapping Addendum to Arboricultural Impact Assessment	31 January 2022	Hugh The Arborist

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 - Ground Floor Issue F	27 January	Paul Scrivener

	2022	Landscape
Landscape Plan - Level 1 & Entry Issue F	27 January 2022	Paul Scrivener Landscape
Planting Plan Issue F	27 January 2022	Paul Scrivener Landscape
Landscape Calculations Plan Issue F	27 January 2022	Paul Scrivener Landscape

Waste Management Plan		
Report Title	**Dated**	**Prepared By**
Waste Management Plan	01 September 2021	Atelier M

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**
NSW Rural Fire Service	NSW RFS Referral Response (RFS reference:DA2021/1003004255-CL55-1)	10 September 2022

(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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of $25,836.36 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $2,583,636.00.

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

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

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

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

6. **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 Certifier prior to the issue of the Construction Certificate.

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

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

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

7. **Transplanting Methodology Plan**
A Transplanting Methodology Plan, prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture, shall be documented to demonstrate the requirement for transplanting the proposed Cabbage Tree Palms identified as tree number 5, 8, 17, and 20, including:
i) access provisions, and preparation of the palms to be transplanted,
ii) transplanting methodology and installation works,
iii) post-transplanting care and duration,
iv) ongoing maintenance program,
v) replacement strategy if transplanting fails in the long term.

The Transplanting Methodology is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate

Reason: Ensure appropriate preparation for transplanting.

8. **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 Martens Consulting Engineers dated August 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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

9. **Flooding**
In order to protect property and occupants from flood risk the following is required:

Flood Effects Caused by Development – A2
There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level.

Building Components and Structural Soundness – B1
All new development below the Flood Planning Level of shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2
All new development must be designed to ensure structural integrity up to the Flood Planning Level, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3
All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C1
New floor levels within the development shall be set at or above the Flood Planning Level (300mm above the 1% AEP level).

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. Note the subdivision plan states no side boundary fencing.

Storage of Goods – G1
Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Recommendations

The development must comply with the recommendations outlined in the Overland Flow Study prepared by Taylor Consulting dated 13 August 2021.

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

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

10. **Preparation of Environmental Management Checklist**
A Construction Environmental Management Checklist (CEMC) is to be prepared and is to incorporate all measures for the protection of native vegetation, wildlife and habitats during the construction phase. Measures specified in the checklist are to include all conditions of consent addressing construction-related impacts to biodiversity, and must include all measures specified within the Bushfire Hazard Assessment and Fuel Management Plan (Building Code & Bushfire Hazard Solutions 2000) and the Bushland & Landscape Management Plan (Ecotone Ecological Consultants August 2000). The CEMC is to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife and habitats.

11. **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.

12. **Delineation of Asset Protection Zones**
Prior to the commencement of any vegetation clearance/modification, the boundaries of the bushfire Asset Protection Zone (APZ) (the Zone 'D' line) are to be surveyed and clearly marked by way of temporary fencing, flagging tape or markers. Clearing of vegetation for APZ establishment (the Fuel Free Zone) must only occur to the west of the Zone D line, within the marked APZ boundaries.

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

Reason: To protect native vegetation and wildlife.

13. **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.

14. **Design of Stormwater Outlet Structure to Creek**
Stormwater outlet structures to the creek must be designed in accordance with DPI Water's Guidelines for Outlet Structures on Waterfront land. Guidelines can be found on Water NSW website.

No mortar is to be used on the outlet. Rocks must be placed using an interlocking system with varying rock sizes. Rocks should be sized according to hydraulic modeling and estimated shear stress levels to ensure the integrity of the structure in high flows.

Rocks should be placed according to the following specifications:

The surface should be a textured finish to break up and dissipate sheet flows.

This design is to be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To protect the surrounding creek bank from the effects of localised erosion.

15. **Construction Site Management Plan**
Prior to the issue of a Construction Certificate, the Applicant shall prepare a Construction Site Management Plan to be provided to the satisfaction of the certifying authority.

a) The location and materials for protective fencing and hoardings on the perimeter of the site;
b) Provisions for public safety;
c) Pedestrian and vehicular site access points and construction activity zones;
d) Details of construction traffic management including:
- i) Proposed truck movements to and from the site;
- ii) Estimated frequency of truck movements; and
- iii) Measures to ensure pedestrian safety near the site;

e) Details of bulk earthworks to be carried out;
f) The location of site storage areas and sheds;
g) The equipment used to carry out works;
h) The location of a garbage container with a tight-fitting lid;
i) Dust, noise and vibration control measures;
j) The location of temporary toilets;
k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
- i) AS 4970 – Protection of trees on development sites;
- ii) An applicable Development Control Plan;

- iii) An arborist's report approved as part of this consent

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

Reason: To require details of the measures that will protect the public, and the surrounding environment, during site works and construction.

16. **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.

17. **On-site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy and generally in accordance with the concept drainage plans prepared by Taylor Consulting, drawing number Sheet1/D and 2/D dated 20/08/21. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

18. **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.

19. **Stormwater Discharge into Waterways and Coastal Areas**
Where a stormwater system discharges into a natural watercourse or coastal area, an outlet structure is required to be installed and designed to defuse the concentrated stormwater discharge to reduce flow velocities to prevent scour, be safe and easily maintained.
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 (DACNECPCC2)

20. **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 Bushfire Hazard Assessment and Fuel Management Plan (Building Code & Bushfire Hazard Solutions 2000) and the Bushland & Landscape Management Plan (Ecotone Ecological Consultants August 2000).

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.

21. **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.

22. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

23. **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 existing tree identified as number 3 - Bangalay, to be retained, including proposed pier footing locations and construction methods near the existing tree 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.

All works shall be in accordance with the recommendations of the Arboricultural Impact Assessment and the Root Mapping Addendum to Arboricultural Impact Assessment.

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

All tree protection measures specified must:
a) be in place before work commences on the site, and
b) be maintained in good condition during the construction period, and
c) remain in place for the duration of the construction works.

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

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

Reason: Tree protection.

24. **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) trees 9, 10, 11, 14, 15, 16, 21, and 23 - Smooth Barked Apple; tree 22 - Bangalay; tree 24 - Common LillyPilly; and tree 25 - Eucalyptus.
ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

25. **Temporary Protection Fencing – Exclusion Zones**
Prior to the commencement of any works onsite, temporary mesh construction fencing is to be erected surrounding areas of retained native vegetation on the site mapped as the 'Zone D line' in the approved Site Analysis/Site Plan (Atelier M Rev C dated 31.01.22). Note that the 10m APZ line shown dashed on this Plan is incorrect, and the approved APZ is not to extend east beyond the temporary mesh construction fencing erected on the Zone D Line.

Details demonstrating compliance must be prepared by the Project Ecologist and submitted to the Principal Certifying Authority prior to any commencement.

Reason: To protect native vegetation.

26. **Provision of Construction Environmental Management Checklist**
All workers, including sub-contractors, are to be briefed on measures specified in the Construction Environmental Management Checklist (CEMC) through a site induction and given a copy of the CEMC prior to commencing their works.

A record of receipt of the CEMC is to be signed by all workers and this record is to be provided to the Principal Certifying Authority

Reason: To protect native vegetation, wildlife and habitats.

27. **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.

28. **Protection of Habitat Features**
All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

29. **Sediment and erosion controls (in-stream works)**
For in-stream works a Silt Curtain or Staked Straw Bale Barrier is to be installed immediately downstream of the proposed site prior to any disturbance of soil in or beside the waterway. A staked straw bale barrier may only be used when works will be completed and banks stabilised prior to forecast rain and within five days of starting in-stream work.

Controls can be removed once in-stream work has been completed and banks have been appropriately stabilised.

Reason: Protection of the receiving environment

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

30. **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.

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, 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, and in particular as listed in the following sections:
i) section 9 Recommendations
ii) section 10 Arboricultural Work Method Statement and Tree Protection Requirements
iii) section 11 Hold Points

The Certifying Authority must ensure that:
d) The arboricultural works listed in c) are undertaken and certified by an Arborist as complaint 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.

31. **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.

32. **Compliance with Biodiversity and Fuel Management Recommendations – During Construction**
All biodiversity-related measures are to be implemented during construction in accordance with the approved Construction Environmental Management Checklist (CEMC)

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.

33. **Clearing for Asset Protection Zones**
Clearing of vegetation during works for Fuel Free Zone establishment (APZ) , as described within the Bushfire Hazard Assessment and Fuel Management Plan (Building Code & Bushfire Hazard Solutions 2000) must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries within the non-developable area Zone D.

Written certification of compliance is to be submitted to the Principal Certifying Authority.

Reason: To protect native vegetation and wildlife.

34. **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 Taylor Consulting dated 9 July 2021 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.

35. **Geotechnical Requirements**
All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

36. **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.

37. **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.

38. **Aboriginal Heritage**
If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection.

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

39. **Landscape Completion**
Landscape works shall be implemented in accordance with the approved Landscape Plans prepared by Paul Scrivener Landscape, issue F, and inclusive of the following conditions:
i) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, 2.0 metres from structures, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
iii) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
iv) all proposed tree planting shall be positioned in locations to minimise significant impacts on

neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

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.

40. **Condition of Retained Vegetation - Project Arborist**
Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:
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 protection.

41. **Implementation of Construction Environmental Management Checklist**
Construction is to be undertaken in accordance with the Constructional Environmental Management Checklist.

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

Reason: To protect native vegetation, wildlife and habitats.

42. **Clearing for Asset Protection Zones – Project Ecologist to Certify**
Clearing of vegetation within the non-developable 'Zone D' for the establishment of the Fuel Reduced Zone as described within the Bushfire Hazard Assessment and Fuel Management Plan (Building Code & Bushfire Hazard Solutions 2000) must only occur within the surveyed and marked boundaries.

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native vegetation and wildlife.

43. **No Weeds Imported On To The Site**
No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

44. **Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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.

45. **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.

46. **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.

47. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and Hydraulic Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment 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 is to be submitted.

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

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

48. **Certification Elevated Parking Facility Work**
The Applicant shall submit a Structural Engineers' certificate certifiying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls.

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

Reason: Safety and Compliance with this consent.

49. **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.

50. **Removal of Sediment and Erosion Controls**
Before demobilising from the site and once vegetation cover has been re-established across 70 percent of the site, the applicant is to remove all temporary sediment and erosion controls.

Any area of the site that requires ongoing stabilisation must have jute mesh or matting incorporated into the revegetated area. Mulch may be used on slopes subject to sheet flow with a gradient of no more than 1 metre in height for every 3 horizontal metres. Mulch must be laid to a depth of 50-100mm. If using mulch within two metres of the top of bank of a waterway, coir logs or similar must be placed at the downslope edge of the mulched area to prevent migration of the mulch to the waterway.

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

Reason: Protection of the receiving environment

51. **Swimming Pool Requirements**
The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:
(i) Swimming Pools Act 1992;
(ii) Swimming Pools Amendment Act 2009;
(iii) Swimming Pools Regulation 2008
(iv) Australian Standard AS1926 Swimming Pool Safety
(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life.

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

52. **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.

53. **Protection of Habitat Features**
All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

54. **Control of Domestic Dogs/Cats**
Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

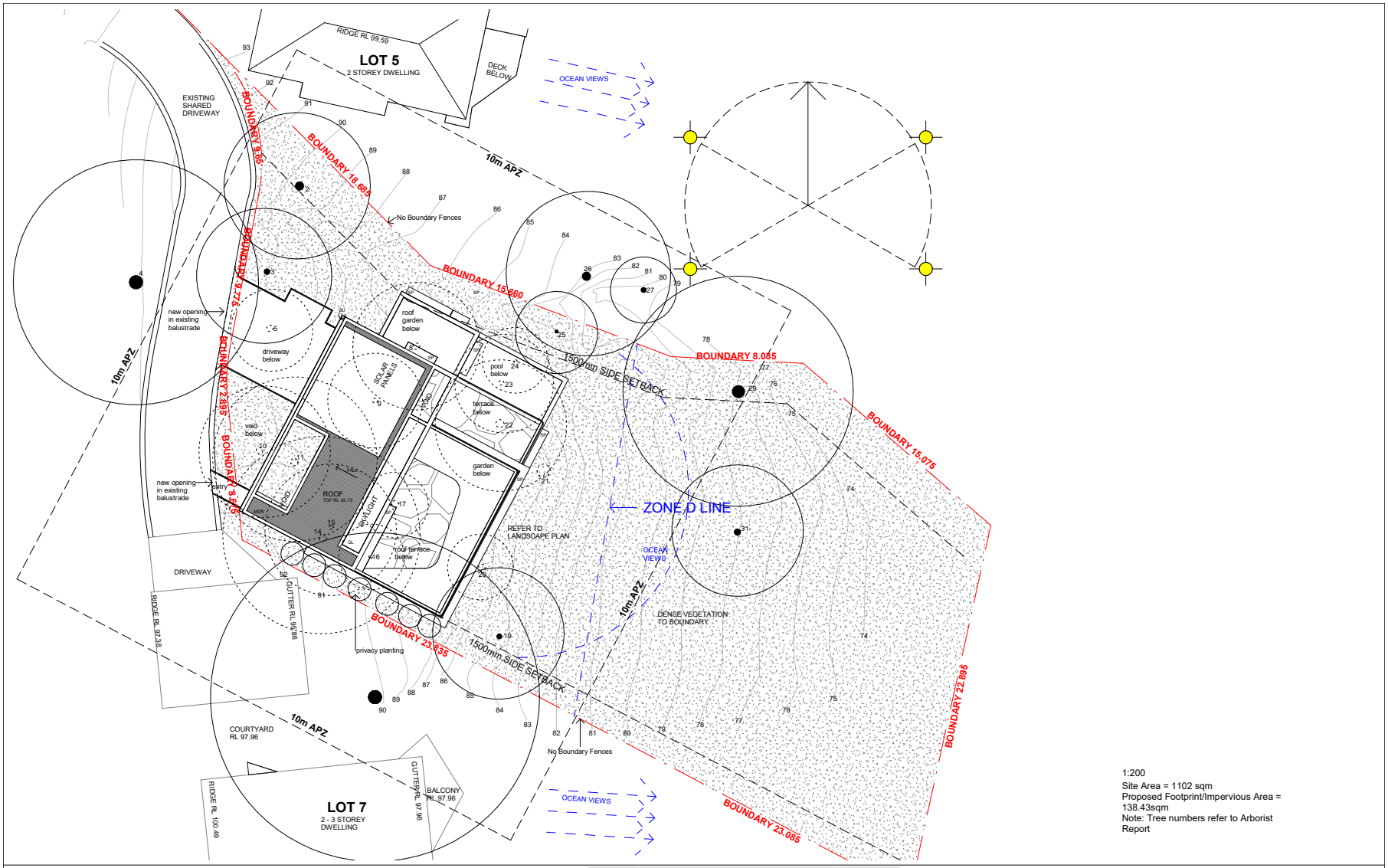
Reason: To protect native wildlife in accordance.

55. **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 me maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

56. **Swimming Pool/Spa Motor Noise**
The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.



1:200
Site Area = 1102 sqm
Proposed Footprint/Impervious Area = 138.43sqm
Note: Tree numbers refer to Arborist Report

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CC	Concrete Column
DP	Down Pipe
GL	Glass
GU	Gutter
MDF	Metal Deck Roof
MBAL	Metal Balustrade/Pool Fence
RM	Rendered Masonry/Concrete
SB	Steel Beam
SC	Steel Column
SP	Steel Plate
ST	Stone
	Demolished
	Removed tree

This drawing is for DA purposes only. NOT FOR CONSTRUCTION

Verify all dimensions on site prior to commencement of work. Check existing RL's on site. Advise Architect of any discrepancies before commencement. Allow for adjustments to suit discrepancies. Comply with relevant authorities requirements. Comply with the BCA/NCC requirements. Comply with relevant Australian Standards for materials and construction practice. Comply with Basix Certificate. Do not scale drawings.

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REV	DESCRIPTION	DATE
A	For Information	16.08.21
B	DA Issue	26.08.21
C	Additional Information	31.01.22

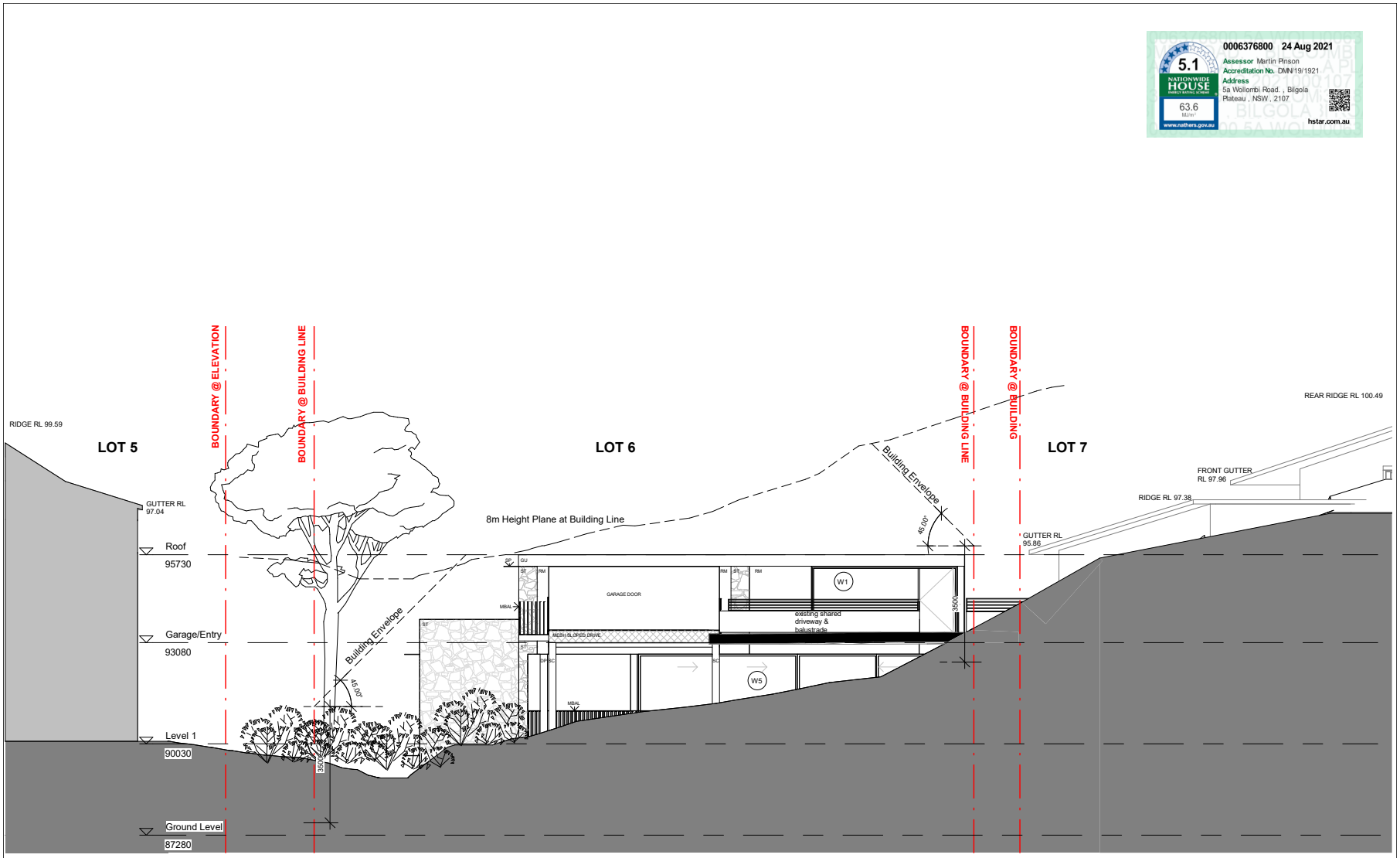
House Pan Wang

Kristy Pan

Lot 6. 5a Wollombi Road
Bilgola Plateau NSW 2017

Site Analysis/Site Plan 035_DA_A101

Project number	035
Date	July 2021
Drawn by	MG
Scale	As indicated



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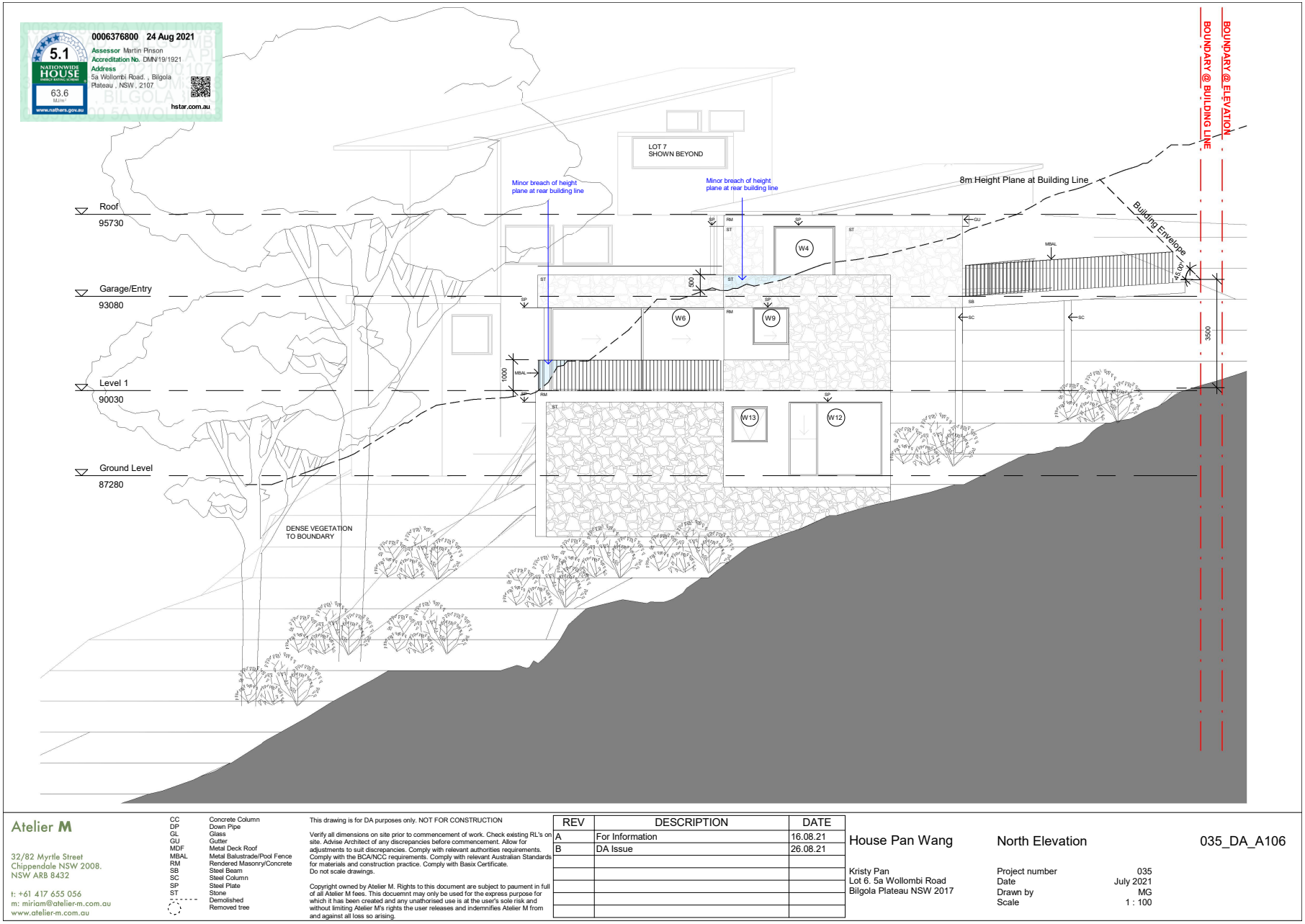
House Pan Wang

Kristy Pan
Lot 6. 5a Wollombi Road
Bilgola Plateau NSW 2017

West/"Street" Elevation

035_DA_A105

Project number	035
Date	July 2021
Drawn by	MG
Scale	1 : 100



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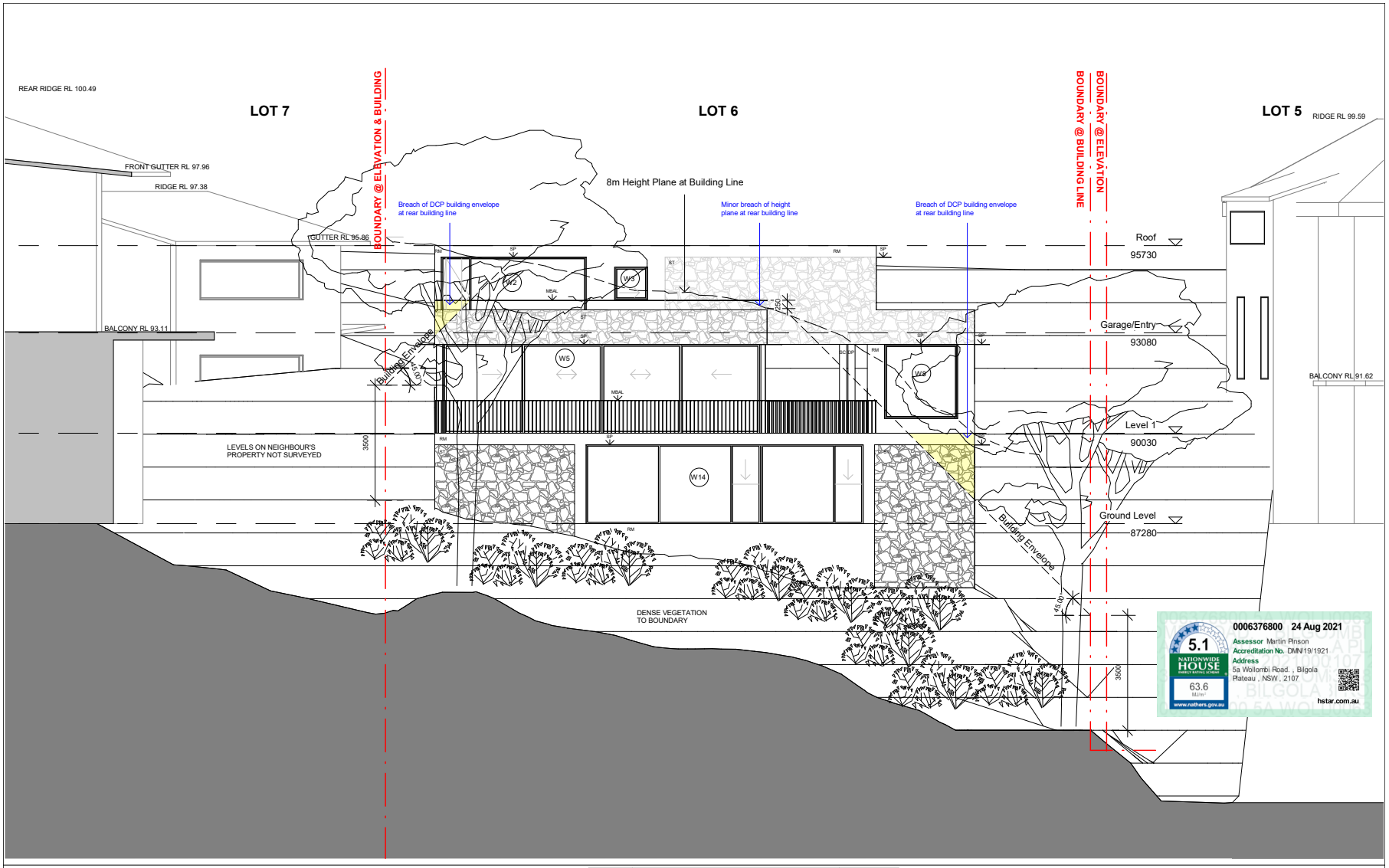
House Pan Wang

Kristy Pan
Lot 6. 5a Wollombi Road
Bilgola Plateau NSW 2017

North Elevation

035_DA_A106

Project number	035
Date	July 2021
Drawn by	MG
Scale	1 : 100



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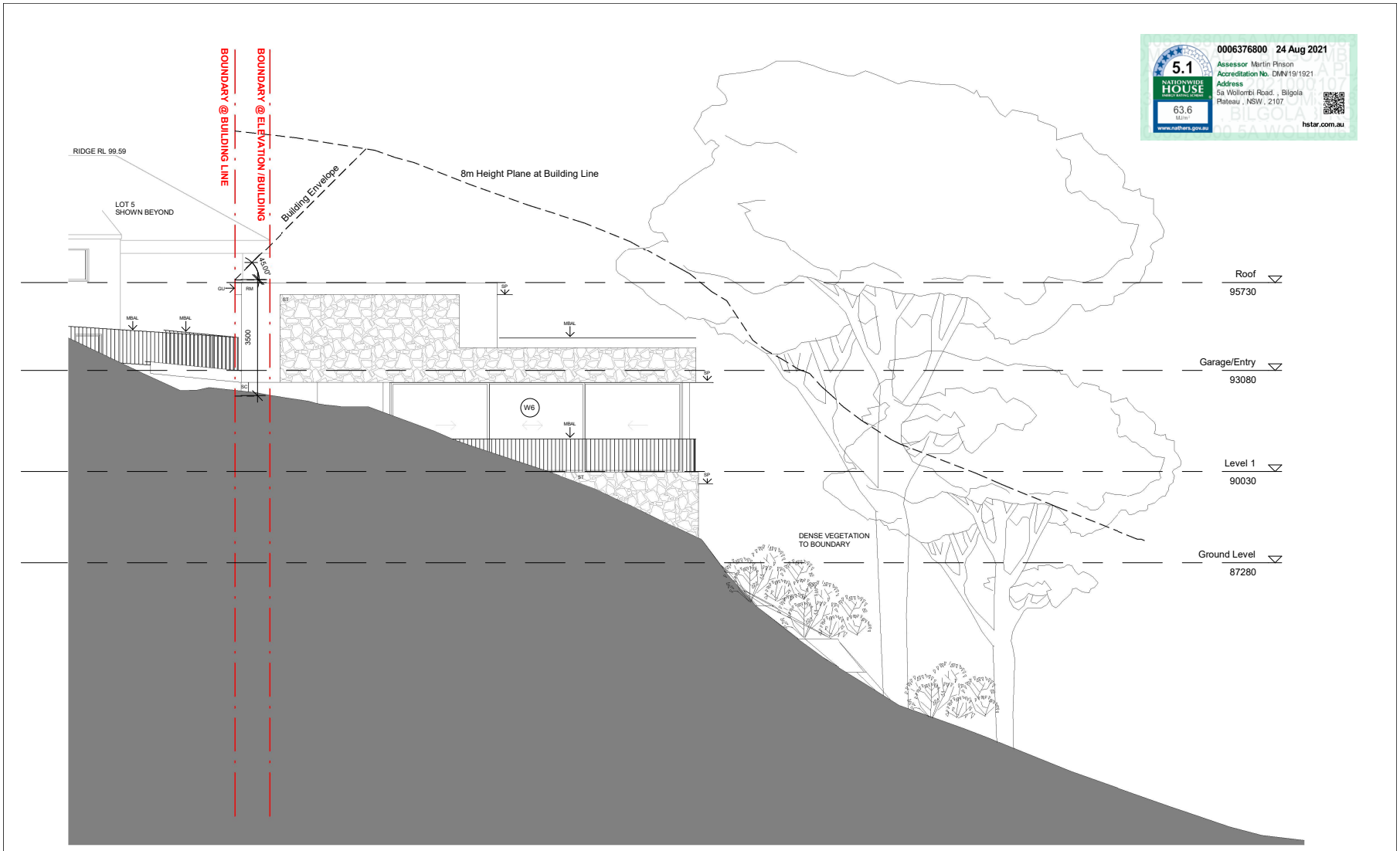
House Pan Wang

Kristy Pan
Lot 6. 5a Wollombi Road
Bilgola Plateau NSW 2017

East Elevation

035_DA_A107

Project number	035
Date	July 2021
Drawn by	MG
Scale	1 : 100



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REV	DESCRIPTION	DATE
A	For Information	16.08.21
B	DA Issue	26.08.21

House Pan Wang

Kristy Pan
Lot 6. 5a Wollombi Road
Bilgola Plateau NSW 2017

South Elevation

035_DA_A108

Project number	035
Date	July 2021
Drawn by	MG
Scale	1 : 100

Justification under Clause 4.6 of Pittwater Local Environmental Plan 2014 – Exceptions to Development Standards.

6/5A Wollombi Road, Bilgola Plateau
Clause 4.3 Height of Buildings
Control 8m
Proposed Height 10.5m

1.0 Introduction

The proposed development comprises the construction of a new three level dwelling, swimming pool and attendant landscaping at Lot 6 5A Wollombi Road, Bilgola Plateau (Lot 6 DP 285704).

Lot 6, 5A Wollombi Road, Bilgola Plateau is a vacant block being one of eight allotments created through the subdivision of 5A Wollombi Road in 2000. Five of the allotments currently have been developed with substantial dwellings. The site is irregular in shape with an area of 1,102m^2 with access to the private road on the western boundary and falling from the road frontage to the rear of the site approximately 25m. The site has a northern orientation with views to the Pacific Ocean and Bilgola Beach.

The site has an area of gentle slope at the highest point in proximity to the road frontage and the slope then increases rapidly towards the east. The north-eastern, south-eastern and the eastern boundary adjoins a public reserve zoned E2 Environmental Management. Vegetation on the site consistent primarily of mature angophora with some smaller lower storey banksia and casuarina.

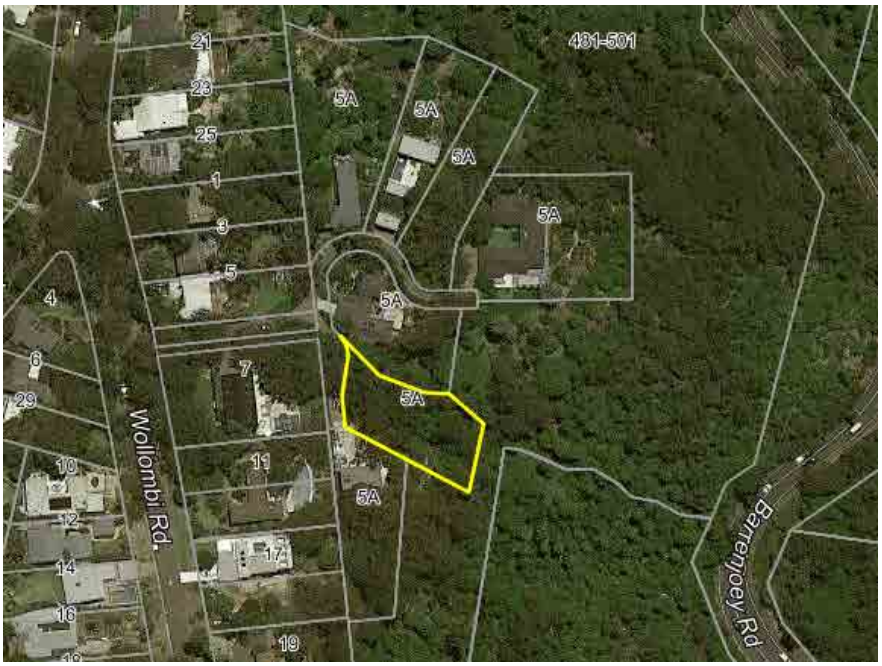
It is proposed to construct a new three level dwelling comprising four bedrooms and double garage stepping down the site with a swimming pool at the mid-level in a landscaped garden setting.

The dwelling includes four bedrooms on the lower level, living space on the mid-level and double garage and terrace on the upper level. The

proposed development is a stepped three level dwelling, following the contours which is sited to minimise the bulk of the dwelling as viewed from the surrounding dwellings and the private road. The floor levels of the upper floors seeks to maintain the roof below the canopy height of the existing vegetation and the lower floor is set down into the slope to reduce the bulk and scale of the proposal and minimise shadow impacts to the southern neighbours.

The subdivision of which this site is part is covered by a Neighbourhood Management Statement. The proposed development has been reviewed by the managing agents and their consent is included with the application.

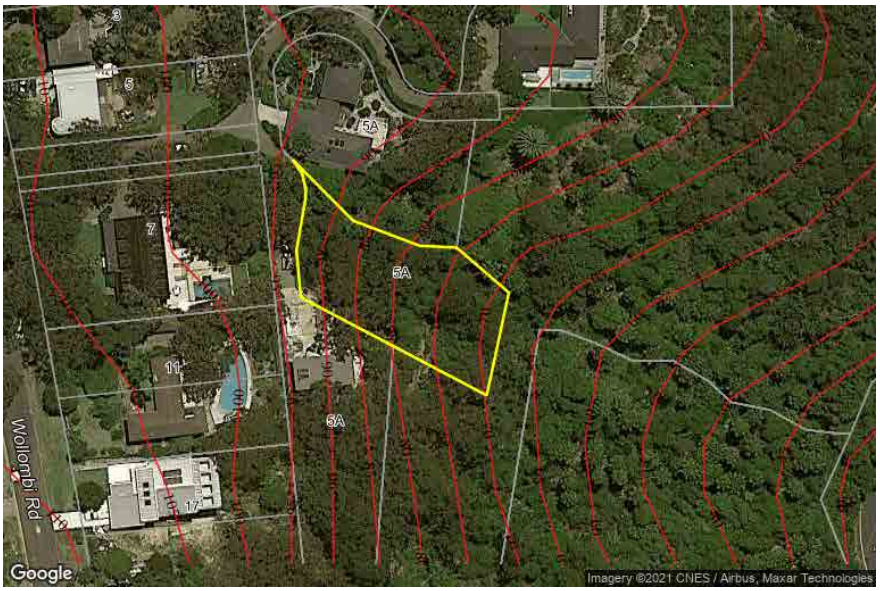
The subject site is located on the eastern side of Wollombi Road, Bilgola Plateau accessed from a private road, south of its intersection with The Outlook. The site is irregular in shape with an western frontage of approximately 28.1m to the private road and a northern boundary (part common and part to Attunga Reserve) of 57.455m. The eastern boundary (to Attunga Reserve)) is approximately 22.895m while the southern boundary (part common and part to Attunga Reserve) is approximately 45.92m. The site has a total area of 1,102m^2.



Aerial photograph Source: RPData 2021

The site slopes down from the private road (RL93.0) to the south-eastern boundary (RL67.5) with a change in level of approximately 25.5m across the site. A cross fall exists over the width of the site generally 1.0 – 1.5m.

Wollombi Road and Barrenjoey Road generally run north-south following the contours on the western side above Bilgola Beach and provides the lot with a north-east orientation and views to the east.



Aerial photograph with 5m contour overlay

Source: RPData 2021



Aerial photograph with 5m contour overlay

Source: RPData 2021



Aerial photograph with 5m contour overlay
Source: RPData 2021

The subject site is centrally located on the low side of the road with access from a private road/driveway serving seven lots. Dwellings are orientated on a curved radius to enjoy expansive views across their rear and side boundaries of the beach, headland and ocean beyond. The properties on the east side of Wollombi Road are oriented over the dwellings to the view to the east and north-east but are generally set at a significantly higher level.

Views from the sites immediately to the east and north-west are mostly obscured by the dense boundary planting and benefit from the topographical changes.

The subject site is currently vacant and accommodates trees and understorey planting with the land falling to the south-east.

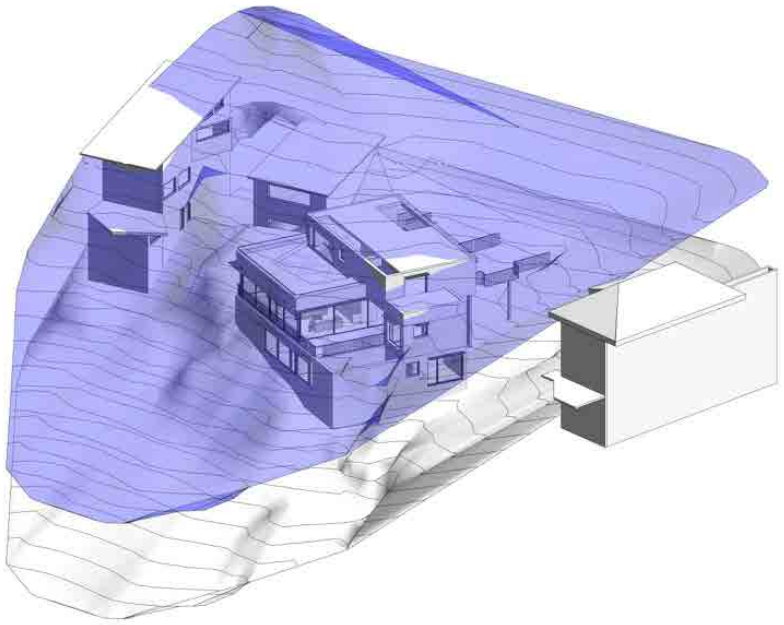
A three pavilion two-storey dwelling currently occupies the site to the north and is known as 5/5A Wollombi Road is built on the western part of that site and incorporates a stepped four level dwelling. The

dwelling is east oriented away from the subject site towards the view and is separated by substantial plantings on the common boundary.

The existing dwelling to the south known as 7/5A Wollombi Road is built on the northern part of that site and incorporates a stepped dwelling. The dwelling is east oriented away from the subject site towards the view. A large garden area occupies the area between the dwelling and the front boundary. A row of substantial plantings occupy the common boundary with the subject site.

The dwelling to the west known as 7 Wollombi Road is located at a substantially higher level (approximately 15 – 20m) above the subject site and enjoys views over the subject site towards the ocean.

The height control is 8m and the proposed height is 10.5m to the north-eastern corner of the garage roof. The height breach is limited to a minor part of the garage roof and the wall surrounding the void to the east of the garage.



8m Height Blanket extrapolated from site survey

Clause 4.6 of the Pittwater Local Environmental Plan 2014 (LEP) enables Council to grant consent for development even though the development varies a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clauses 4.6 (3) and (4)(a)(ii) require that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard, namely:

1. that the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
2. that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and
3. that 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.

The consent authority's satisfaction to those matters must be informed by the objective of providing flexibility in the application of the relevant control to achieve better outcomes for and from the development in question.

The Land and Environment Court has given consideration to the matters that must be addressed in relation to whether a variation to development standards should be approved. While these cases originally referred to the former SEPP 1, the principles still remain relevant, more recently, further guidance on the approach to apply to applications to vary development standards under clause 4.6 of the Standard Instrument was provided by the Land and Environment Court. This Clause 4.6 gives consideration to the matters raised in:

- Big Property v Randwick City Council [2021];
- HPG Projects Pty Ltd v Mosman Municipal Council [2021];
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;
- Turland v Wingecarribee Shire Council [2018] NSWLEC 1511;
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009;
- Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386; and
- Moskovich v Waverley Council [2016] NSWLEC 1015.
- Wehbe v Pittwater Council [2007] NSW LEC 827; and
- Winten Property Group Ltd v North Sydney Council [2001] 130 LGERA 79 at 89;

In accordance with the above requirements, this Clause 4.6 variation request:

2. identifies the development standard to be varied;
3. identifies the variation sought;
4. establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
5. demonstrates there are sufficient environmental planning grounds to justify the contravention;
6. demonstrates that the proposed variation is in the public interest; and
7. provides an assessment of the matters the secretary is required to consider before providing concurrence.

This Clause 4.6 variation request relates to the development standard for Height of Buildings under Clause 4.3 of the LEP and should be read in conjunction with the Statement of Environmental Effects as well as the supplementary documentation submitted to Council. This Clause 4.6 variation request demonstrates that compliance with the Height of Buildings development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify variation to the standard.

2.0 Development Standard to be Varied

The development standard that is sought to be varied as part of this application is Clause 4.3 of the SLEP, relating to the Height of Buildings. Under the PLEP 2014, the site is afforded Height of Buildings of 8m.

3.0 Nature of the Variation Sought

The maximum Height of Buildings under the PLEP 2014 for this application is 8m. The proposed development has a proposed height to 10.5m. While the majority of the proposed development is comfortably compliant with the height control by stepping the building down the topography a portion of the garage roof and the wall surrounding the void space on the northern elevation breach the height control. It is also noted that a minor portion of the roof immediately below also breaches the height control as a result of the localized fall in the topography.

The proposal breaches the Height of Buildings development standard under the LEP 2014 by 31.25%

It is well established in case law that the extent of the numerical variation does not form part of the test required to be exercised under Clause 4.6. Decisions in respect of Micaul Holdings P/L V Randwick City Council (55% exceedance of height and 20% exceedance of FSR) and Moskovich V Waverley Council (65% exceedance of FSR) support this.

4.0 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The five methods outlined in Wehbe include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Method).

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Method).
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Method).
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 Method).
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 Method).

In this instance, the First Method is of particular assistance in establishing that compliance with a development standard is unreasonable or unnecessary.

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (Initial Action v Woollahra Municipal Council [24] and Turland v Wingecarribee Shire Council [42]).

In this instance a portion of the leading edge of the upper level roof of the garage of the proposed development is the aspect of the development that exceeds the development standard on the site, because of the combination of the localized fall in the topography and the need to have vehicular access from the existing private driveway to

the new dwelling.

4.1 The objectives of the development standard are achieved notwithstanding the non-compliance (First Method)

The objectives of Clause 4.3 Height of Buildings in PLEP 2014 are;

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

> *(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
>
> *(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
>
> *(c) to minimise any overshadowing of neighbouring properties,*
>
> *(d) to allow for the reasonable sharing of views,*
>
> *(e) to encourage buildings that are designed to respond sensitively to the natural topography,*
>
> *(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

The height of the proposal is considered to be consistent with and appropriate to the condition of the site and its context and consistent with the desired character of the locality. It is noted that the surrounding buildings in the context similarly step down the site and similarly have minor breaches of the height control on the leading edge.

A site visit and ground truthing reflect how the proposal *is appropriate to the condition of the site and its context.* It is clearly apparent that the condition of the site and its context is characterised by stepped buildings three levels and greater and in excess of 8m. Consequently,

the proposed height of development is considered to be appropriate to the condition of the site and its context and consistent with the desired character of the locality meeting this objective.

The proposed development is considered to be compatible with the height and scale of surrounding and nearby development. It is apparent from the 8m height blanket include above that the surrounding and nearby development steps down the topography of the site but while are mostly consistent with the height control tend to breach the 8m control on the leading edges of the building elements and through parts of the roof form. The proposal is considered to meet the objective.

The third objective is to minimise any overshadowing of neighbouring properties. It is noted that the occurrence of the height breach is on the north-eastern elevation of the proposal so that over shadowing is minimised.

Full shadow diagrams and axonometrics have been prepared demonstrating compliance with solar access requirements for the occupants of the subject site and the adjoining properties.

It is apparent from the views from the sun prepared below that the proposal has minimal impact on the solar access of the neighbouring properties. Furthermore, it is readily apparent that those parts of the development which breach the height control have no impact on the shadowing of the neighbouring properties. The proposal is considered to meet the objective.



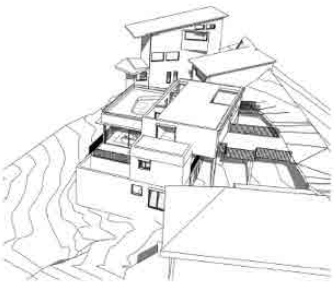
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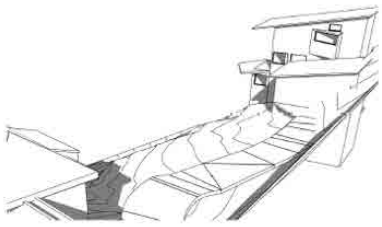
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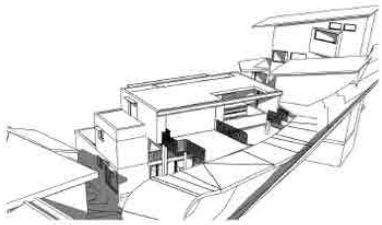
12PM 21ST JUNE - EXISTING



12PM 21ST JUNE - PROPOSED



3PM 21ST JUNE - EXISTING



3PM 21ST JUNE - PROPOSED

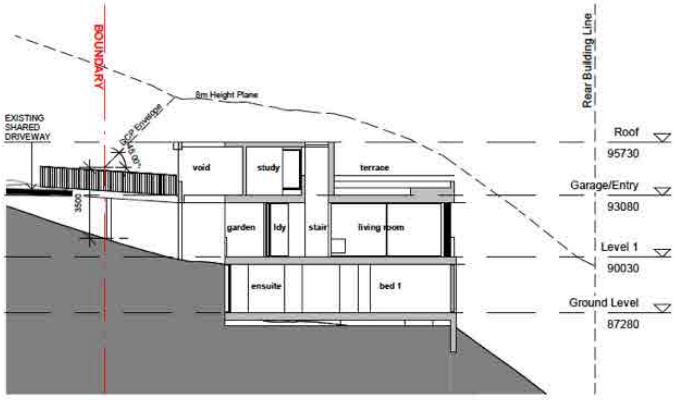
The fourth objective is to allow for the reasonable sharing of views. It is noted that the views are to the east and the dwellings are oriented with their primary frontages and living areas towards the east to take advantage of the views.

All of the dwellings are on quite large lots with extensive tree canopies to the east and significant level changes in topography so that view impacts are minimised.

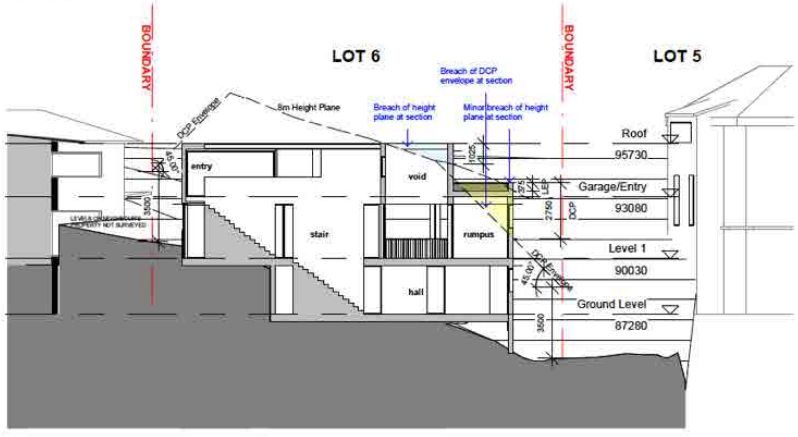
Furthermore, it is readily apparent that those parts of the development which breach the height control have no impact on the views of the neighbouring properties. The proposal is considered to meet the objective.

The fourth objective is to encourage buildings that are designed to respond sensitively to the natural topography. The sections below clearly demonstrate how the proposed building steps down the site with

the natural topography. It is also noted that the extensive tree canopy beyond the building footprint is retained and effectively screens the proposed dwelling. The proposal is considered to meet the objective.



SECTION A



SECTION B

The fourth objective is to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items. It is noted that there are no heritage items or heritage conservation areas in the vicinity. It is also noted that the extensive tree canopy beyond the building footprint is retained and

effectively screens the proposed dwelling and retains the setting of the site. The desired character of the locality and the surrounding buildings and public areas will continue to receive satisfactory exposure to sky and sunlight. The proposal provides an appropriate built form and land use intensity consistent with the objectives of this clause.

It is demonstrated in the plans that the proposal minimises any overshadowing, loss of privacy and visual impacts for the neighbouring properties consistent with the objectives of this clause. The proposed external works to the building are at the rear of the site and located to minimise any view impacts.

The SEE details that the proposal is largely consistent with the relevant environmental planning instruments and does not give rise to any adverse environmental impacts in respect to overshadowing, traffic, heritage, wind, reflectivity, stormwater, flooding, noise, waste, economic and social impacts. The proposal is considered to meet the objective.

5.0 There are sufficient environmental planning grounds to justify contravening the development standard

Clause 4.6(3)(b) of the PLEP 2014 requires the departure from the development standard to be justified by demonstrating:
That there are sufficient environmental planning grounds to justify contravening the development standard.

There are sufficient environmental planning grounds to justify a flexible approach to the application of the Height of Buildings control as it applies to the site. In Four2Five, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site.

The applicable circumstances that relate to the site are discussed below.

It is apparent from the preceding that the proposed dwelling requires on site car parking and is required to utilise the existing private driveway serving the dwellings within the community title development.

The proposed dwelling utilises the upper level to provide the required parking and it is a function of the localised fall of the topography on the north-east corner of the building platform that the garage roof breaches the height control. It is note that the driveway ramp is a lightweight mesh structure that connects the private driveway to the garage with a complaint grade. The garage is setback from the driveway consistent with the front setbacks of the surrounding properties.

It is a function of the fall of the topography and the standard requirements of the driveway ramp and the garage length that means that the proposed dwelling is forced eastwards and is affected by the localized fall in the topography which causes the height breach on this localized portion of the leading edge of the garage roof.



Survey Extract Rygate Surveyors 2021

It is readily apparent from consideration of the survey extract above that the level difference between the constructed private driveway and the leading edge of the building footprint in the north-eastern corner is between 7 – 8m. It is a consequence of these unique site constraints that provide sufficient environmental planning grounds to justify a flexible approach to the application of the Height of Buildings control as it applies to the site.

In the circumstances where there are sound environmental and site specific sufficient environmental planning grounds reasons for the breach to the height control it is considered to justify contravention of the control and consequently the exception to the height control standard under Clause 4.6 is considered acceptable.

The proposed additional height sought in this Clause 4.6 better allows the built form on the site to achieve the desired future character of the locality, as compared to the do nothing scenario.

6.0 It is in the public interest because it is consistent with the objectives of the particular standard and the zone.

6.1 Consistency with the objectives of the development standard.

The proposed development is consistent with the objectives of the FSR development standard, for the reasons discussed in Section 4.1 of this report.

6.2 Consistency with the Zoned E4 Environmental Living Zone objectives.

The objectives for development in this zone are;

1 Objectives of zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

- *To ensure that residential development does not have an adverse effect on those values.*

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The proposed development provides for a low-impact residential development in an area with special ecological, scientific or aesthetic values. The development footprint only occupies 138.4m^2 of a total site area of 1,102m^2 or less than 12.6% of the site. The remainder of the site is retained in its current form retaining an extensive tree canopy and understory planting to maintain the values of the site. The driveway access is suspended grating to allow vegetation to grow below and for fauna to pass around the development footprint. The proposal is considered to meet this objective.

The proposed development minimizes any adverse effect on those values by retaining more than 85% of the site in its pristine format and the proposal is considered to meet this objective.

The proposed development is of a low density and scale integrated with the landform and landscape, with the dwelling stepping down the topography and sitting within the tree canopy to mimise impacts. The proposal is considered to meet this objective.

The proposed development minimizes any adverse effect on those values by retaining more than 85% of the site in its current format and retaining and enhancing wildlife corridors. The proposal is considered to meet this objective.

The proposal is considered to meet the objectives for development in the zone. The proposal is considered consistent with the objectives of

the standard and for development in this zone as required by this subclause.

7.0 Secretary's Concurrence.

Under Clause 4.6(5) of PLEP 2014, the Secretary's concurrence is required prior to any variation being granted. The following section provides a response to those matters set out in Clause 4.6(5) of the SLEP, which must be considered by the Secretary.

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning
The variation to the Height of Buildings standard of PLEP 2014 will not raise any matter in which could be deemed to have State or Regional significance. The extent of variation sought is minor in the context of the existing building height and the works do not increase the existing height.

The public benefit of maintaining the development standard.

Maintaining the development standard would not result in any public benefit in this situation. As detailed within the SEE, the height and bulk of the existing building is consistent with the surrounding properties and the proposal responds to the surrounding context and the requirements of the DCP.

The proposed development would allow the building as a whole to better meet the objectives of the DCP by physically responding to the existing site constraints and its context and reinforcing the character of area and of the surrounding buildings. The proposed variation to the Height of Buildings standard therefore allows the site to better meet the objectives of the DCP and the desired future character of the area. DCPs are guiding documents prepared to express the desired future character; protect the public interest and are prepared through an extensive public exhibition process.

Therefore, to better meet the objectives of the DCP can be said to improve the development's presentation to the public domain and is in the public interest.

Any other matters to be taken into consideration by the Secretary
None.

In accordance with PS 18-003 (Variations to Development Standards), the Secretary's concurrence will need to be sought as the variation proposal is greater than 10%.

8.0 Conclusion

The assessment above demonstrates that compliance with the maximum Height of Buildings development standard contained in Clause 4.3 of PLEP 2014 is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded on environmental planning grounds.

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allows for a superior outcome in planning and design terms. This Clause 4.6 variation demonstrates, notwithstanding the non-compliance with the maximum building height development standard, that:

- The development as proposed will deliver a superior built-form outcome in consideration of the site's context and its location amongst the surrounding area and buildings;
- The development as proposed will provide environmental benefits particular to the site through the provision of improved amenity for future occupants of the development and for the surrounding area generally; and
- Compliance with the development standard would be both unreasonable and unnecessary in the instance because the development is able to fully satisfy the objectives of the E4 Environmental Living Zone and the objectives of the Height of Buildings development standard.

The PLEP 2014 applies a maximum Height of Buildings development standard for the site of 8m. The proposed development has a height of 10.5m but restricted to the leading edge of a portion of the roof in the north-east corner.

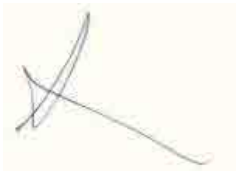
This variation therefore seeks consent for the proposed works as consistent with the character and form of the surrounding buildings and the surrounding area and does not result in an over development of the site or any adverse impacts on the neighbours or public domain. The proposed additional height is commensurate with surrounding developments and the built form that characterises the locality. It is also consistent with the design approach applied to other buildings within the immediate vicinity.

Consistent with the aim of Clause 4.6 to provide an appropriate degree of flexibility to achieve better outcomes for and from development, a departure from the Height of Buildings development standard is considered appropriate in these circumstances.

Despite the numerical non-compliance with the Height of Buildings development standard, the proposed development is considered to satisfy the objectives of the development standard and the E4 Environmental Living Zone.

The proposal will provide environmental benefits particular to the site through the provision of improved amenity for future occupants of the development and for the surrounding area generally. On this basis, the Clause 4.6 variation is considered well founded and should be supported.

In this instance it is considered appropriate to make an exception to the Height of Buildings development standard under the provisions of Clause 4.6 for the reasons outlined in the preceding discussion.



Signature:
Name: Andrew Darroch
Date: August 2021

ITEM 3.7	**MOD2022/0397 - 27 & 29 NORTH AVALON ROAD AVALON BEACH - MODIFICATION OF DEVELOPMENT CONSENT DA2019/1260 GRANTED FOR DEMOLITION WORKS AND CONSTRUCTION OF A SENIORS HOUSING DEVELOPMENT COMPRISING 10 SELF CONTAINED DWELLINGS AND SITE CONSOLIDATION**
REPORTING MANAGER	**Steve Findlay**
TRIM FILE REF	**2022/657345**
ATTACHMENTS	**1 ⇩Assessment Report**
	2 ⇩Site Plan and 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 Mod2022/0397 for modification of Development Consent DA2019/1260 granted for demolition works and construction of a Seniors Housing development comprising 10 self-contained dwellings and site consolidation on land at Lot 32 DP 8394, 27 North Avalon Road and Lot 33 DP 8394, 29 North Avalon Road AVALON BEACH, subject to the conditions set out in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0397

Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 33 DP 8394, 29 North Avalon Road AVALON BEACH NSW 2107 Lot 32 DP 8394, 27 North Avalon Road AVALON BEACH NSW 2107
Proposed Development:	Modification of Development Consent DA2019/1260 granted for Demolition works and construction of a Seniors Housing development comprising 10 self contained dwellings and site consolidation
Zoning:	R2 Low Density Residential
Development Permissible:	Yes, under Yes, under SEPP Housing for Seniors or People with a Disability (HSPD) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	Yes
Owner:	Armada Avalon Pty Ltd
Applicant:	Armada Avalon Pty Ltd

Application Lodged:	21/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	27/07/2022 to 10/08/2022
Advertised:	Not Advertised
Submissions Received:	6
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

This application seeks consent to modify Development Consent No. DA2019/1260 granted by the Land and Environment Court for a Seniors Housing Development comprising 10 self-contained dwellings and site consolidation.

The application seeks consent for a 90.4sqm increase in the approved Gross Floor Area (GFA) resulting in an increase in the internal floor area / FSR from 1,113sqm / FSR 0.5:1 to 1203.4sqm / FSR

0.54:1. The application also includes internal changes to the dwellings, external changes to the proportions of windows, addition of awnings, changes to the external colours and the removal of a tree (Tree No. 24).

The application is referred to the Development Determination Panel (DDP) due to 6 (six) submissions having been received.

Concerns raised in the objections predominantly relate to the increase in the bulk and scale of the development and visual impacts on the character of the locality and as observed from neighbouring properties. In addition, issues have been raised in relation to the removal of Tree T24 and the process of lodging a modification application resulting in an incremental increase in the scale of the development. The submissions also raised a concern that the application is not substantially the same as the original approved development.

The subject application has been assessed in accordance with SEPP (Housing) 2021 as SEPP HSPD has been repealed. The proposal results in an FSR of 0.54:1 and is inconsistent with the 0.5:1 FSR prescribed in SEPP Housing 2021. It is noted that there is no mechanism for the consideration of a Clause 4.6 variation to the FSR development standard as the application is a modification application. Irrespective of this, the additional floor space does not preclude the application from needing to meet the design principles set out in Division 6 of SEPP Housing.

On merit, the modified proposal will have no greater impact on the character of the locality or have any unreasonable amenity impacts on neighbours in terms of privacy or solar access. In this regard, the proposal is consistent with Clause 106 of SEPP (Housing), in respect of the the interrelationship of the non-discretionary standards and the design principles set out in Division 6.

The application is supported with an arboricultural report that confirms that Tree 24 is dead. Council's Landscape Officer has no objections to the removal of the tree and the proposal generally, subject to a condition requiring the replacement planting with a small local native tree.

This report concludes with a recommendation that the DPP grant approval to the application, subject to the recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent to modify Development Consent No. DA2019/1260 granted by the Land and Environment Court on 26 August 2021, in Armada Avalon Pty Ltd v Northern Beaches Council (2021) NSWLEC 1490 (Proceedings Number 2019/404226).

The application seeks consent for a 90.4sqm increase in the approved Gross Floor Area (GFA) of the approved development resulting in an increase in the internal floor area / FSR from 1,113sqm/FSR 0.5:1 to 1203.4sqm/FSR 0.54:1. The modification application also includes internal changes to the dwellings, external changes to the proportions of windows, addition of awnings, changes to the external colours and the removal of a tree (No. 24).

Specifically, the application includes the following modifications:

Basement Level

- Reconfiguration of the waste room.

Ground Floor and First Floor Level

- Increase in the floor area of Dwellings 1 and 3 (at ground level) and 6, 7 and 8 (on the upper level). The dwellings extend an additional 1.4m to the rear (south).
- Increase in the floor area of Dwelling 2 at ground level. The dwelling extends an additional 1.65m to the rear (south).
- Increase in the floor area of Dwellings 5 and 9. Dwelling 5 extended an addition 460mm to the west and Dwelling 9 extended an additional 460mm to the east.
- Increase in the floor area of the upper floor Dwellings 4, 5, 9 and 10. The dwellings extend an additional 900mm to the rear (south).

External Changes

- Modification of the external colours and finishes as detailed below:

    - o Weatherboard approved Dulux 'Grey Daze, proposed colour – "White Duck'
    - o Metalwork approved Colourbond 'Windspray" except for the North Avalon Road fa
    - o Roofing – approved Colorbond 'Woodland Grey, proposed colour "Shale Grey'
    - o External wall feature approved Monument, proposed Dulux 'Stoney Creek half'

- Modification in the proportions of windows and a change in the position of skylights
- Addition of awnings to Dwellings 4, 5, 9 and 10.
- Air condition units updated.
- Modification of the roof over the central stairwell.
- The addition of a planter bed and garden bed on the eastern side of Dwelling 9.
- Removal of Tree No. 24.
- 12.6sqm reduction in approved landscape area from 702sqm or 31.5% to 689.4sqm or 30.97%.
- 8.3sqm reduction in the approved deep soil area from 618sqm or 27.7% to 609.7sqm or 27.3%

Changes to Conditions

- Amend Condition 1a to update the approved plans and supporting documents.
- Deletion of Condition 10(c) Amended Schedule of Colours and Finishes to allow the approval of the amended materials and finishes schedule as detailed above.
- Modify Condition 10B Private Open Space of Dwelling 5 to correctly reference Dwelling 5.
- Modify Condition 34 to include Tree No. 24 for removal

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.

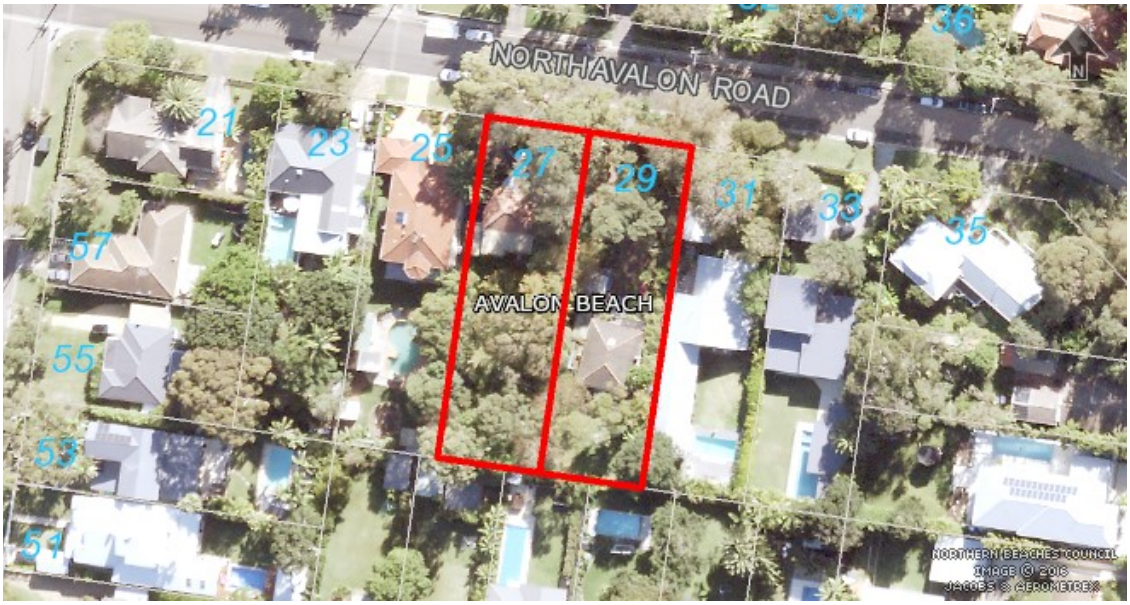
SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S4.15 Assessment
Pittwater 21 Development Control Plan - D1.5 Building colours and materials

SITE DESCRIPTION

Property Description:	Lot 33 DP 8394 , 29 North Avalon Road AVALON BEACH NSW 2107 Lot 32 DP 8394 , 27 North Avalon Road AVALON BEACH NSW 2107
Detailed Site Description:	The site comprises two (2) lots and is legally identified as Lot 32 DP 8394, known as 27 North Avalon Road and Lot 33 DP 8394, known as No. 29 North Avalon Road. The site is located within the R2 Low Density Residential zone pursuant to the Pittwater Local Environmental Plan 2014 and the site contains two single dwelling houses with an attached single garage at No. 27 and an attached carport at No. 29. A drainage easement extends from the north-east to the southwest side of the site and runs behind the dwelling on No. 27 and in front of the dwelling on No. 29. The site is rectangular in shape with a combined frontage of 36.58m along North Avalon Road and a depth of 60.96m. The site has a surveyed area of 2,227m. The site has a fall from the rear (south) to the front (north) of the site of approximately 0.9m (1.5%) and from east to west of approximately 0.8m (2.29%).The site is identified as Low Risk Flood Prone Land. The site is not Bushfire Prone Land. Surrounding development consists of low density single residential dwellings all located on large lots, sited 'amongst the trees' with generous setbacks and open rear yards. Adjoining and surrounding development is characterised by predominantly one (1) and two (2) storey dwelling houses with a variety of roof forms and face brick, painted brick/render or weatherboard facades.

Map:



SITE HISTORY

On 26 February 2019, a Pre-Lodgement Meeting (**PLM2019/0021**) was held between the applicant and Council Officers to discuss a development for seniors housing on the subject site. Issues raised in the PLM notes from the meeting identify issues relating to streetscape character, building setbacks, building bulk, privacy and tree removal. The concluding comments from the meeting state:

"Higher density development where permitted should maintain a "good fit" within the context of surrounding land to prevent outcomes that are "jarring" against the existing urban amenity and local residential character that popularises the surrounding streets / precinct."

On 25 November 2019, Development Application No. **DA2019/1260** was lodged for demolition works and construction of a seniors housing development comprising ten (10) self-contained dwellings for seniors or people with a disability.

On the 12 August 2020 the DA was presented to the NBLPP who refused the application. The Minutes of the NBLPP meeting list the following reasons for refusal:

1. The Panel is not satisfied that:

1) the applicant's written request under clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify contraventions of clause 26 and clause 40 under the SEPP (Housing for Seniors and People with a Disability) 2004 development standards has adequately addressed and demonstrated that:

a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
b) there are sufficient environmental planning grounds to justify the contraventions.

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

2. Pursuant to Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2014:

- *Clause 26(2) Access*
- *Clause 29 Character*
- *Clause 31 Design of in-fill self-care housing*
- *Clause 32 Design of residential development*
- *Clause 33 Neighbourhood Amenity and streetscape*
- *Clause 34 Visual and Acoustic privacy*
- *Clause 36 Stormwater*
- *Clause 38 Accessibility*
- *Clause 39 Waste Management*
- *Clause 40 Building Height (rear 25%)*

3. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the Aims set out in Clause 1.2(b) of the Pittwater LEP 2014.

4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the Pittwater 21 Development Control Plan:

- *Clause A4.1 Avalon Beach Locality*
- *Clause B4.22 Preservation of Trees and Bushland Vegetation*
- *Clause B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land*
- *Clause B5.9 Stormwater Management*
- *Clause B6.1 Access Driveways*
- *Clause B5.10 Stormwater Discharge into Public Drainage System*
- *Clause B5.12 Stormwater Drainage Systems and Natural Watercourses*
- *Clause B6.2 Internal Driveways*
- *Clause C1.1 Landscaping*
- *Clause C1.5 Visual Privacy*
- *Clause C1.6 Acoustic Privacy*
- *Clause C1.12 Waste and Recycling Facilities*
- *Clause C1.15 Storage Facilities*
- *Clause C1.21 Seniors Housing*
- *Clause C1.24 Public Road Reserve - Landscaping and Infrastructure*
- *Clause C4.4 Subdivision - Public Roads, Footpath and Streetscape*
- *Clause D1.13 Landscaped Area*
- *Clause D1.15 Fences*
- *Built Form Control Side building line (multi-unit housing)*
- *Built Form Control Landscaped areas*

5. Pursuant to Section 4.15(1)(b)(i) of the Environmental Planning and Assessment Act 1979, the proposed development will result in unacceptable impacts on the natural environment of the Avalon Beach Locality.

6. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the Desired Future Character of the location and is an over-development of the site.

7. Pursuant to Section 4.15(1)(e) of the Environmental Planning

*On 24 December 2019, the applicant filed a **Class 1 Appeal (Proceedings [2021] NSWLECC 1490)** with the NSW Land and Environment Court against Council's deemed refusal of DA2019/1260.*

On 26 August 2021, the Land and Environment Court issued a judgment and upheld the appeal which relied on amended plans.

Modification Application

On 8 July 2022, a Class 1 appeal was filed with the Land and Environment Court in relation to a modification application to modify development consent DA2019/1260 granted by the Court on 26 August 2021, in Armada Avalon Pty Ltd v Northern Beaches Council (2021) NSWLEC 1490 (proceedings number 2019/404226).

On 18 July 2022, Council received the subject Modification Application No. MOD2022/0397.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
The SEE notes that the application has been made pursuant to section 4.55(8) and Section 4.55(2) of the Environmental and Assessment Act 1979.

S4.55(8) states: ***Modifications by the Court*** *The provisions of this section extend, subject to the regulations, to enable the Court to modify a consent granted by it but, in the extension of those provisions, the functions imposed on a consent authority under subsection (1A)(c) or subsection (2)(b) and (c) are to be exercised by the relevant consent authority and not the Court.*

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/1260, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(8) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(2) - Other Modifications	**Comments**
(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the	

Section 4.55(2) - Other Modifications	Comments
regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	**Yes -** The development, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/1260. The modified proposal results in a minor modification of the footprint of each of the four buildings resulting in an additional 90.4sqm of floor area. In addition, the proposal involves minor internal and external changes to the buildings and the removal of a tree which has been confirmed as dead. There is no change to the number of units approved (10 units), car parking or access, the height of the development or its presentation to the street. The proposal will not result in unreasonable amenity impacts to neighbours in terms of of a loss of privacy or overshadowing.
(b) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2019/1260.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in

determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	**Comments**
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	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 2001 (EP&A Regulation 2001)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted with the original application. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of	**(i) Environmental Impact**

Section 4.15 'Matters for Consideration'	Comments
the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	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. **(ii) Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. **(iii) Economic Impact** The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 27/07/2022 to 10/08/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 6 submission/s from:

Name:	Address:
Mr Craig Douglas Berry	23 North Avalon Road AVALON BEACH NSW 2107
Mr Laurie Bombardiere	22 North Avalon Road AVALON BEACH NSW 2107
Mrs Deborah Elizabeth Denman	8 Urara Road AVALON BEACH NSW 2107
Mr Hannah Richmond	47 Tasman Road AVALON BEACH NSW 2107
Skye Beckett	3 Sanctuary Avenue AVALON BEACH NSW 2107
Mr Barry Norman Hanstrum Mrs Susan Jane Hanstrum	31 North Avalon Road AVALON BEACH NSW 2107

The following issues were raised in the submissions:

- **Bulk, scale and character**
- **Tree loss**
- **Process**

The above issues are addressed as follows:

- **Bulk, scale and character**

  The proposal increases the scale of the development beyond the planning controls (density/FSR, open space, parking) and is contrary to the new State policy which recognises the medium density development of the locality.

  The submissions raised concerns that the the modification will result in an even greater exposure to the large western wall. The bulk and scale is out of context with the character of the locality area and results in unreasonable visual impacts and represents overdevelopment, the modified development resemble an apartment block.

  Comment:

  It is acknowledged that the proposal increases the FSR from 0.5:1 to 0.54:1 (an additional 90sqm).

  There is no mechanism for the consideration of a Clause 4.6 variation to the FSR Development Standard specified in SEPP Housing 2021, as the application is a Modification Application and not a Development Application. Irrespective of this, the additional floor space does not preclude the application needing to meet the design principles set out in Division 6.

  As such, the proposal is consistent with Division 6 - Non-discretionary development standards clause 106 Interrelationship of Division with design principles in Division 6 states:

  Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the design of the seniors housing does not demonstrate that adequate consideration has been given to the principles set out in Division 6.

  Despite the 12sqm reduction in the amount of LOS, the proposal still complies with the 30% LOS requirement of SEPP (Housing) 2021.

  It is appreciated that the proposal will extend the length of the eastern and western wall between 1.4m - 1.65m. The extension of the north-western block does not however project beyond the rear building line of No. 25 North Avalon Parade and the existing and proposed planting along the side boundaries help soften the bulk and massing of the development as viewed from the neighbouring properties. In addition, it is noted that the side elevations have recessed elements which help articulate the development and reduce perceived visual bulk as observed from the adjoining properties. As such, it is not considered that the extension of the development will result in unreasonable visual impact to the western and eastern neighbours.

  The proposal will not change the presentation of the approved development in the streetscape or have any impacts on the character of the locality. Refer to the detailed discussion under the SEPP (Housing) section of this report.

- **Tree loss**

  The submissions raised concerns that the proposal includes the removal of a tree that was identified for retention.

  Comment:

  An arborist report has been submitted with the application which confirms that Tree 24 is dead. Council's Landscape Officer has no objections subject to a condition requiring the replanting of one locally native small tree, refer to discussion under the Referral section of this report.

- **Process**

  The submissions raised concerns that the application is not *substantially the same as the original development*. The incremental increase in the scale of the development pushes the boundaries of achievable approval.

  Comment:

  The proposal results in a minor modification of the footprint of each of the four buildings, resulting in an additional 90.4sqm of floor area. In addition, the proposal involves minor internal and external changes to the buildings and the removal of a tree which has been confirmed as dead. There is no change to the number of units approved (10 units), the approved car parking or access, the height of the development or its presentation to the street. The proposal will not result in unreasonable amenity impacts to neighbours in terms of of a loss of privacy or overshadowing. The proposal is therefore assessed as being substantially the same as the original development and the applicant has followed the correct procedure in seeking an amendment to the original approval via a Modification Application in tandem with a Class 1 application to the Land and Environment Court.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	**Supported subject to conditions** The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below. Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage. Planners comments The conditions recommended by Council's Building Assessment Officer relating to the BCA and Fire Safety have already been imposed in the original consent and are still valid.
Landscape Officer	**Supported subject to a new condition**

Internal Referral Body	Comments
	The application is for modification to development application DA2019/1260 approved by the Land and Environment Court. Additions are proposed to the rear of Dwellings 1, 2, 3, 6, 7 and 8, which are in the two buildings on the northern side of the site, and additions are proposed to the dwellings at the rear of the site with Dwellings 5 and 9 to be extended above the basement and minor additions are proposed on Level 2 to the rear of Dwellings 4, 5, 9 and 10. A planter and garden bed has been added on the eastern side of Dwelling 9 over the basement. The development does not result in any significant reduction of the landscaped area or deep soil zone within the development and the proposal remains compliant with the applicable landscaped open space and deep soil area requirements. The approved Landscape area of 702m2 is proposed to be reduced to 689.4m2 and is maintained over the 668m2 requirement under the relevant at the time Housing for Seniors and People with a Disability SEPP. The approved Deep Soil area of 618m2 is proposed to be reduced to 609.74m2 and is maintained over the 334m2 requirement under the 'relevant at the time' Housing for Seniors and People with a Disability SEPP. The amended proposal does not require the removal of any additional trees. A Arboricultural Certification is submitted identifying that tree 24 (Grevillea moonlight) is dead and retention under the approval is not attainable. As a dead tree under the Pittwater DCP exempt provisions, no Council approval is required for such removal. The loss of canopy shall be replaced by a small tree in its place and a condition shall be imposed under this modification should the application be approved. Landscape Referral raise no objections to the amended landscape plans submitted identified as drawings 2604 LP-00 issue 01 and 2604 LP-01 issue 04, relative only to the modified landscape works contained in the amended plans.
NECC (Bushland and Biodiversity)	**Supported without conditions** The modification has been reviewed, and the amended proposal does not require the removal of any additional trees. A Arboricultural Certification is submitted identifying that tree 24 (Grevillea moonlight) is dead and retention under the approval is not attainable. As a dead tree under the Pittwater DCP exempt provisions, no Council approval is required for such removal. The loss of canopy shall be replaced by a small tree in its place and a condition shall be imposed as part of the Landscape Referral should the application be approved.
NECC (Development Engineering)	**Supported without conditions** No issues are raised with the application.
NECC (Stormwater and Floodplain Engineering –	**Supported without conditions**

Internal Referral Body	Comments
Flood risk)	The proposed seniors living development is located within the Probable Maximum Flood extent as identified in the Avalon to Palm Beach Floodplain Risk Management Study and Plan, 2017. The proposed modifications include a minor extension of the building footprints and paving. However the floor levels are still at or above the PMF level. It is not considered that flood risk is increased. No further conditions apply.
NECC (Water Management)	**Supported without conditions** The Modification has been assessed in accordance with the relevant legislation and Council policies and no issues identified with the proposal.
Strategic and Place Planning (Urban Design)	**Supported, without conditions** The application has been assessed against SEPP (Housing) 2021 and no issues are raised. <u>Original comments</u> This advice is provided as an internal referral from the Urban Design unit to the development assessment officer for consideration and coordination with the overall assessment. Urban Design may be able to the support the modification proposal if the following issues are addressed: • The proposed modification includes minor amendments to all internal dwelling layouts (not specifically highlighted with clouding). These amendments include reduction of doorway circulation access to some secondary bedrooms. • Additional access information should be provided to ensure that the requirements of SEPP HSPD Schedule 3 can still be satisfied with all proposed internal amendments. These amendments also include an adjustment to the living rooms of the rear dwellings which are now shown as being relatively narrow at approximately 3m wide. The previous layout was preferable. The proposed modification includes minor amendments to external elements of the dwellings (not specifically highlighted with clouding). These amendments appear to include the extension of the roof overhang to the primary open spaces to the rear dwellings by an additional 750mm (approximately). This reduces the sunlight to these primary private open spaces, particularly dwellings 4 and 5. The previous roof overhang was preferable.

Internal Referral Body	Comments
	Planners comments The application has been assessed against SEPP (Housing) and there are no issues with regards to compliance with solar access or accessibility which would justify the imposition of conditions to address the issues raised in the original Urban Design referral. Updated Urban Design comments The application has been considered against SEPP (Housing) 2021 and it is agreed that all issues there there are no inconsistencies with the controls pertaining to solar access and accessibility, as such no conditions are required.
Waste Officer	**Supported without conditions** Minor modifications to basement binroom and street level bin holding bay do not impact on delivery of waste collection service. Existing court imposed conditions to remain, unchanged. Recommendation - Acceptable, without conditions.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Housing for Seniors or People with a Disability) 2004

The original application was assessed under SEPP (HSPD) 2004, which has been repealed.

SEPP (Housing) 2021 was adopted on 1 March 2022 and is now the relevant Policy.

Schedule 7A Savings Provisions was modified on 12 August 2022 to add sub-clause (da).

2 General savings provision
(1) This Policy does not apply to the following matters—
(a) a development application made, but not yet determined, on or before the commencement date,
(b) a concept development application made, but not yet determined, on or before the commencement date,
(c) a staged development application made subsequent to a concept development application approval granted on or before the commencement date,
(d) a development consent granted on or before the commencement date,
(da) an application to modify a development consent granted after the commencement date, if it relates to a development application made, but not determined, on or before the commencement date, (emphasis added)
(e) an environmental impact statement prepared in compliance with an environmental assessment requirement that is—
(i) issued by the Planning Secretary on or before the commencement date, and
(ii) in force when the statement is prepared,
(f) the carrying out of an activity after the commencement date if—
(i) notice of the activity has been given to the council under the repealed ARH SEPP, clause 40A(2), and
(ii) an approval required under the Act, Part 5 for carrying out the activity is granted by the determining authority before 26 November 2022.
(2) The provisions of a repealed instrument, as in force immediately before the repeal of the repealed instrument, continue to apply to a matter referred to in subsection (1).

In accordance with sub-clause 2(da), the saving provisions do not apply and the modification application requires assessment under SEPP (Housing) 2021 as opposed to SEPP (HSPD) 2004, refer to discussion below.

SEPP (Housing) 2021

Part 5 – Housing for seniors and people with a disability

Clause 84 – Development Standards (General)	
Standard	**Compliance/Comment**
2) Development consent must not be granted for the development unless:	
a) The site area of the development is at least 1,000m².	**Complies:** The site area is 2,226sqm
b) The frontage of the site area of the development is at least 20m measured at the building line.	**Complies:** The site has a 36.5m frontage
c) For development on land in a residential zone where residential flat buildings are not permitted - the development will not result in a building: i) with a height of more than 9.5m, or	**Complies:** There is no change to the approved height of the development which is 7.1m and has a maximum height of 2 storeys adjacent to the boundary.

ii) with more than 2 storeys if the building is adjacent to the boundary of the site area.	
3) The development may result in a building with a height of no more than 11.5m if servicing equipment on the roof of the building:	
a) Is fully integrated into the design of the roof or contained and suitably screened from view from public places.	**N/A**: With the exception of skylights above the open plan living areas of units 4,5,9 and 10 there is no change to the approved roof design.
b) Is limited to an area of no more than 20% of the surface area of the roof.	**N/A:** As noted above, the roof design does not include serving equipment.

Clause 85 – Development Standards for Hostels and Independent Living (Self-Care) Units
Standard
1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the following under Schedule 4.
2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4 (being Sections 2, 7 - 13 and 15 – 20) if the development application is made by, or by a person jointly with, a social housing provider.

The application has not been made by a social housing provider, as such clause 85 (2) is not relevant.

An assessment against Schedule 4 has been completed in the following tables:

Part 1 - Standards applying to hostels and independent living units	
Section 2 - Siting Standards	
1) If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.	**Complies**: There is no change to the gradient of the site or the approved accessible path of travel to the adjoining road. The proposal requires compliance with the approved Access Report prepared by Vita Access Architects dated 22 September 2020.
2) If the whole of the site does not have a gradient of less than 1:10: a) the percentage of dwellings that must have wheelchair access must equal the b) proportion of the site that has a gradient of less than 1:10, or 50% (whichever is greater), and the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway accessible to all residents.	**N/A**: The site has a gradient of less than 1:10.
3) Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.	**Complies**: As above, the modified application requires compliance with the approved access report.
Section 3 - Security	

Pathway lighting: a) must be designed and located so as to b) avoid glare for pedestrians and adjacent dwellings, and must provide at least 20 lux at ground level.	**Can comply**: As above, the modified application requires compliance with the approved access report.
Section 4 - Letterboxes	
Letterboxes: a) must be situated on a hard standing area and have appropriate wheelchair access b) by a continuous accessible path of travel, c) (within the meaning of AS 1428.1); and must be lockable, and must be located together in a central location adjacent to the street entry or, in the case of independent living units, must be located together in one or more central locations adjacent to the street entry.	**Complies**: There is no change to the location of the letterboxes which are in an accessible location at the frontage of the site.
Section 5 - Private Car Accommodation	
If car parking (not being car parking for employees) is provided: a) car parking spaces must comply with the requirements for parking for persons with b) a disability set out in AS 2890.6, and 10% of the total number of car parking c) spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.	**Complies**: There is no change to the approved compliant car parking.
Section 6 - Accessible Entry	
Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with sections 4.3.1 and 4.3.2 of AS 4299.	**Can Comply**: There is no change to the location of entry doors and the modified application requires compliance with the approved access report. The internal layout of the units is very similar to the internal layout of the units approved under the original court consent. A condition requires that suitably qualified access consultant confirms that the amended proposal maintains compliance with the approved access report.
Section 7 - Interior - General	
Internal doorways must have a minimum clear opening that complies with AS 1428.1.	**Complies**: As above, the modified application requires compliance with the approved access report a condition ensures that the amended design maintains compliance with the access

	report.
Internal corridors must have a minimum unobstructed width of 1m.	**Complies**: Internal corridors have a min width of 1m.
Circulation space at approaches to internal doorways must comply with AS 1428.1.	**Complies**: The modified application requires compliance with the approved access report.
Section 8 - Bedroom	
At least 1 bedroom within each dwelling must have: a) an area sufficient to accommodate a wardrobe and a bed sized as follows: i) **for a dwelling in a hostel** - a ii) single-size bed, **for an independent living unit** - a queen-size bed, and b) a clear area for the bed of at least: i) 1.2m wide at the foot of the bed, ii) and 1m wide beside the bed between it and the wall, wardrobe or another obstruction, and c) 2 double general power outlets on the wall where the head of the bed is likely to be, and d) at least 1 general power outlet on the wall opposite the wall where the head of the bed is likely to be, and e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and f) wiring to allow a potential illumination level of at least 300 lux.	**Complies**: All bedrooms have sufficient space to meet the requirements.
Section 9 - Bathroom	
1) At least 1 bathroom within a hostel or independent living unit must be on the ground or main floor and have the following facilities arranged within an area that provides for circulation space for a wheelchair around sanitary facilities in accordance with AS 1428.1: a) a slip-resistant floor surface, b) a washbasin with plumbing that c) would facilitate clearances that comply with AS 1428.1, a shower that complies with AS 1428.1, except that the following must be able to be accommodated:	**Complies:** The modified application requires compliance with the approved access report.

i) a grab rail, ii) a portable shower iii) head, a folding seat, **Note:** Sub-section (1)(c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility. d) a wall cabinet sufficiently e) illuminated to be able to read the labels of items stored in it, a double general power outlet beside the mirror.	
Section 10 - Toilet	
A dwelling must have at least 1 toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.	**Complies:** The modified application requires compliance with the approved access report.
Section 11 - Surface Finishes	
Balconies and external paved areas must have slip-resistant surfaces.	**Complies**: The modified application requires compliance with the approved access report.
Section 12 - Door Hardware	
Door handles and hardware for all doors, (including entry doors and other external doors), must be provided in accordance with AS 4299.	**Complies:** The modified application requires compliance with the approved access report.
Section 13 - Ancillary Items	
Switches and power points must be provided in accordance with AS 4299.	**Complies:** The modified application requires compliance with the approved access report.

Part 2 - Additional Standards for Independent Living Units	
Section 15 - Living Room and Dining Room	
1) A living room must have: a) a circulation space in accordance with b) clause 4.7.1 of AS 4299, and a telephone adjacent to a general power outlet.	**Complies:** The modified application requires compliance with the approved access report.
2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.	**Complies:** The modified application requires compliance with the approved access report.
Section 17 - Access to kitchen, Main Bedroom, Bathroom and Toilet	
In a multi-storey independent living unit, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.	**N/A**
Section 18 - Lifts in Multi-Storey Buildings	
In a multi-storey building containing separate independent living units on different storeys, lift	**N/A**

access must be provided to dwellings above ground level of the building by way of a lift complying with clause E3.6 of the Building Code of Australia.	
Section 19 - Laundry	
An independent living unit must have a laundry that has: a) a circulation space at door approaches b) that complies with AS 1428.1, and c) provision for the installation of an d) automatic washing machine and a e) clothes dryer, and a clear space in front of appliances of at least 1,300mm, and a slip-resistant floor surface, and an accessible path of travel to any clothesline provided in relation to the dwelling.	**Complies:** The modified application requires compliance with the approved access report.
Section 20 - Storage for Linen	
Linen storage must be provided in accordance with clause 4.11.5 of AS 4299.	**Complies:** The modified application requires compliance with the approved access report.
Section 21 - Garbage	
A garbage storage area must be provided in an accessible location.	**Complies:** There is no change to the location of the approved garbage area which is in a accessible location.

Clause 86 - Development Standards for Seniors Housing in Zones RE2, SP1, RU5 and R2	
Standard	**Compliance/Comment**
1) Development consent must not be granted for development for the purposes of seniors housing unless the consent authority is satisfied as follows:	
a) RE2 Private Recreation i) The development is carried out on land ii) used for the purposes of an existing registered club. The land adjoins land in a prescribed zone.	**N/A:** The site is located in a R2 Low Density Residential Area.
b) SP1 Special Purpose i) Development for the purposes of a place of public worship, an educational ii) establishment, a hospital or seniors housing is permitted on the land. The land adjoins land in a prescribed zone.	**N/A**: The site is located in a R2 Low Density Residential Area.
c) RU5 Village i) The development is carried out on land ii) within 50km of a 24-hour health services facility. The land is serviced by reticulated water	**N/A:** The site is located in a R2 Low Density Residential Area.

and sewerage.	

Clause 87 – Additional Floor Space Ratios	
Standard	**Compliance/Comment**
1) This section applies to development for the purposes of seniors housing on land to which this Part applies if:	
a) development for the purposes of a residential flat building or shop top housing is permitted on the land under another environmental planning instrument, or	**N/A**
b) the development is carried out on land in Zone B3 Commercial Core.	**N/A**
2) Development consent may be granted for development to which this section applies if:	
a) the site area of the development is at least 1,500m², and	**Complies:** The site area is 2,226sqm.
b) The development will result in a building with the maximum permissible floor space ratio plus: i) for development involving independent living units - an additional 15% of the ii) maximum permissible floor space ratio if the additional floor space is used only for iii) the purposes of independent living units, or for development involving a residential care facility - an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or for development involving independent living units and residential care facilities - an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units or a residential care facility, or both, and	**N/A:** There is no permissible FSR in the PLEP that applies to the site therefore the sub-clause is not relevant.
c) The development will result in a building with a height of not more than 3.8m above the maximum permissible building height.	**Complies**: There is no change to the approved height that sits below the maximum 8.5m height limit.

Clause 88 – Restrictions on Occupation of Seniors Housing	
Standard	**Compliance/Comment**
1) Development permitted under this Part may be carried out for the accommodation of only the following:	**Complies** (see below)
a) seniors or people who have a disability,	**Complies** (see below)
b) people who live in the same household with seniors or people who have a disability,	**Complies** (see below)

c) staff employed to assist in the administration and provision of services to housing provided under this Part.	**Complies** (see below)
2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in sub-section (1) will occupy accommodation to which the development relates.	**Complies***:* Condition 4 of the original court consent requires the development to be occupied by: *a. seniors or people who have a) disability, b). people who live within the same household with seniors or people who have a disability, c). staff employed to assist in the administration of and provision of services to housing provided under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.*

Clause 89 – Use of Ground Floor of Seniors Housing in Business Zones	
Standard	**Compliance/Comment**
2) Development consent must not be granted for development involving the building unless the part of the ground floor of the building that fronts a street will not be used for residential purposes.	**N/A**
3) Sub-section (2) does not apply to a part of a building that:	**N/A**
a) faces a service lane that does not require active street frontages, or	**N/A**
b) is used for 1 or more of the following purposes: i) a lobby for a residential, serviced ii) apartment, hotel or tenanted component iii) of the building, access for fire services, vehicular access.	**N/A**
4) Sub-section (2) does not apply if another environmental planning instrument permits the use of the ground floor of the building for residential purposes.	**N/A**

Clause 90 – Subdivision	
Standard	**Compliance/Comment**
1) Development consent may be granted for the subdivision of land on which development has been carried out under this Part.	**N/A**
2) Development consent must not be granted for the subdivision of a building resulting from development carried out under this Part on land in Zone R2 Low Density Residential or Zone B3 Commercial Core.	**N/A**

Clause 91 – Fire sprinkler systems in residential care facilities	

Standard	Compliance/Comment
1) A consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system.	**N/A**
2) Development for the purposes of the installation of a fire sprinkler system in a residential care facility may be carried out with development consent.	**N/A**

Clause 92 – Development on land used for the purposes of an existing registered club	
Standard	**Compliance/Comment**
1) Development consent must not be granted for development under this Part on land used for the purposes of an existing registered club unless the consent authority is satisfied that:	
a) the development includes appropriate measures to separate the club from the residential areas of the development to avoid land use conflicts, and	**N/A**
b) an appropriate protocol will manage the relationship between the seniors housing and the gambling facilities on the site of the club to minimise harm associated with the misuse and abuse of gambling activities by residents of the seniors housing.	**N/A**
2) For the purposes of subsection (1)(a), appropriate measures include the following:	
a) separate pedestrian access points for the club and the residential areas of the seniors housing,	**N/A**
b) design principles underlying the building aimed at ensuring acceptable noise levels in bedrooms and living areas in the residential areas of the seniors housing.	**N/A**

Division 4 – Site-related requirements

Clause 93 – Location and access to facilities and services (independent living units)	
Standard	**Compliance/Comment**
1) Development consent ***must not*** be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to **facilities and services**:	
a) by a transport service that complies with sub-section (2), or	**Assessed as acceptable**: The original consent included a requirement for a new footpath between the site and the public transport service along Barrenjoey Road and the related upgrades to existing footpaths. There is no change to this component of the development.
b) on-site.	**Assessed as acceptable**: See above.
Note: Facilities and services means: a) shops and other retail and commercial services that residents may reasonably require, and	

b) community services and recreation facilities, and c) the practice of a general medical practitioner.	
2) The transport service must:	
a) take the residents to a place that has adequate access to facilities and services, and	**Assessed as acceptable**: See above.
b) for development on land within the Greater Sydney region: i) not be an on-demand booking service for ii) the transport of passengers for a fare, and be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.	**N/A**
3) For the purposes of sub-sections (1) and (2), access is adequate if:	
a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and	**Assessed as acceptable**: The site is measured at 414.6m from the nearest bus stop that provides access to facilities and services required under the SEPP. The original court approval supported the applicant's Clause 4.6 written submission for a variation of the development standard in respect of cl 26(2)9B)(i) of SEPP HSPD. The subject modification does not seek to change the design of the approved new and upgraded footpaths to connect the site.
b) the distance is accessible by means of a suitable access pathway, and	**Assessed as acceptable**: There is no change to the approved design of the new and upgrade footpaths that will meet the accessibility requirements.
c) the gradient along the pathway complies with sub-section (4)(c).	**Assessed as acceptable**: As above, there is no change to the approved design of the new and upgrade footpaths that will meet the accessibility requirements.
4) In sub-section (3):	
a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and	**Assessed as acceptable**: As above, there is no change to the approved design of the new and upgrade footpaths that will meet the accessibility requirements.
b) the distance is to be measured by reference to the length of the pathway, and	**Assessed as acceptable**: As above, there is no change to the approved design of the new and upgrade footpaths that will meet the accessibility requirements.
c) the overall average gradient must be no more than 1:14 and the gradients along the pathway must be no more than: i) 1:12 for a maximum of 15m at a time, or ii) 1:10 for a maximum length of 5m at a iii) time, or	**Complies:** As above, there is no change to the approved design of the new and upgrade footpaths that will meet the accessibility requirements.

1:8 for a maximum length of 1.5m at a time.	

Clause 94 – Location and access to facilities and services (residential care facilities)	
Standard	**Compliance/Comment**
1) Development consent must not be granted for development for the purposes of a residential care facility unless the consent authority is satisfied that residents of the facility will have access to facilities and services:	**N/A:** The proposal is for self contained independent living units and not a residential care facility.
a) on-site, or	**N/A**
b) by a transport service other than a passenger service.	**N/A**

Clause 95 – Water and sewer	
Standard	**Compliance/Comment**
1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will:	
a) be connected to a reticulated water system, and	**Complies**
b) have adequate facilities for the removal or disposal of sewage.	**Complies**
2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority:	
a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or	**Complies**
b) if reticulated services are not available—must satisfy the relevant authority that the provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development.	**Complies**

Clause 96 – Bush fire prone land	
Standard	**Compliance/Comment**
1) A consent authority must not consent to development under this Part on bush fire prone land unless the consent authority is satisfied that the development complies with the requirements of Planning for Bushfire Protection.	**N/A:** The site is not mapped as Bush Fire prone land.
2) In determining a development application for development under this Part on land near bush fire prone land, a consent authority must:	
a) consult with the NSW Rural Fire Service and consider its comments, and	**N/A**
b) consider the following including: i) the location of the development, ii) the means of access to and egress from	**N/A**

iii) the location, iv) the size of the existing population within v) the area, age groups within the population and the vi) number of persons within the age vii) groups, viii) the number of hospitals and other facilities providing care to the residents of ix) the facilities within the area, and the x) number of beds within the hospitals and facilities, xi) the number of schools within the area and the number of students at the schools, existing seniors housing within the area, the road network within the area and the capacity of the road network to cater for traffic to and from existing development if there were a need to evacuate persons from the area in the event of a bush fire, the adequacy of access to and from the site of the development for emergency response vehicles, the nature, extent and adequacy of bush fire emergency procedures that can be applied to the development and its site, the requirements of Fire and Rescue NSW.	

Division 5 – Design requirements

Clause 97 – Design of in-fill self-care housing	
Standard	**Compliance/Comment**
In determining a development application for development for the purposes of in-fill self-care housing, a consent authority must consider the ***Seniors Living Policy: Urban Design Guideline for Infill Development*** published by the Department of Infrastructure, Planning and Natural Resources in March 2004.	**Complies:** The application has been assessed in accordance with the Guideline as discussed below.

Clause 98 – Design of seniors housing	
Standard	**Compliance/Comment**
A consent authority must not consent to development under this Part unless the consent authority is satisfied that the development demonstrates adequate regard has been given to the principles set out in Division 6 (see table below).	**Complies:** See below.

Division 6 – Design Principles

Clause 99 – Neighbourhood amenity and streetscape	
Standard	**Compliance/Comment**
Development for the purposes of seniors housing should:	
a) recognise that the operational, functional and economic requirements of residential care facilities typically require a different building shape from other residential accommodation, and	**Complies:** The proposal is for infill self care housing and not a residential care facility.
b) recognise the desirable elements of: i) the location's current character, or ii) for precincts undergoing a transition - the future character of the location so new buildings contribute to the quality and identity of the area,	**Complies:** The Court was satisfied that the original development addressed the design principles of Cl 33 of SEPP HDPD . The design principles in SEPP (Housing) 2021 are generally the same as the Design Principles in SEPP (HSPD) 2004. There is no change to the presentation of the approved development in the streetscape in respect of height, bulk, scale, or landscaped setback and no adverse impact on the quality and identity of the locality.
c) complement heritage conservation areas and heritage items in the area, and	**N/A:** The site is not located within a conservation area or within the vicinity of a heritage item.
d) maintain reasonable neighbourhood amenity and appropriate residential character by: i) providing building setbacks to reduce ii) bulk and overshadowing, and iii) using building form and siting that relates iv) to the site's land form, and adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and	**Assessed as acceptable:** While the proposal includes an extension to the rear and side of the buildings the proposal does not extend any closer to the front, side or rear setback compared to the approved scheme. Shadow diagrams have been submitted which demonstrate that there is a marginal increase in shadow to No. 25 North Avalon Road at 9am and 10am. However, the proposal maintains compliance with the solar access provisions. As discussed above, there is no change to the approved height and no change to the scale of the development in the street frontage. As a result of the extension to the rear of two northern blocks, the proposal increases the length of the side walls as viewed from the neighbouring properties. Despite thi,s it is considered that there will be no unreasonable impact on neighbouring amenity in terms of solar access and privacy. Any perceived additional visual bulk as observed from the neighbouring properties will be softened with existing and proposed landscape planting, including a requirement for a new tree to be planted to replace tree No. 24.
e) be designed so the front building on the site is set back generally in line with the existing building line, and	**Complies**: There is no change to the front setback.
f) include plants reasonably similar to other plants	**Assessed as acceptable:** With the exception of

in the street, and	the removal of one tree (T24), which has been confirmed as a dead species, there is no other changes to the approved landscaping and Council's Landscape Officer has no objections to the proposal subject to the replanting with a native small tree.
g) retain, wherever reasonable, significant trees, and	**Assessed as acceptable**: As above.
h) be designed so no building is constructed in a riparian zone.	**Complies:** The proposal will not impact on a riparian zone.

Clause 100 – Visual and acoustic privacy	
Standard	**Compliance/Comment**
Development for the purposes of seniors housing should consider the visual and acoustic privacy of adjacent neighbours and residents by:	
a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and	**Complies:** The proposal will not result in an unreasonable visual or acoustic privacy issues as a result of the reviewed location of some windows.
b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	**Complies:** There is no change to the approved location of the driveway, basement car park or paths. The proposal will not result in an unreasonable acoustic privacy issues as a result of the location of these facilities.

Clause 101 – Solar access and design for climate	
Standard	**Compliance/Comment**
Development for the purposes of seniors housing should:the	
a) for development involving the erection of a new building provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and	**Complies:** Shadow diagrams have been submitted which confirm that the extension of the dwellings will not result in an unreasonable solar access issues to neighbours or the proposed units.
b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	**Complies:** There is no change to the siting of the approved development.

Clause 102 – Stormwater	
Standard	**Compliance/Comment**
Development for the purposes of seniors housing should aim to:	
a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and	**Complies**: The proposal increases the footprint of the development, despite this Council's Development Engineer has no objections to the proposal in terms of impacts on stormwater.

minimising paved areas, and	
b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	**Complies:** There are no changes to the approved stormwater plans.

Clause 103 – Crime prevention	
Standard	**Compliance/Comment**
Development for the purposes of seniors housing should be designed in accordance with environmental design principles relating to crime prevention, provide personal property security for residents and visitors and encourage crime prevention by:	
a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and	**Complies:** The proposal continues to provide for passive surveillance.
b) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and	**N/A:** There are no shared entries to the units.
c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	**Complies**: As noted above, the proposal continues to provide for passive surveillance.

Clause 104 – Accessibility	
Standard	**Compliance/Comment**
Development for the purposes of seniors housing should:	
a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	**Complies:** As discussed above, there is no change to the approved plans which require a new and upgraded footpath to link the site to the nearby bus stops.
b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	**Complies:** There is no change to approved access or parking.

Clause 105 – Waste management	
Standard	**Compliance/Comment**
Development for the purposes of seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	**Complies:** The proposal includes some minor change to the design of the waste area within the basement. Council's Waste Management Officer offers no objections to the proposal.

Division 7 – Non-Discretionary Development Standards

Clause 106 – Interrelationship of Division with design principles in Division 6	
Standard	**Compliance/Comment**
Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the development	**Complies:** As discussed above, the proposal demonstrates adequate regard to the Design Principles set out in Division 6.

does not demonstrate that adequate regard has been given to the principles set out in Division 6.	

Clause 107 – Non-discretionary development standards for hostels and residential care facilities	
Standard	**Compliance/Comment**
3) The following are non-discretionary development standards in relation to development for the purposes of a hostel or a residential care facility:	
Height	
a) no building exceeds a height of 9.5m, excluding servicing equipment on the roof of a building,	**N/A**
b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9.5m: i) is fully integrated into the design of the roof or contained and suitably screened ii) from view from public places, and iii) is limited to an area of no more than 20% of the surface area of the roof, and does not result in the building exceeding a height of 11.5m.	**N/A**
Density and Scale (FSR)	
c) the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less.	**N/A**
Communal Open Space	
d) internal and external communal open spaces with a total area of at least: i) for a hostel - 8m² for every bed, or ii) for a residential care facility - 10m² for every bed.	**N/A**
Landscaped Area	
e) at least 15m² of landscaped area for every bed,	**N/A**
f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site.	**N/A**
g) for a hostel - at least 1 parking space for every 10 beds in the hostel,	**N/A**
h) for a residential care facility - at least 1 parking space for every 15 beds in the facility,	**N/A**
i) at least 1 parking space for every 2 employees who are on duty at the same time,	**N/A**
j) at least 1 parking space for the purpose of ambulance parking.	**N/A**

Clause 108 – Non-discretionary development standards for independent living units	
Standard	**Compliance/Comment**
2) The following are non-discretionary development standards in relation to development for the purposes of an **independent living unit**:	
Height	
a) no building exceeds a height of 9.5m, excluding servicing equipment on the roof of a building,	**Complies:** There is no change to the approved maximum building height which is less than 8m.
b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9.5m: i) is fully integrated into the design of the roof or contained and suitably screened ii) from view from public places, and iii) is limited to an area of no more than 20% of the surface area of the roof, and does not result in the building exceeding a height of 11.5m.	**N/A**: With the exception of the inclusion of two (2) skylights in the roof and the colour of the roof material there are no other change to the roof design and as servicing equipment is not proposed this clause is not relevant.
Density and Scale (FSR)	
c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.	**Does not comply**: The approved development has an FSR is 0.5:1 (1,113sqm) and the proposed development an FSR is 0.54:1 (1,203.4sqm) an additional 90sqm of GFA. There is no mechanism for the consideration of a Clause 4.6 variation to the FSR Development Standard as the application is a Modification application. Irrespective of this, the additional floor space does not prelude the application meeting the design principles set out in Division 6. As such, the proposal is consistent with *Division 7 -Non-discretionary development standards clause 106 Interrelationship of Division with design principles in Division 6* which states: *Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the design of the seniors housing does not demonstrate that adequate consideration has been given to the principles set out in Division 6.*
Landscaped Area	
d) for a development application made by a social housing provider - at least 35m² of landscaped area per dwelling,	**N/A**
e) if (d) does not apply - at least 30% of the site area is landscaped,	**Complies**: The approved development retained 31.49% or 701sqm LOS. The proposed development retains 30.9% or 689sqm.
f) a deep soil zone on at least 15% of the site	**Complies:** The proposal results in a 8.3sqm

area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site.	reduction in the approved deep soil area from 618sqm or 27.7% to 609.7sqm or 27.3%. The proposal continues to exceed the minimum deep soil zone requirements. It is not practicable or reasonable for 65% of the deep soil zone to be located at the rear of the site.
Solar Access	
g) at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.	**Complies:** The solar diagrams suggest that a very small area of additional shadow will be cast to the garden area of No. 25 at 9am and 10m and a small additional area of shadow to No. 31 at 3pm. There is no additional shadow impact to the subject site which was assessed by the Court as acceptable.
Private Open Space	
h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building: i) at least 15m² of private open space per ii) dwelling, and at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor. **Note**: The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one (see Schedule	**Complies**

4, section 2).	
i) for a dwelling in a multi-storey building not located on the ground floor – a balcony accessible from a living area with minimum dimensions of 2m and: i) an area of at least 10m², or ii) for a 1 bedroom dwelling - an area of at least 6m².	**N/A**
Car Parking	
j) for a development application made by, or made by a person jointly with, a social housing provider - at least 1 parking space for every 5 dwellings,	**N/A**
k) if (j) does not apply - at least 0.5 parking space for each bedroom.	**Complies:** There is no change to the approved car parking

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

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
5.21 Flood planning	Yes

Detailed Assessment

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	DA Approved	Mod Proposed	Complies
Front building line	6.5m	Ground 9.4m to the external wall 5.5m to the terrace	unaltered	Yes
Rear building line	6.5m	Ground 9.0m to the external wall 6.0m to the terrace	Ground - unaltered First - 15.1m	Yes

		First 16m		
Side building line	East 3.0m	Ground and First Floor 2.5 - 3.0m	unaltered	In part (no change)
	West 3.0m	Ground and First Floor 2.4 - 3.0m	unaltered	In part (no change)
Building envelope	East 3.5m	Within envelope	unaltered	Yes
	West 3.5m	Outside envelope	unaltered	Yes
*Landscaped area (LOS)	60%	702sqm or 31.5%	689.4sqm or 30.97%	**No**

***Note:** With the exception of a minor increase reduction to the landscape area there is no other changes to the built form controls. Despite the 12.6sqm reduction in LOS the proposal continues to comply with the minimum 30% area in the SEPP which overrides the DCP.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.15 Stormwater	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	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
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.21 Seniors Housing	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	No	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes

Detailed Assessment

D1.5 Building colours and materials

Clause D1.5 requires external colours and materials to be dark and earthy tones.

The proposal seeks to delete condition 10 which requires:

The Approved Materials and Finishes Schedule is to be amended, as follows:
a. The proposed use of "White" for the external weatherboards (WB) is to be replaced with Dulux "Grey Daze" or darker.
b. The proposed use of "Surf Mist" for metalwork, gutters, downpipes and awnings (G) is to be replaced with a colour/tone equivalent to or darker than Colorbond "Windspray", except for the North Avalon Road façade where Dulux "Grey Daze" or darker is to be used.
c. The proposed use of "Shale Grey" for metalworks roofing (R) is to be replaced with a colour/tone equivalent to or darker than Colorbond "Woodland Grey".

With the exception of eave linings and, window/door frames and balustrades, the use of white or light colours on any external surface is not permitted. The Amended Materials and Finishes Schedule is to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To minimise the visual impact of the development.

Comment:

The proposed revised materials and finishes schedule includes the following external colours:

Roof - shale grey.

External walls - White duck, see image below.



The proposed alternative colours are warm and earthy tones and are consistent with the colours of new developments in the low-lying areas of Avalon. The proposal is consistent with the outcomes of the control and the deletion of the condition is therefore supported

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 2022

Section 7.12 contributions were levied on the Development 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 2021;
- 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

PLANNING CONCLUSION

This proposal, for a modification application seeks consent for to modify Development Consent No. DA2019/1260 granted by the Land and Environment Court for a Seniors Housing Development comprising 10 self contained dwellings and site consolidation. The modification application seeks consent for a 90.4sqm increase in the approved Gross Floor Area (GFA) resulting in an FSR of 0.54:1 or 1203.4sqm. The modification application also includes internal changes to the dwellings, external changes to the proportions of windows, addition of awnings, changes to the external colours and the removal of a tree (no. 24).

The application is referred to the Development Determination Panel (DDP) due to 6 (six) submissions having been received. The submissions raise issues in respect of additional bulk and scale, which is contrary to density controls of SEPP (Housing) and which is noted to result in adverse visual impacts on the character of the area and as viewed from neighbouring properties. The additional floor space relates to the extension of the dwellings to the rear and side.

There is no change to the presentation of the approved development in the streetscape or unreasonable visual impacts on the character of the locality. The extension of the side walls will not result in unreasonable visual impacts to neighbours as the bulk and scale is softened with existing and proposed planting and through the design which includes articulation via setbacks in the wall plane. In addition, there is no unreasonable impact on neighbouring amenity in terms of solar access or privacy.

While there is an increase in the FRS above the FSR 0.5:1 prescribed in SEPP (Housing) 2021 the proposal maintains consistency with the Design Principles and is therefore consistent with clause 106

of SEPP Housing which relates to the interrelationship of the non-discretionary standards and the design principles set out in Division 6.

Concern has also been raised in respect the removal of Tree 24. The application is supported with an arborist report which confirms that the tree is dead and Council's Landscape Officer has no objections to the proposal subject to replacement planting of Tree 24.

Overall, the development maintains a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended 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 approval to Modification Application No. Mod2022/0397 for Modification of Development Consent DA2019/1260 granted for Demolition works and construction of a Seniors Housing development comprising 10 self contained dwellings and site consolidation on land at Lot 33 DP 8394,29 North Avalon Road, AVALON BEACH, Lot 32 DP 8394,27 North Avalon Road, AVALON BEACH, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	**Dated**	**Prepared By**
Drwg 030 Rev J Site Plan	16.06.2022	Environa Studio
Drwg 101 Rev J Basement Plan	16.06.2022	Environa Studio
Drwg 102 Rev N Level 1 Plan	21.06.2022	Environa Studio
Drwg 103 Rev M Level 2 Plan	21.06.2022	Environa Studio
Drwg 110 Rev L Roof Plan	16.06.2022	Environa Studio
Drwg 120 Rev I Sections	24.04.2022	Environa Studio
Drwg 130 Rev K Elevations	19.05.2022	Environa Studio
Drwg 131 Rev L Elevations	16.06.2022	Environa Studio
Drwg 132 Rev M Elevations	21.06.2022	Environa Studio
Drwg 210 Rev L Materials and Finishes Schedule	19.05.2022	Environa Studio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Nathers and BASIX Assessment Report Issue G	01.07.2022	Sustainable Building Consultants

File Ref 22-3328		
Stormwater and Flood Impact Assessment Ref CC200310:BAK\kcd	20.01.2022	ACOR Consultants
Arborist Report Tree 24 Grevillea Moonlight file 7322	09.06.2022	Rain Tree Consulting

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**
Drwg 2604LP-00 Existing Tree Plan Rev 04	10.06.2022	John Lock & Associates
Drwg 2604 LP-01 Landscape Plan Rev 04	10.06.2022	John Lock & Associates

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

B. Delete condition 10 (Amended Schedule of Colours and Finishes).

C. Amend condition 10B (Private Open Space of Dwelling 5) to read:

The dividing fence between Dwellings 5 and 9 is to be 1.8m in height.

Reason: To provide visual privacy between the two adjacent areas of private open space.

D. Amend Condition 34 (Tree removal within this property) to read as follows:

This consent approves the removal of the following tree(s) within the property (as recommended in the Approved Arboricultural Impact Assessment and identified by the following ID number):
a. 15 She Oak,
b. 17 Spotted Gum,
c. 18 Paperbark,
d. 25 Swamp Mahogany,
e. 26 Macadamia,
f. 27 Paperbark,
g. 29 She Oak,
h. 30 Lillypilly,
i. 40 Southern Mahogany,
j. 52 Cheese Tree,
k. 53 Swamp Mahogany,
l. 54 Spotted Gum,
m. 55 Swamp Mahogany,
n. 56 Brushbox, and
o. 58 Swamp Mahogany.
p. 24 Grevillea Moonlight

The following existing exempt trees by species type or under 5 metres in height require removal (as recommended in the Approved Arboricultural Impact Assessment and identified by the following ID number):
a. 19 Paperbark,

b. 28 Silky Oak,
c. 32 Bottlebrush,
d. 36 Bangalow Palm x 4,
e. 39 Bottlebrush,
f. 41 Banana Trees,
g. 42 Hibiscus,
h. 47 Mulberry, and
i. 51 Mulberry.

Exempt species not to be removed include:
a. 22 Gordonia,
b. 24 Grevillea, and
c. 38 Fiddle Leaf Fig.

Reason: To enable authorised building works.

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

(A) Replacement Tree Planting

One (1) locally native small tree shall be planted in the vicinity of the dead tree to be removed identified on plans and reports as tree 24, to achieve at least 6 metres height at maturity, and shall be selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward, or Council's Tree Guide, and in accordance with the following:
i) tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
ii) planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established.
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.
Reason: To maintain environmental amenity.

Amend Condition 49 (Accessibility) to read as follows:

(A) A suitably qualified and accredited Access Consultant is to provide shall written certification that the design approved under MOD2022/0397 maintains compliance with the Access Report prepared by Vista Access Architects dated 22 September 2020.

A further certification shall be submitted to confirm that the as built development has been constructed and fit out to ensure compliance with the recommendations of the Approved Access Report referenced in conditions 1 of this consent an the standards prescribed by Schedule 4 (Standards applying to hostels and independent living units) of SEPP (Housing) 2021 that relates to self-contained dwellings.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure that the proposal maintains accessibility in accordance with legislative requirements.



SITE PLAN
1:300 @ A3



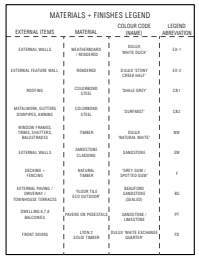
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notes
all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.

rev	date	amendment
A	25/01/22	issued for information
B	09/02/22	issued for information
C	14/02/22	issued for information
D	17/02/22	issued for information -minor adjustments
E	07/03/22	issued for information -minor adjustments
F	08/03/22	issued for information -minor adjustments
G	21/03/22	issued for information
H	24/03/22	issued for information -minor adjustments
I	21/04/22	issued for information
J	16/06/22	issued for information

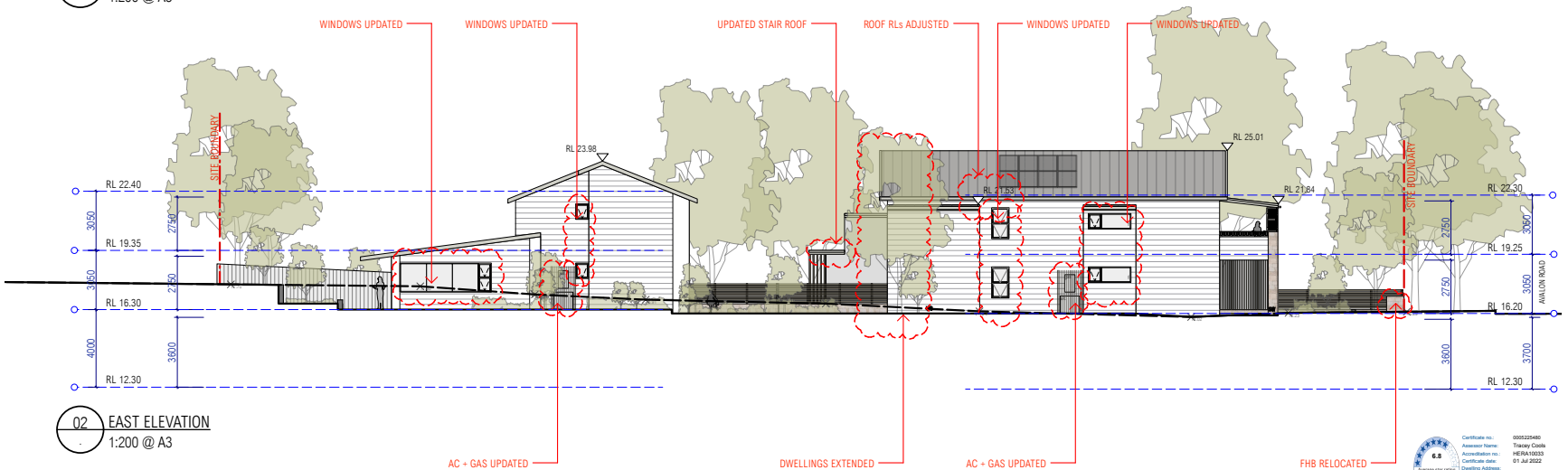
environa studio
224 riley st surry hills 2010
t: 02 9211 0000
w: www.environastudio.com.au
architects registration number 6239

project: SENIORS LIVING	location: 27-29 NORTH AVALON ROAD	drawing: SITE PLAN	stage: S4.55 (8)	project no.: 991	dwg no.: 030
for/client: ARMADA AVALON PTY LTD	at: AVALON BEACH	drawing:	chkd: TW drwn: IH	date: 16/06/22	revision: J





01 NORTH ELEVATION
1:200 @ A3



02 EAST ELEVATION
1:200 @ A3

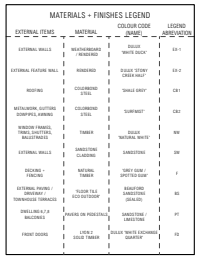


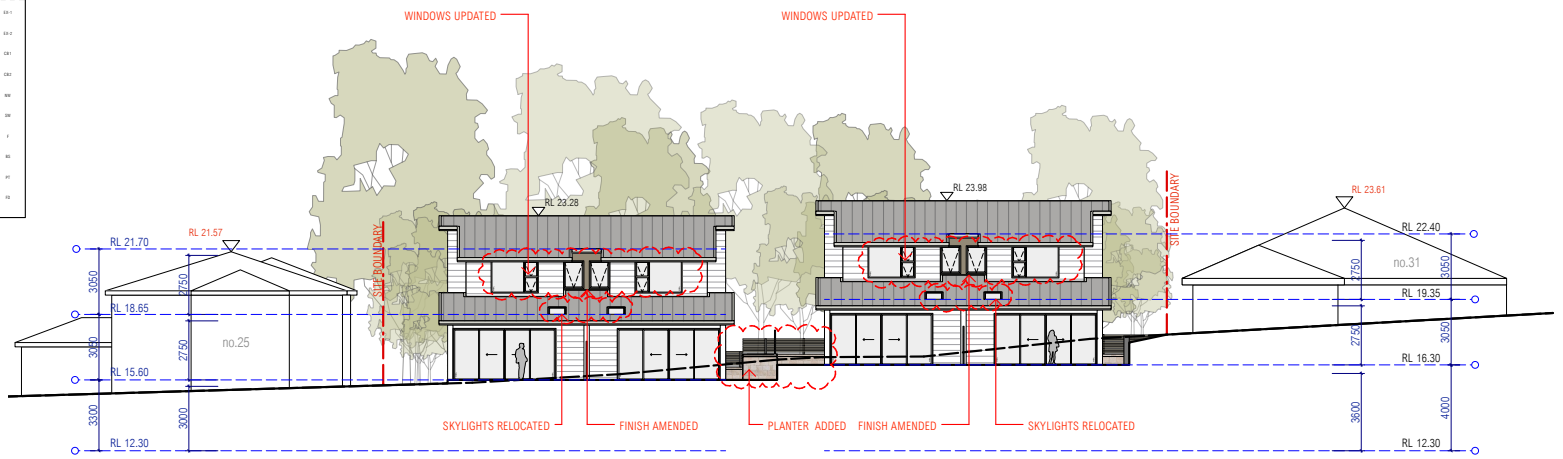
notes	rev	date	amendment	rev	date	amendment	rev	date	amendment
all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.	A	25/01/22	issued for information	F	28/03/22	issued for information -minor adjustments			
	B	09/02/22	issued for information	G	21/03/22	issued for information			
	C	14/02/22	issued for information	H	24/03/22	issued for information -minor adjustments			
	D	17/02/22	issued for information -minor adjustments	I	21/04/22	issued for information			
	E	07/03/22	issued for information -minor adjustments	J	17/05/22	issued for information			
				K	19/05/22	issued for information			

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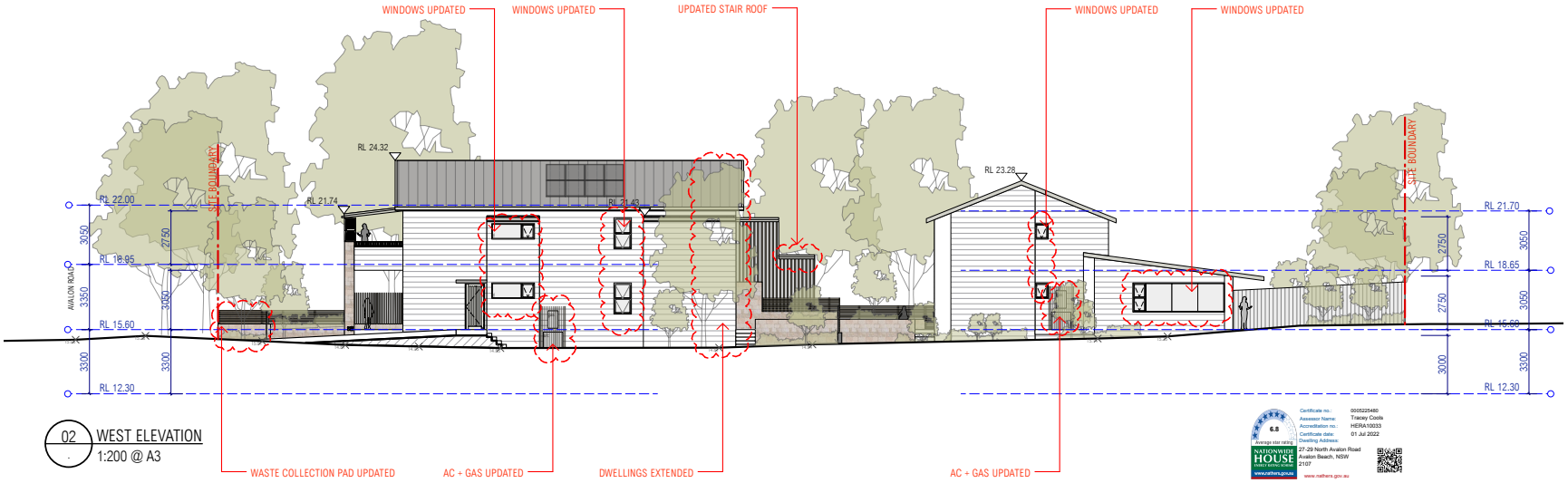
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w: www.environastudio.com.au
architects registration number 6239

project	location	drawing	stage	project no.	dwg no.
SENIORS LIVING	27-29 NORTH AVALON ROAD	NORTH + EAST	S4.55 (8)	991	130
for/client	at	drawing	chkd / drwn	date	revision
ARMADA AVALON PTY LTD	AVALON BEACH	ELEVATIONS	TW / IH	19/05/22	K





01 SOUTH ELEVATION
1:200 @ A3



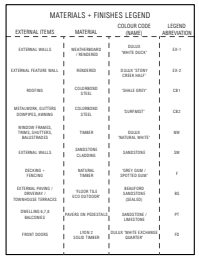
02 WEST ELEVATION
1:200 @ A3

notes	rev	date	amendment	rev	date	amendment	rev	date	amendment
all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.	A	25/01/22	issued for information	F	28/03/22	issued for information -minor adjustments	L	16/06/22	issued for information -minor amendments
	B	09/02/22	issued for information	G	21/03/22	issued for information			
	C	14/02/22	issued for information	H	24/03/22	issued for information -minor adjustments			
	D	17/02/22	issued for information -minor adjustments	I	21/04/22	issued for information			
	E	07/03/22	issued for information -minor adjustments	J	17/05/22	issued for information			
				K	19/05/22	issued for information			

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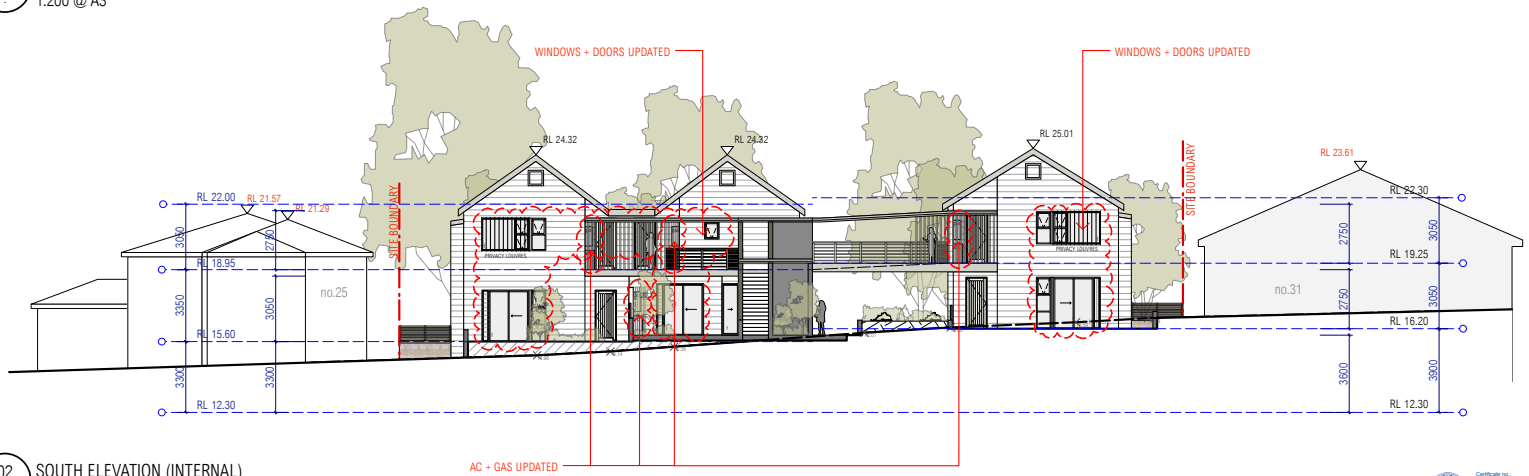
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224 riley st surry hills 2010
t: 02 9211 0000
w: www.environastudio.com.au
architects registration number 6239

project: SENIORS LIVING	location: 27-29 NORTH AVALON ROAD	drawing: SOUTH + WEST	stage: S4.55 (8)	project no.: 991	dwg no.: 131
for/client: ARMADA AVALON PTY LTD	at: AVALON BEACH	drawing: ELEVATIONS	chkd: TW drwn: IH	date: 16/06/22	revision: L





01 NORTH ELEVATION (INTERNAL)
1:200 @ A3



02 SOUTH ELEVATION (INTERNAL)
1:200 @ A3



notes	rev	date	amendment	rev	date	amendment	rev	date	amendment
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	B	09/02/22	issued for information	G	21/03/22	issued for information -minor adjustments	M	21/06/22	issued for information -minor amendments
	C	14/02/22	issued for information	H	24/03/22	issued for information -minor adjustments			
	D	17/02/22	issued for information -minor adjustments	I	21/04/22	issued for information			
	E	07/03/22	issued for information -minor adjustments	J	17/05/22	issued for information			
				K	19/05/22	issued for information			

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architects registration number 6239

project	location	drawing	stage	project no.	dwg no.
SENIORS LIVING	27-29 NORTH AVALON ROAD	NORTH + SOUTH (INTERNAL)	S4.55 (8)	991	132
for/client	at	drawing	chkd / drwn	date	revision
ARMADA AVALON PTY LTD	AVALON BEACH	ELEVATIONS	TW / IH	21/06/22	M