

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

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

WEDNESDAY 12 FEBRUARY 2025

Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 12 February 2025
via teleconference
Commencing at 10:00 AM**

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ACKNOWLEDGEMENT OF COUNTRY

As a sign of respect, the Northern Beaches Development Determination Panel acknowledges the traditional custodians of these lands on which we gather and pay respect to Elders past and present.

1.0 APOLOGIES & DECLARATIONS OF INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF THE DEVELOPMENT DETERMINATION PANEL MEETING HELD ON 5 FEBRUARY 2025

RECOMMENDATION

That the Panel note that the minutes of the Development Determination Panel Meeting held on 5 February 2025 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1 REV2024/0030 - 8 SEABEACH AVENUE MONA VALE - REVIEW OF DETERMINATION OF APPLICATION DA2024/0819 FOR DEMOLITION WORKS AND CONSTRUCTION OF A DUAL OCCUPANCY

PURPOSE

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

RECOMMENDATION

THAT Council as the consent authority **approves** Development Consent to REV2024/0030 for Review of Determination of Application DA2024/0819 for Demolition works and construction of a dual occupancy on land at Lot 12 DP 7236, 8 Seabeach Avenue MONA VALE, subject to the conditions set out in the Assessment Report.

Reporting manager	Adam Richardson
TRIM file ref	2025/050784
Attachments	↓1 Assessment Report ↓2 Site Plan and Elevations

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2024/0030
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 12 DP 7236, 8 Seabeach Avenue MONA VALE NSW 2103
Proposed Development:	Review of Determination of Application DA2024/0819 for Demolition works and construction of a dual occupancy
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Applicant:	The Trustee For Jamco Assets Trust

Application Lodged:	05/12/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	16/12/2024 to 21/01/2025
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,616,041.90
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EXECUTIVE SUMMARY

This Application seeks a review of the determination of DA2024/0819 for demolition works and construction of a dual occupancy which was refused on 16 October 2024.

The application is referred to the Development Determination Panel (DDP), as it is a Review of Determination of an application previously determined under delegated authority.

The application has been publicly exhibited from 16 December 2024 to 21 January 2025 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.

Matter related to stormwater management formed the reasons for refusal of DA2024/0819. An amended stormwater design has been proposed which is now acceptable and supported by Council's Development Engineering team.

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

PROPOSED DEVELOPMENT IN DETAIL

This application seeks a review of the determination of DA2024/0819 for Demolition works and construction of a dual occupancy. The proposed development comprises the demolition of existing structures and construction of an attached two-storey dual occupancy development, with widened internal driveway and two attached double garages.

DA2024/0819 was refused for the following reasons:

1. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Section B5.15 Stormwater of the Pittwater 21 Development Control Plan.*

Particulars:

i. The Pittwater 21 DCP refers to and is supported by Council's Water Management for Development Policy. Section 5.5 of Council's Water Management for Development Policy necessitates that all parts of that Section of the Policy are to be addressed within the stormwater details of a DA where there is a low-level property. It requires that applicants must proceed sequentially through the policy before finding an appropriate discharge solution. Council is to be satisfied that all avenues of Section 5.5 have been exhaustively investigated and considered unviable, prior to Council consenting to the Applicant progressing to the next stage.

ii. The amended Stormwater Management Plan and Detailing that proposes absorption trenches underneath the two dwellings (SW1, Revision A, dated 26 September 2024, prepared by Barrenjoey Consulting Engineers) is inconsistent with Appendix 3 On-site Absorption Design Guideline of Council's Water Management for Development Policy, and fails to satisfy Section B5.15 of the Pittwater 21 Development Control Plan.

iii. The proposed on-site absorption trenches have not been designed in accordance with Appendix 3 referred to in particular (ii) above.

iv. A consulting geotechnical engineer must submit a geotechnical report providing the following details (where applicable) for the proposed location of the absorption/dispersal trench:

- i) Depth to rock*
- ii) Depth to the water table*
- iii) Measured infiltration rate (in litres/square metres/second)*
- iv) Infiltration rate that can be maintained in the long term*
- v) Minimum distance any infiltration system should be located clear of property boundaries*
- vi) Whether the use of infiltration is likely to cause seepage problems to the proposed structure or to any adjoining properties*
- vii) The use of any waterproofing to protect underground areas*
- viii) Any special requirements for the design of walls or footings on the site.*

v. The above information must be submitted to Council to determine whether any absorption system is permitted for the site.

vi. The absorption pits are not to be located within three (3) metres of the side or rear boundary, or three (3) metres from any on-site building or neighbouring buildings. The designed system underneath the dwellings is inaccessible for maintenance.

vii. Council is not satisfied that the proposed stormwater design will provide appropriate drainage for the site, avoid adverse impacts of stormwater runoff on adjoining properties, or will appropriately protect downstream properties from stormwater inundation.

The proposal under this application is substantially the same as that under DA2024/0819, though proposes the following changes in response to the reasons for refusal:

- Amended stormwater management plans providing gravity drainage to the street.

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 Local Environmental Plan 2014 - 5.21 Flood planning

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater 21 Development Control Plan - C1.8 Dual Occupancy Specific Controls

Pittwater 21 Development Control Plan - D9.7 Side and rear building line

Pittwater 21 Development Control Plan - D9.12 Fences - General

SITE DESCRIPTION

Property Description:	Lot 12 DP 7236 , 8 Seabeach Avenue MONA VALE NSW 2103
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Seabeach Avenue. The site is regular in shape with a frontage of 15.24m along Seabeach Avenue and a depth of 60.79m. The site has a surveyed area of 926.3m². The site is located within the R2 Low Density Residential zone and accommodates a single storey weatherboard dwelling house with two detached sheds. The site has a relatively flat topography with a crossfall of approximately 200mm from the south down towards the north. The site contains several trees, shrubs and lawn areas, including a Norfolk Island Pine Tree to the rear of the site and to the road reserve at the front, which have high landscape significance. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by 1-2 storey detached dwelling houses along the northern side of Seabeach Avenue, some with battle-axe lot arrangements. The southern side of Seabeach Avenue includes a mix of retirement housing, residential flat buildings, a child care centre and detached dwelling houses, which extend up to 4 storeys in height. Seabeach Gardens retirement village is located directly south 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:

- **DA2017/1338** - Development Application for removal of one (1) Araucaria heterophylla (Norfolk Island Pine Tree) located at the northwest corner of the dwelling house. Refused 8 March 2018 due to insufficient information.
- **DA2018/0373** - Development Application for removal of one (1) Araucaria heterophylla (Norfolk Island Pine Tree) located at the northwest corner of the dwelling house. Approved 24 April 2018.
- **PLM2019/0244** - Pre-lodgement Meeting for Construction of a dual occupancy with strata subdivision held 28 November 2019.
- **PLM2023/0099** - Pre-lodgement Meeting for Demolition and construction of a dual occupancy held 22 August 2023.
- **DA2024/0819** - Development application for Demolition works and construction of a dual occupancy. Refused 16 October 2024.

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 or modification 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.

In accordance with Sections 8.3 (2) and 8.10 (1) of the Act, an application for review of a determination

must be made and determined within 6 months of the date the decision appealed against is notified or registered on the NSW Planning Portal. The notice of determination for DA2024/0819 was notified on the NSW Planning Portal on 16 October 2024. The review application was lodged on 19 November 2024 and is to be determined by the Development Determination Panel on 12 February 2025, which is within the legislated 6-month review period.

Section 8.3 (3) provides that 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 comparison of the original plans under DA2024/0819 and the plans submitted under this review application 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 and 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 application has been publicly exhibited from 16/12/2024 to 21/01/2025 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
Building Assessment - Fire and Disability upgrades	<i>Supported, subject to Conditions</i> The application has been investigated with respects to aspects relevant 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.
Landscape Officer	<i>Supported, subject to Conditions</i> The Landscape Referral for review of Development Application DA2024/0819 is undertaken by an alternate Landscape Officer.

Internal Referral Body	Comments
	Amendments as described in reports and as illustrated on plans are noted. An Arboricultural Addendum is submitted that provides assessment to support the retention of T1 (existing Norfolk Island Pine) within the road reserve verge and T10 (existing Norfolk Island Pine) within the rear of the property, and provides arboricultural requirements for tree protection measures, and this report shall form the basis for arboricultural management should the application be approved. The submitted Landscape Plan with the Modification Application is not updated to reflect the amended architectural plans and requires revision to document the retention of the T10 (existing Norfolk Island Pine). The proposed Melaleuca quinquenervia tree planting at the rear of the property shall be substituted for a smaller native tree as the existing Norfolk Island Pine will suppress taller trees, and this shall also apply to the proposed Melaleuca quinquenervia tree planting at the front of the property. Conditions of consent for an Amended Landscape Plan shall be imposed should the application be approved.
NECC (Development Engineering)	Supported, subject to Conditions The applicant has provided a report by a service locator indicating all the services and the location of the existing Council stormwater system in the road reserve. The stormwater plans show the connection into the system which is acceptable. The proposal will need the construction of a new driveway crossing and barriers for the internal suspended driveway which has been conditioned. Development Engineering support the proposal, subject to conditions as recommended.
NECC (Flooding)	Supported, subject to Conditions The proposal is for the Review of Determination of Application DA2024/0819, for demolition of the existing dwelling and construction of a dual occupancy dwelling. The proposed dwellings have two floors, garages and raised lawn features in the backyard. The site is within the Medium Risk Flood Precinct. The site has the following flood characteristics: Flood Planning Level: 4.46m AHD 1% AEP Flood Level: 3.96m AHD 1% AEP Hydraulic Category: Flood Storage & Flood Fringe Probable Maximum Flood (PMF) Level: 4.54m AHD PMF Life Hazard Category: H3 The floor level of the proposal is at the FPL. The proposed garage level is above the 1% AEP. The removal of the raised beds means that the proposal generally complies with the DCP. Subject to the following conditions, the proposal generally complies

Internal Referral Body	Comments
	with Section B3.11 of the Pittwater DCP and Clause 5.21 of the Pittwater LEP.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<i>Supported, subject to Conditions</i> The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1740722S_02 and 1740717S_02 dated 22 November 2024).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.

- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (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 or 8.0m above the FPL	8.1m or 7.32m above the FPL of 4.46m AHD	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.1B Minimum lot sizes for dual occupancies	Yes
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes

Clause	Compliance with Requirements
7.10 Essential services	Yes

Detailed Assessment

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment:

The site is within the flood planning area and mapped within the medium and low risk flood precinct. The site has a flood planning level of 4.46m AHD and a 1% AEP flood level of 3.96m AHD. The site has a probable maximum flood level of 4.54m. The proposal has a floor level at the flood planning level and the proposed garage level is above the 1% AEP. Council's Flood Engineer has reviewed the amended proposal and concluded that subject to conditions, the proposal generally complies with clause 5.21 of the Pittwater LEP. It can therefore be satisfied that the development achieves the above requirements.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment:

Council's Flood Engineer has reviewed the amended proposal and concluded that subject to conditions, the proposal generally complies with clause 5.21 of the Pittwater LEP. The above matters have been considered and the development satisfactory.

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 3 and 4, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 1.0 metre below the natural ground surface and/or works by which the watertable is likely to be lowered more than 1.0 metre below the natural ground surface within a Class 3 acid sulfate soil area are required to be assessed to determine if any impact will occur.

Works at depths beyond 2.0 metres below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2.0 metres below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The development does not involve works beyond 1.0 metre below the natural ground surface, or works by which the watertable is likely to be lowered more than 1.0 metre below the natural ground surface, and therefore no further investigation is required in relation to acid sulfate soils.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	8m	-	Yes
Rear building line	6.5m	12.8m	-	Yes
Side building line	West - 2.5m	Garage: 1.5m Ground Floor: 1.75m First Floor: 3.12m	40% 30% -	No No Yes
	East - 1m	Garage: 1.3m Ground Floor: 1.75m First Floor: 3.12m	- - -	Yes Yes Yes
Building envelope	West - 3.5m	Within envelope	-	Yes
	East - 3.5m	Within envelope	-	Yes
Landscaped area	50%	49.3% (455.3m ²) +6% impervious = 55.3%	-	Yes
Floor Space Ratio	0.4:1	0.45:1 (415.8m ²)	12.5%	No
Second Storey Coverage	50%	61%	22%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
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
C1.8 Dual Occupancy Specific Controls	No	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	No	Yes
D9.9 Building envelope	Yes	Yes
D9.10 Landscaped Area - General	Yes	Yes
D9.12 Fences - General	No	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.8 Dual Occupancy Specific Controls

Detailed description of non-compliance

C1.8 of the Pittwater 21 Development Control Plan stipulates second storeys to dual occupancies shall cover a maximum 50% of the ground floor area, and dual occupancies shall have a maximum floor space ratio of 0.4:1.

The proposed attached dual occupancy development has a second storey footprint that covers 61% of the ground floor area, and a floor space ratio of 0.45:1, representing variations of 22% and 12.5% to the maximum standards, respectively.

It is noted that the proposed development provides a compliant building height, and front, rear and eastern side setbacks. The proposal sits wholly within the required building envelope and provides a compliant quantum of landscape area. Furthermore, the second storey addition is setback considerably from the eastern and western boundaries, with setbacks of 3.1 metres. As such, despite the variation to the DCP's FSR and second storey footprint control, the development otherwise represents a scope of built form which is consistent with that envisaged by the DCP. A smaller first floor footprint where the FSR and footprint of the secondary storey strictly complied would not result in any discernible built form improvements, nor would it result in any direct amenity improvements to adjoining properties.

Merit consideration

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

- *Limitation of the visual bulk and scale of development.*

Comment:

As above, the proposed development complies with the required building height along with the front, rear and eastern side setbacks. The proposal sits within the required building envelope and provides a compliant quantum of landscaped area as well as the retention of trees. The second storey is stepped in from the floor below providing ample setback distances. Evidently, the visual bulk and scale of the development has been minimised. The visual bulk and scale of the built form has been minimised through retention of trees and the overall height of the building being below the maximum building height afforded to the site.

- *Provision of design flexibility for second storey development.*

Comment:

Design flexibility has been afforded to the second storey given the generous side setbacks that provide sufficient spatial separation to adjoining properties. The second storey is also narrow in width at 4.5 metres per side.

- *Restriction of the footprint of development on site.*

Comment:

While the proposed development is non-compliant with the floor space ratio and second storey coverage standards, the development is otherwise compliant with almost all other built form controls, and is therefore not considered to be an overdevelopment on the site. The footprint is

considered appropriate in this particular instance given the compliance with the landscaped area control.

- *Retention of the natural vegetation and facilitation of planting of additional landscaping.*

Comment:

The proposal retains the existing trees on the site and provides a compliant amount of landscaped areas. The proposal has been reviewed and supported by Council's Landscape Officer subject to the recommended conditions.

- *Provision of rental accommodation*

Comment:

The proposed development is not purpose-built rental accommodation; however, the development is capable of being rented at the owners discretion.

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

Comment:

The proposed development is consistent with the desired future character of the Mona Vale locality as it maintains a low-density residential character in a landscaped setting.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the *Environmental Planning and Assessment Act 1979*. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D9.7 Side and rear building line

Detailed description of non-compliance

D9.7 of the Pittwater 21 Development Control Plan stipulates minimum side setbacks of 2.5 metres to one side boundary and 1 metre to the other side boundary, and a rear setback of 6.5 metres.

For this assessment, the 2.5 metre requirement is applied to the western side boundary and the 1 metre requirement applied to the eastern side boundary. The proposed development does not comply with the western side setback as the garage is setback 1.5 metres and the ground floor is setback 1.75 metres from the boundary. The proposed first floor is setback 3.1 metres from the western side boundary and complies, and the proposed development is fully compliant on the eastern side. Additionally, the rear setback of the proposed development is compliant.

Merit consideration

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

- *To achieve the desired future character of the Locality. (S)*

Comment:

The proposed dual occupancy is permissible within the zone and maintains the low-density residential nature of the area. The proposal achieves the desired future character of the Locality.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The proposed development complies with the required building height and sits within the required building envelope. The proposal provides appropriate side and rear setbacks and steps in at the first floor level to break up the visual bulk. 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. (S)*

Comment:

The proposal maintains equitable preservation of views and vistas to and/or from public/private places.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment:

The proposal maintains reasonable view sharing.

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

Comment:

The proposal ensures a reasonable level of privacy through the provision of appropriately designed windows including highlight windows and external blinds. A blade wall is incorporated to provide privacy between the two occupancies. As demonstrated in the submitted shadow diagrams the proposal provides a compliant level of solar access.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment:

The proposal provides landscaped areas in compliance with the requirements and retains the mature Norfolk Pine trees in the rear yard and road reserve which contributes to an attractive streetscape. Council's Landscape Officer has reviewed the proposal deeming it acceptable subject to the recommended conditions.

- *Flexibility in the siting of buildings and access. (En, S)*

Comment:

Flexibility is warranted given the narrow and deep nature of the allotment which has contributed to the side setback encroachment. Given the overall level of compliance, the proposed development is considered to be well-sited.

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

Comment:

The proposal retains significant vegetation and mature trees to visually reduce the built form.

- *To ensure a landscaped buffer between commercial and residential zones is established. (En, S)*

Comment:

N/A, the site does not adjoin a commercial zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9.12 Fences - General

Description of non-compliance

This control requires the following:

a. Front fences and side fences (within the front building setback)

Front and side fences (within the front building setback) shall:

- *not exceed a maximum height of 1 metre above existing ground level,*
- *be compatible with the streetscape character, and*
- *not obstruct views available from the road.*

Fences are to be constructed of open, see-through, dark-coloured materials.

Landscaping is to screen the fence on the roadside. Such landscaping is to be trimmed to ensure clear view of pedestrians and vehicles travelling along the roadway, for vehicles and pedestrians exiting the site.

Original stone fences or stone fence posts shall be conserved.

The proposal consists of a new front fence 1.5 metres high and a dividing fence within the front setback that ranges in height from 1.5 metres to 1.8 metres.

Merit Consideration

With regards 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.*

- *To ensure fences compliment and conserve the visual character of the street and neighbourhood.*
- *To define the boundaries and edges between public and private land and between areas of different function.*
- *To contribute positively to the public domain.*
- *An open streetscape that allows casual surveillance of the street.*
- *Fences, where provided, are suitably screened from view from a public place.*
- *Safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.*
- *Unhindered travel for native animals and pedestrians.*
- *To ensure heritage significance is protected and enhanced.*
- *To ensure an open view to and from the waterway is maintained.*

Comment:

The proposed fencing is compatible with the visual character of the street and is consistent with surrounding front fences. The proposed fencing is to be 50% open from natural ground level up to the 1% AEP flood level subject to the recommended conditions. The proposed fencing appropriately defines the boundaries of the property and the two occupancies. The streetscape remains open allowing casual surveillance and safe sight distances.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

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

A monetary contribution of \$26,160 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,616,042.

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 Determination application, which seeks consent for an amended proposal in response to the refusal of DA2024/0819 for demolition works and construction of a dual occupancy, has been referred to the Development Determination Panel (DDP), due to it being a review application under section 8.2 of the Environmental Planning and Assessment Act 1979, requiring determination by the DDP.

This application has provided an amended stormwater design to address the reasons for refusal of DA2024/0819. The amended stormwater design has been reviewed by Council's Development Engineering team deeming it acceptable subject to the recommended conditions. The built form of the development remains as originally proposed under DA2024/0819.

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.

REASON FOR DETERMINATION

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 REV2024/0030 for Review of Determination of Application DA2024/0819 for Demolition works and construction of a dual occupancy on land at Lot 12 DP 7236, 8 Seabeach Avenue, MONA VALE, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A.01	B	Site plan + site analysis	Gartner Trovato Architects	5 September 2024
A.02	B	plan - ground floor	Gartner Trovato Architects	5 September 2024
A.03	B	plan - first floor	Gartner Trovato Architects	5 September 2024
A.04	B	elevation - south, west	Gartner Trovato Architects	5 September 2024
A.05	B	elevation - north, east	Gartner Trovato Architects	5 September 2024
A.06	B	section - A, B	Gartner Trovato Architects	5 September 2024
A.09	B	materials and finishes	Gartner Trovato Architects	5 September 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	1740717S_02	RENOVATION SOLUTIONS PTY LTD	22 November 2024
BASIX Certificate	1740722S_02	RENOVATION SOLUTIONS PTY LTD	22 November 2024
Flood Management Report	A	Barrenjoey Consulting Engineers Pty Ltd	September 2024
Arboricultural Impact Assessment (AIA) Report	1024	Rain Tree Consulting	15 February 2024
Arboricultural Addendum	9124	Rain Tree Consulting	4 September 2024

Stormwater Management Plan - SW1, SW2	DA/B	Barrenjoey Consulting Engineers Pty Ltd	19 November 2024
Waste Management Plan	-	-	-

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

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

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

2. **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 dual occupancy (attached), in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

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

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

3. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

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

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

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

Reason: Legislative requirement.

4. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$26,160.42 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 \$2,616,041.90.

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.

7. **Construction, Excavation and Associated Works Security Bond(s)**

The applicant is to lodge a bond with Council for the following:

Drainage Works

As security against any damage to Council's stormwater drainage infrastructure as part of this consent a bond of \$5,000.

Details confirming payment of the bond(s) are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. **Fire Separation - Class 1 Buildings**

A separating wall between Class 1 buildings, or a wall that separates a Class 1 building from a Class 10a building which is not associated with the Class 1 building is required to comply with Part 9.3 of the National Construction Code – Housing Provisions – 'Fire Protection of Separating Walls and Floors'.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety.

9. **Amended Landscape Plan**

Amended Landscape Plans shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following additional details:

- i) the Amended Landscape Plan is to reflect the approved architectural plans external layout including retention of the Araucaria heterophylla (Norfolk Island Pine) located in the rear yard . (identified as T10),
- ii) delete the proposed tree planting of 2 x Melaleuca quinquernervia to the rear and front of the property and replace with 2 x locally native trees selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward; to achieve at least 6.0 metres height at maturity; located at least 3.0 metres from buildings or more, at least 2.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,

Certification shall be provided to the Certifier that these amendments have been documented.

Reason: Landscape amenity.

10. **Heritage Listed Trees**

The site is adjacent to Heritage Listed Trees as identified in the Local Environmental Plan. Heritage Listed Trees are to be protected from damage during construction.

a) the following Heritage Listed Trees are located within the vicinity of the approved works:

i) 1 x Araucaria heterophylla (Norfolk Island Pine) in the Seabeach Avenue road reserve forward of the property and identified as T1.

b) a Tree Protection Plan is to be prepared by an Arborist with minimum AQF Level 5 in arboriculture incorporating the following:

- i) annotated photographs of the tree(s) trunk, branches and any exposed roots,
- ii) tree protection measures in accordance with AS4970-Protection of Trees on Development

Sites.

The Tree Protection Plan for the Heritage Listed Trees shall be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of significant community assets.

11. Flood effects caused by development

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 of 3.96m AHD.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

12. Building components and structural soundness

B1 - All new development below the Flood Planning Level of 4.46m AHD shall be designed and constructed from flood compatible materials.

B2 - The shelter in place refuge must be designed to ensure structural integrity up to the Probable Maximum Flood level of 4.54m AHD, with the remainder of the new development designed to ensure structural integrity up to the Flood Planning Level of 4.46m AHD. The forces of floodwater, debris load, wave action, buoyancy and immersion must all be considered.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 4.46m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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.

13. Floor levels

C1 - New floor levels within the development shall be set at or above the Flood Planning Level of 4.46m AHD.

C3 - The underfloor area of the dwelling below the 1% AEP flood level is to be designed to allow clear passage of floodwaters. At least 50% of the perimeter of the underfloor area must be of an open design from the natural ground level up to the 1% AEP flood level.

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

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.

14. Emergency response

E1 - The shelter-in-place refuge must:

- a) Have a floor level at or above the Probable Maximum Flood level of 4.54m AHD; and
- b) Have a floor space that provides at least 2m² (delete one) per person; and
- c) Be intrinsically accessible to all people on the site, plainly evident, and self-directing, with sufficient capacity of access routes for all occupants without reliance on electrical means.

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

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.

15. **Fencing**

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 along any straight length, from the natural ground level up to the 1% AEP flood level. Openings shall be a minimum of 75mm x 75mm.

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

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.

16. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the Council stormwater pit in the road reserve in accordance with the Section 68 Stormwater Application.

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

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

17. **Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to reconstruct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Standard Drawing Normal Profile in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete or asphaltic concrete if required by the Arborist.

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

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

18. **Off Street Parking Design**

The Applicant shall submit a design for the parking facility in accordance with the relevant 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 and Section 2.6 Design of Domestic Driveways by a suitably qualified Civil and Structural Engineer.

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

Reason: Compliance with this consent.

19. **Boundary Identification Survey**

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, 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 Certifier 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.

20. **Utilities Services**

Prior to the issue of the Construction Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier:

- a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
- b) a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and
- c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

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

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

21. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include Civil Engineering plans for the design of the stormwater connection from the site into the existing Council

stormwater pit in the road reserve which is to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

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

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

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

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

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://www.northernbeaches.nsw.gov.au/media/60355?1730767288>

The pre-construction / demolition Dilapidation Report must be submitted to Council for approval and the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

23. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

24. **External Finishes to Roof**

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

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

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

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

25. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets

and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

26. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with the approved Tree Protection Plan (Heritage Tree), the Arboricultural Addendum - [1] Impact Assessment & Tree Retention Report dated 4 September 2024 prepared by Rain Tree Consulting and AS4970-2009 Protection of trees on development sites, and any recommendations for tree protection of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all excavation works and in particular:

a) works within the Tree Protection Zone of Trees 1 (*Araucaria heterophylla* - Seabeach Avenue) and 10 (*Araucaria heterophylla* - rear yard), as identified in the Arboricultural Addendum - [1] Impact Assessment & Tree Retention Report.

All tree protection measures specified must: be in place before work commences on the site, and be in place before work commences on the site, and be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Principal Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the 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: 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.

27. **Sediment and Erosion Controls**

For developments that include more than 2500sqm of disturbance:

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

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

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person

in accordance with the following considerations and documents:

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

The ESCP must include the following as a minimum:

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

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

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

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

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

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

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

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

DURING BUILDING WORK

28. Protection of Sites of Significance

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works shall 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.

29. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites and/or the approved Tree Protection Plan. As a minimum the tree protection fencing for street tree fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge 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. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

30. Tree and Vegetation Protection

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

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment / Addendum,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project 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/Project 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/Project Arborist to the Principal Certifier,
- 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 AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 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 Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment / Addendum and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

31. **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/Project Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- a) a general decline in health and vigour,
- b) damaged, crushed or dying roots due to poor pruning techniques,
- c) more than 10% loss or dieback of roots, branches and foliage,
- d) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- e) yellowing of foliage or a thinning of the canopy untypical of its species,
- f) an increase in the amount of deadwood not associated with normal growth,
- g) an increase in kino or gum exudation,
- h) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- i) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist/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

32. **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.

33. **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.

34. **Demolition Works - Asbestos**

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

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

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

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

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

35. **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.

36. Maintenance of Sediment and Erosion Controls

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

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

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

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

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

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

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 Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

38. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan (as amended by conditions of consent), and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan, unless otherwise imposed by conditions,
- c) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise

scheduled if greater in size; meet the requirements of Australian Standard AS2303 - Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, 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 or more, at least 2.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,

d) mass planting shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,

e) 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, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

39. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment /Addendum, including the following information:

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

Reason: Tree and vegetation protection.

40. **Certification of Works as Executed**

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

- 1. Floor levels for ground floor, shelter in place refuge and garage are set at or above the required level
- 2. There has been no filling on the land other than what has been approved
- 3. Openings are provided under floor areas where required for the free passage of flood waters
- 4. Openings are provided in fencing where required for the free passage of flood waters

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

41. **Building Components and Structural Soundness**

B2 - A suitably qualified structural engineer is to certify the structural integrity of the shelter in

place up to the Probable Maximum Flood level of 4.54m AHD, and the remainder of the new development up to the Flood Planning Level of 4.46m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 4.46m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

42. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)**

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at: <https://www.northernbeaches.nsw.gov.au/media/60355?1730767288>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

43. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.

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

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

44. **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.

45. **Certification of Off Street Parking Works**

The Applicant shall submit a certificate from a suitably qualified Civil or Structural Engineer certifying that the parking facility was constructed in accordance within this development consent and the relevant 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 and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

46. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

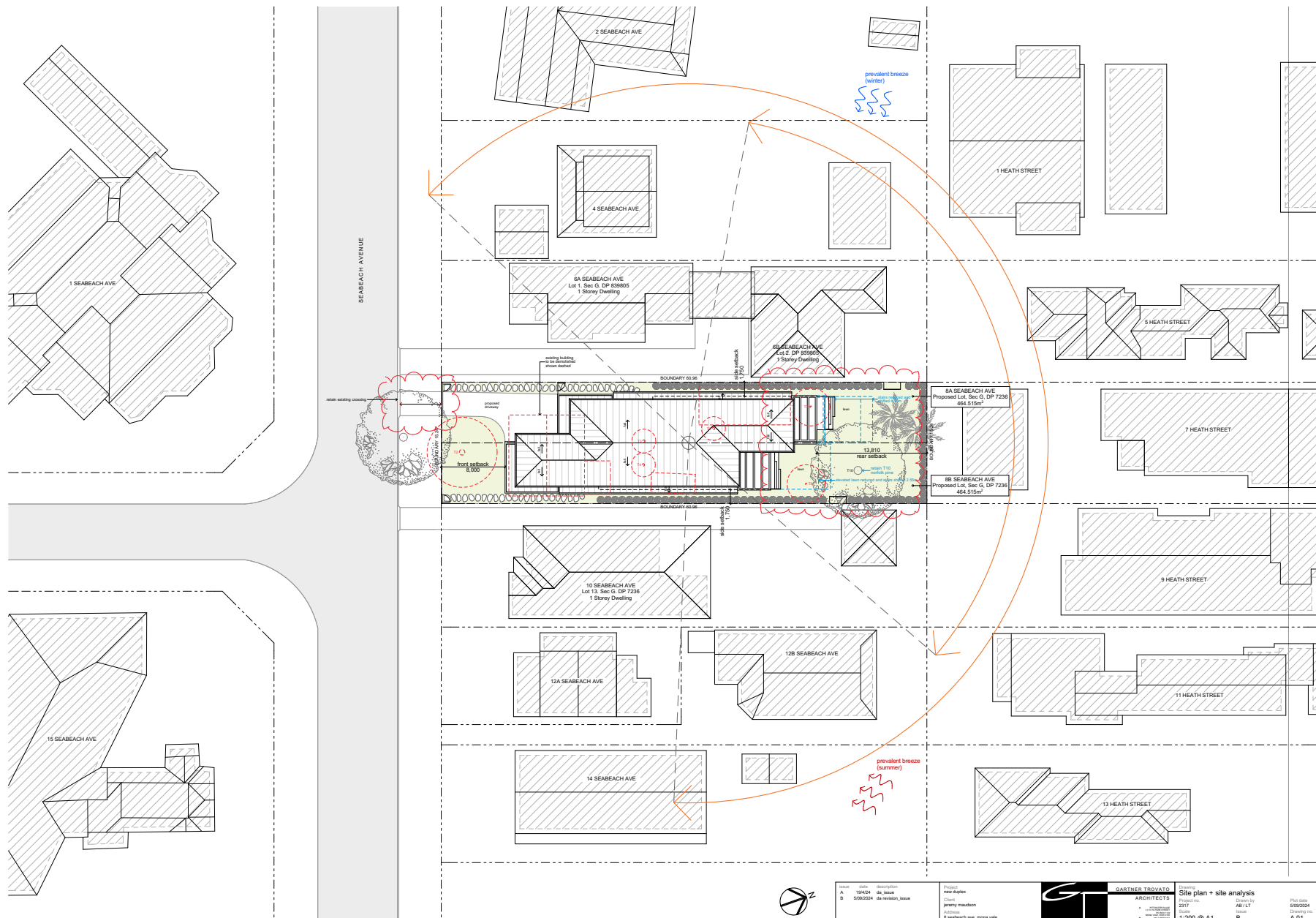
ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

47. **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.

The approved landscape area shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.



[illegible]

ITEM 3.2	DA2024/0267 - 6 SUMMIT AVENUE DEE WHY - DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A SWIMMING POOL
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PURPOSE

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

RECOMMENDATION

THAT Council as the consent authority **approves** Development Consent to DA2024/0267 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 15 DP 12667, 6 Summit Avenue DEE WHY, subject to the conditions set out in the Assessment Report.

Reporting manager	Rodney Piggott
TRIM file ref	2025/049039
Attachments	1 Assessment Report 2 Site Plan and Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0267
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Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 15 DP 12667, 6 Summit Avenue DEE WHY NSW 2099
Proposed Development:	Demolition works and construction of 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
Applicant:	Michael Hronopoulos

Application Lodged:	25/03/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	01/04/2024 to 15/04/2024
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,500,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for demolition of the existing dwelling and the construction of a new dwelling including a swimming pool and landscaping.

The application is referred to the Development Determination Panel (DDP) due to more than 5 individual submissions.

Concerns raised in the objections predominantly relate to view loss, privacy, non-compliance with the Warringah Development Plan 2011 (WDCP), excavation and fill, asbestos removal, devaluation of property, landscaping, noise and stormwater runoff.

Detailed consideration was given to view loss, privacy and other amenity concerns. The report

demonstrates that, despite the non-compliance with built form controls and concerns raised within the submissions, the proposed development is reasonable in its context and does not result in any unreasonable amenity outcomes.

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

PROPOSED DEVELOPMENT IN DETAIL

The application seeks approval for the demolition of the existing dwelling and the construction of a two storey dwelling with basement, swimming pool and landscaping works. The works include the following:

Basement Level Plan:

- New driveway,
- Garage with turntable,
- Storage, plant room and workshop, and
- Lift and stair access.

Ground Floor Plan

- Entry,
- Guest bedroom and home office,
- Open plan family, dining and kitchen area,
- Laundry and bath area,
- Internal lift and stair access,
- Alfresco and swimming pool, and
- Landscaping works.

First Floor:

- Three bedrooms,
- Retreat and WC facilities, and
- Balcony off the retreat.

Planner's note:

The application, as lodged, was inconsistent with the requirement of the WLEP and WDCP in regards to the stormwater, driveway, landscaping, rear setback, rear yard fill and view loss. The applicant was requested to provide amended plans and information that satisfied Council's concerns.

The applicant submitted amended plans that addressed Council's Landscape Officer, Development Engineer and the development assessment officers concerns.

In accordance with Council's Community Participating Plan, the application was not re-notified as it was reducing the environmental impact. However, parties that lodged submissions to the original plans were informally notified of the changes and allowed time to provide additional comments on the amendments. Four initial submissions were received and an additional two submissions were submitted.

The application was assessed based on the amended plans by Resolut submitted to Council in January 2025.

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 - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 15 DP 12667 , 6 Summit Avenue DEE WHY NSW 2099
Detailed Site Description:	The subject site consists of one allotment located on the northern side of Summit Avenue, Dee Why. The site is regular in shape with a frontage of 17.37m along Summit Avenue and a depth of 34.14m. The site has a surveyed area of 588.1m². The site is located within the R2 Low Density Residential zone and accommodates two storey dwelling with detached garage. The site slopes down from the street to the rear, with a slope of approximately 1.5m.

	The site has lawn area at the front and rear with trees and shrubs along the boundaries. There are no known threatened species on the site. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by one to three storey residential dwellings of varying architectural styles. Site Inspection A site inspection was undertaken 18 October 2024.
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Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

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	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
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)(iia) – 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. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended plans including landscaping and stormwater. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 01/04/2024 to 15/04/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Mr Michael James Donaldson	4 Summit Avenue DEE WHY NSW 2099
Mr Michael Anthony Merzian	8 Summit Avenue DEE WHY NSW 2099
Mr Carl Sakellaris	54 Osborne Road MANLY NSW 2095
Ms Susan Snezana Stankovic	5 Summit Avenue DEE WHY NSW 2099
Ms Anna Louise Williams	64 Nareen Parade NORTH NARRABEEN NSW 2101
Michael Donaldson	Level 10 1 Elizabeth Plaza NORTH SYDNEY NSW 2060
Mrs Jovanka Injac	5 Summit Avenue DEE WHY NSW 2099

The following issues were raised in the submissions:

- Non-compliance with controls and amenity impacts - privacy and over shadowing,
- Asbestos,
- Excavation and fill,
- Landscaping,
- Side fence and rear retaining wall,
- View loss and accuracy of photomontage,
- Devaluation of property,
- Location of rubbish bins,
- Shadow diagrams,

- Stormwater runoff,
- Pool pump and equipment,
- Plans.

The above issues are addressed as follows:

- **Non-compliance with controls and amenity impacts - privacy and overshadowing**

The submissions raised concerns that the proposed development was non-compliant with the rear setback and side boundary envelope control and would adversely impact on the amenity (privacy, overshadowing) of the adjoining properties.

Comment:

The non-compliant elements of the proposal have been addressed in detail in the relevant sections of this report. The applicant submitted amended plans reducing the setback of the first floor retreat balcony to comply with the 6m rear setback requirement. Due to the slope of the land the rear of the dwelling will overlook the rear property at no. 6 Lookout Avenue. A condition is recommended requiring the balustrade to have opaque glazing to prevent down towards the private open space of adjoining properties. The ground floor alfresco is still within the rear boundary setback area, however, the height of the alfresco, along with the privacy screening along the eastern elevation and the existing and proposed landscaping will maintain privacy between dwellings.

Shadow diagrams submitted demonstrate that the proposed development complies with the overshadowing requirements of the WDCP.

- **Abestos**

The submissions raised concerns about the removal of asbestos from the site.

Comment:

Conditions have been included to ensure that any works involving asbestos are undertaken in accordance with the relevant legislation, Australian Standards, policies and guidelines for asbestos removal. Council does not proactively inspect or monitor works involving asbestos, however, any concerns relating to asbestos removal can be directed to Council's Environmental Health Team or SafeWork NSW for investigation and/or action. The condition also requires adjoining property owners to be provided with seven (7) days notice in writing of the intention to disturb and/or remove asbestos from the development site.

- **Excavation and fill**

The submissions raised concerns about the level of excavation on the site and potential impact on adjoining properties.

Comment:

The application has submitted a Geotechnical Report which includes recommendations for the safe excavation of the site. These recommendations have been included as a condition of consent. Also due to the level of excavation a pre and post dilapidation survey has been recommended as a condition of consent.

- **Landscaping**

The submissions raised concerns that no landscape plan had been submitted and concern that existing trees and vegetation on the site and adjoining would be impacted as a result of the development. Another submission raised concerns that the existing trees along the rear boundary were proposed to be removed.

Comment:

The existing trees along the rear boundary are proposed to be retained, as shown on the landscape and architectural plans. A landscape plan was provided by the applicant and made available to the adjoining properties. The proposal was also reviewed by Council's Landscape Officer who supported the proposal subject to conditions. These conditions include tree protection measures for the site and adjoining property.

- **Side fence and rear retaining wall**

The submissions raised concerns that side fence may be removed. Another submission raised concerns that the rear retaining wall would have to be raised in height to accommodate the fill in the rear yard.

Comment:

No request has been made to remove the side fence as part of this application.

The excavation and fill plans show that the existing rear retaining wall is to remain as is. Fill within 2m of the side boundary and 1.5m of the rear is to taper off to natural ground level at the boundary.

- **View loss**

Three written submissions and one verbal submission were received from nos. 3, 4, 5 and 7 Summit Avenue, raising concern with view loss as a result of the development. The submissions also raised concerns with accuracy of the photomontages and requested amendments to the plans to retain more views from their properties.

Comment:

View loss has been addressed in detail under part D7 Views of this report. In summary, after a view loss assessment by the original Assessing Officer, the applicant was requested to erect height poles and minimise the size of the 'wings' at the front of the dwelling. A further view loss assessment with the height poles resulted in the current Assessing Officer resulting in a request for the rear wing over the swimming pool to be minimised and the height of the dwelling to be further reduced to retain more views from nos. 3 and 5 Summit Avenue. Sometime after the last view loss assessment was undertaken the height poles were removed by the applicant. Concern was raised with the survey submitted by the applicant for the installation of the height poles, as they did not show the height of the poles only the location. The applicant was requested to reinstate the height poles and submit a new location and height survey. Alternatively the applicant was requested to provide a photomontage in accordance with Land and Environment Court requirements.

The applicant submitted amended plans reducing the floor to ceiling height of the first floor from 3m to 2.7m, a photomontage from nos. 3 and 5 Summit Avenue, a letter from a registered certifier stating the photomontage was taken from accurate data, and a revised site survey.

The submissions also raised concern that the plans did not include solar panels and that the potential impact they may have on the view from the adjoining properties cannot be determined. The applicant has provided details regarding the installation of solar panels. The panels will be flush mounted. The brackets will sit approximately 29mm off the slab and the panel itself is approximately 32mm but sited within the brackets, so only 19mm protrudes past the top of the bracket. The total height off the roof slab FFL is approximately 48mm in total, which gives the solar panels a height of RL57.598. The height of the dwelling as shown on the plans is RL57.55. While the solar panels are not shown on the plans or the photomontage, the height of the panels provided by the applicant and the survey and plans provide enough information to determine the potential impact the solar panels will have on any views from adjoining properties. A condition is recommended requiring the solar panels to not exceed a height of RL57.598.

The view loss assessment is based on the amended plans received by Council December 2024, information received regarding the height of the solar panels, the revised site survey, a view loss inspection by the Assessing Officer and the photomontage.

It has been determined that the amended development achieves a satisfactory outcome after having been assessed in detail against the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140. The extent of qualitative impact upon view sharing is considered to be "moderate/minor" and the amended design (more skillful design) provides appropriate view sharing opportunities.

A submission also queried the accuracy of the submitted photomontage and what the repercussions were if the constructed development resulted in more view loss than what was shown. The photomontage has been prepared by a suitably qualified professional, in accordance with Land and Environment Court requirements and has been submitted in good faith to inform assessment. The photomontage appears accurate to what is shown on the plans and the plans are listed in the consent to be complied with. Any future concern during or after construction that the development is not in accordance with the consent can be reported to the Certifier or Council's Building Control team for investigation.

- **Devaluation of property**

The submissions also raised concern that view loss would result in a loss of property value.

Comment:

The valuation/devaluation of property is not a valid planning consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

- **Location of rubbish bins**

The submissions raised concerns that location of the rubbish bins would affect the amenity of the streetscape.

Comment:

The rubbish bins for the site are located along the eastern side of the dwelling. The location of the rubbish is considered appropriate for the site.

- **Shadow diagrams**

The submissions raised concerns that shadow diagrams did not clearly show the extent of overshadowing as a result of the development.

Comment:

The shadow diagrams are sufficient in identifying the overshadowing to adjoining properties. Overshadowing does not extend to the southern side of Summit Avenue.

- **Stormwater runoff**

The submission raised concern with the proposed development and existing stormwater issues.

Comment:

The application has been reviewed by Councils Development Engineers who has raised no objections to the proposal subject to conditions. The proposed stormwater management system should minimise any existing stormwater issues generated by the current site.

- **Pool pump and equipment**

The submission raised concern that the pool pump and equipment could result in unreasonable noise impacts on the adjoining properties.

Comment:

A standard swimming pool condition will be imposed which requires swimming pool equipment

is to be located within an acoustic box and shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary. This is to ensure the proposal complies with the Protection of the Environment Operations Act 1997 and will not unreasonably impact on the amenity of the adjoining properties.

- **Plans**

A submission requested that the outline of the existing dwelling be superimposed over the proposed plans, so that the difference between the existing and proposed could be easily demonstrated.

Comment:

It is considered by Council that sufficient information, in the form of plans, a survey and a photomontage have been submitted to determine the impact and extent of the development.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	Supported subject to conditions The application is assessed by Landscape Referral against WLEP and the following WDCP controls (but not limited to): D1 Landscaped Open Space and Bushland Setting; E1 Preservation of Trees or Bushland Vegetation. The proposal includes documentation on the plans that existing trees identified as T2, T3, T4 and T5 upon the property shall be retained, and the Landscape Referral assessment shall consider such retention of existing trees. Tree protection measures shall be imposed should the application be approved. The submitted Landscape Plan as reviewed is supported subject to conditions.
NECC (Bushland and Biodiversity)	Supported subject to conditions Amended comments A landscape plan including a planting schedule has been submitted with the application and is found to be compliant with applicable controls and provisions. No trees are being proposed for removal and the proposed works are unlikely to impact upon native flora and fauna. Conditions are recommended. The development is designed, sited and will be managed to avoid any significant adverse environmental impact. Original comments The comments in this referral relate to the following applicable controls and provisions: • SEPP (Resilience and Hazards) 2021 - Coastal Use Area

Internal Referral Body	Comments
	It is noted that no Landscape plan has been submitted with the application and has been requested. The biodiversity referral will re-commence upon reception of all required documentation as per Council's Development application guidelines.
NECC (Coast and Catchments)	<i>Supported subject to conditions</i> The applicant seeks development consent to undertake the following: • Demolition of a residential dwelling and the construction of a two-storey dwelling, basement garage and a swimming pool This application was assessed in consideration of: • Supplied plans and reports; • <i>Coastal Management Act (2016)</i> • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.10, 2.11 & 2.12); • Relevant LEP and DCP clauses. Comment: SUPPORTED WITH CONDITIONS State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.11 and 2.12 of the CM (R & H) apply for this DA. <u>Comment:</u> On internal assessment, the DA satisfies requirements under clause 2.11 & 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021. WLEP and WDCP No other coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the WLEP and WDCP.
NECC (Development Engineering)	<i>Supported subject to conditions</i> 15/11/2024: Provided DRAINS model and amended stormwater plans are satisfactory.

Internal Referral Body	Comments
	Development Engineering have no objections to approval subject to conditions as recommended. 04/11/2024: Amended stormwater Plans by ae Consulting Engineer, dated 01/11/2024, Issue C are provided with a level spreader and on-site detention (OSD) system. Council's review of OSD calculations comes up with an approximate PSD of 12l/sec which is much lower than the PSD shown on supplied plans (18l/sec). Plans also shows use of table 8.2 for SSR and PSD calculations, please note: these tables are to be used when development is other than single residential development. As advised before Level spreader to be designed in accordance with Appendix 4 of Council's Water Management for Development Policy, Stormwater flows from the whole site are to be restricted for all storm events up to and including the 1% AEP storm event. Site is a low level site, simplified method cannot be adopted, DRAINS to be used and model to be provided. 29/10/2024: Stormwater Plans by ae Consulting Engineer, dated 06/09/2024, Issue B proposes a level spreader with on-site detention (OSD) system. Level spreader to be designed in accordance with Appendix 4 of Council's Water Management for Development Policy, Stormwater flows from the whole site are to be restricted for all storm events up to and including the 1% AEP storm event. Further to OSD calculations for the Low level sites no offsetting of rainwater tank volume is permitted. Amended stormwater plans with OSD calculations are requested. 24/10/2024: Amended plans with driveway profile are provided and are satisfactory. 3.5m wide driveway width with Council's extra low vehicle profile will be suitable. Statutory declaration is provided (internal Ref: TRIM2024/612931) and there is no drainage easement that benefits the site. Stormwater Plans by ae Consulting Engineer proposes a level spreader without any on-site detention (OSD) system, which is not supported. Level spreader to be designed in accordance with Appendix 4 of Council's Water Management for Development Policy.

Internal Referral Body	Comments
	Further to OSD calculations for the Low level sites no offsetting is permitted. Amended stormwater plans with OSD calculations are requested. 08/04/2024: Development Application is for demolition of existing and construction of a new two storey dwelling house with basement and swimming pool. <u>Access</u> New driveway is proposed to cater the garage in the basement. Driveway longitudinal profile to be from street gutter to garage showing existing levels, proposed levels, grades and driveway profile to be in accordance with Council's maximum low standard profile. Amended plans to be provided. <u>Stormwater</u> It is unclear that drainage easement is existing or proposed as survey plan and stormwater plans are contradictory. 1. If this easement is existing then applicant is advised to provide ◦ evidence of drainage easement ◦ where this easement leads ◦ evidence that site (6 Summit Ave) is benefitted from easement 2. Site falls to rear, and proposed hardstand is more than 40% of total site, an onsite stormwater detention(OSD) system is required. 3. In case easement is not present or easement benefiting the site is not available then applicant is advised to seek an easement from No 6 Lookout Ave DEE WHY. 4. In case No 6 Lookout Ave, declines the easement (evidence to be provided), applicants engineer to adopt other options of site stormwater design in accordance with Section 5.5 of Council's Water Management for Development Policy. Amended stormwater plans with provision of OSD and drainage easement details are required. For Planner: An excavation of more than 2m deep is proposed for the basement, A Geotech report by AE Geotechnical Engineers, Project No G23072, Dated 11/10/2023 is provided. Please recommend the use of this report at design and construction phase.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1733445S dated 24 January 2024).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 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 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:

The proposed works are located wholly within the site and visually and physically separated from the foreshore, beach, headland or rock platform. The works are for standard residential development and will not cause an unreasonable impact on the coastal environment area and meet the requirements of this clause.

- 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 works are located wholly within the site and visually and physically separated from the foreshore, beach, headland or rock platform. The works are for standard residential development and will not cause an unreasonable impact on 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
 - ii) adverse 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:

Council has considered whether the proposed development is likely to cause an adverse impact on that listed in (a) and is satisfied that the development has been designed, sited and will be managed to avoid any adverse impact. Council is also satisfied that the bulk, scale and size of the development is appropriate when considering the surrounding coastal and built environment.

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 development is contained wholly within the subject site and is considered to be standard alterations and additions to an existing dwelling house. The works are not likely to cause any increased risk of coastal hazards on that land or other land.

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.

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	7.9m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
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. 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 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 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, Council is satisfied 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. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied 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. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied 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	7.5m	4.1%	No
B3 Side Boundary Envelope	East - 5m	Within envelope	N/A	Yes
	West - 5m	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	East - 0.9m	Ground floor - 1.1m First floor - 2.9m	N/A N/A	Yes Yes
	West - 0.9m	Ground floor - 2.7m Swimming pool - 0.9m First floor - 2.7m	N/A N/A N/A	Yes Yes Yes
B7 Front Boundary Setbacks	6.5m	Ground floor - 6.5m First floor - 6.5m	N/A N/A	Yes Yes
B9 Rear Boundary Setbacks	6m	Alfresco - 5m Ground floor - 9.07m	16.7% N/A	No Yes
		First floor - 6m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	44.8% (266.1m ²)	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	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	Yes
D9 Building Bulk	No	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
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

This clause requires that walls to not exceed 7.2m from ground level (existing) to the underside of the ceiling on the uppermost floor of the building.

The proposed maximum wall height is 7.5m on the eastern elevation of the dwelling, representing a variation of 4.1%.

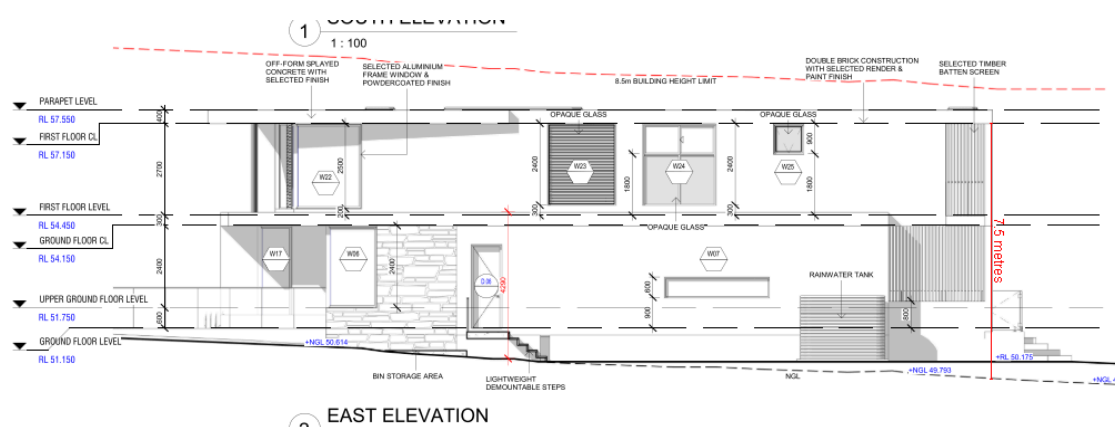


Image 1: East Elevation - wall height variation.

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:

When viewed from the street and adjoining properties the proposal will be a similar height and scale of the surrounding development. The breach in the wall height is towards the rear of the site and will not result in any unreasonable visually impacts due to existing site constraints and the similarity with surrounding development.

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

Comment:

No canopy trees will be removed and the proposal will be generally below the existing tree canopy.

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

Comment:

The proposed wall height will not result in unreasonable or detrimental view loss from surrounding properties and public spaces. While there will be some view loss from the properties on the southern side of Summit Avenue, a reduction in the wall height to fully comply with the requirements will not retain further valuable views from the affected sites. A reasonable sharing of views to and from public and private properties will be maintained.

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

Comment:

The proposal ensures that adequate light, solar access and privacy is obtained between dwellings. The proposal complies with the requirements of the D6 - Access to Sunlight control and has been designed so that there are no unreasonable impacts on the adjoining or nearby properties. The conditioned screen planting along the rear boundary, as well as, adequate physical separation between the proposed development and habitable areas of the adjoining

properties will protect privacy and amenity of the site and adjoining properties. The proposed development has minimised the impact on the adjoining and nearby properties.

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

Comment:

The encroachment of the wall height is a result of the slope of the site. The proposed first floor has been stepped in at the boundaries to minimise the visual impact of proposal. The proposed development is consistent with surrounding development and responds appropriately to the topography of the site.

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

Comment:

The proposed roof form demonstrates contemporary architectural design and is considered appropriate within the locality.

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

B9 Rear Boundary Setbacks

Description of non-compliance

The rear boundary setback control requires a minimum of 6m.

The alfresco and swimming pool deck are setback a minimum of 5m from the rear boundary.

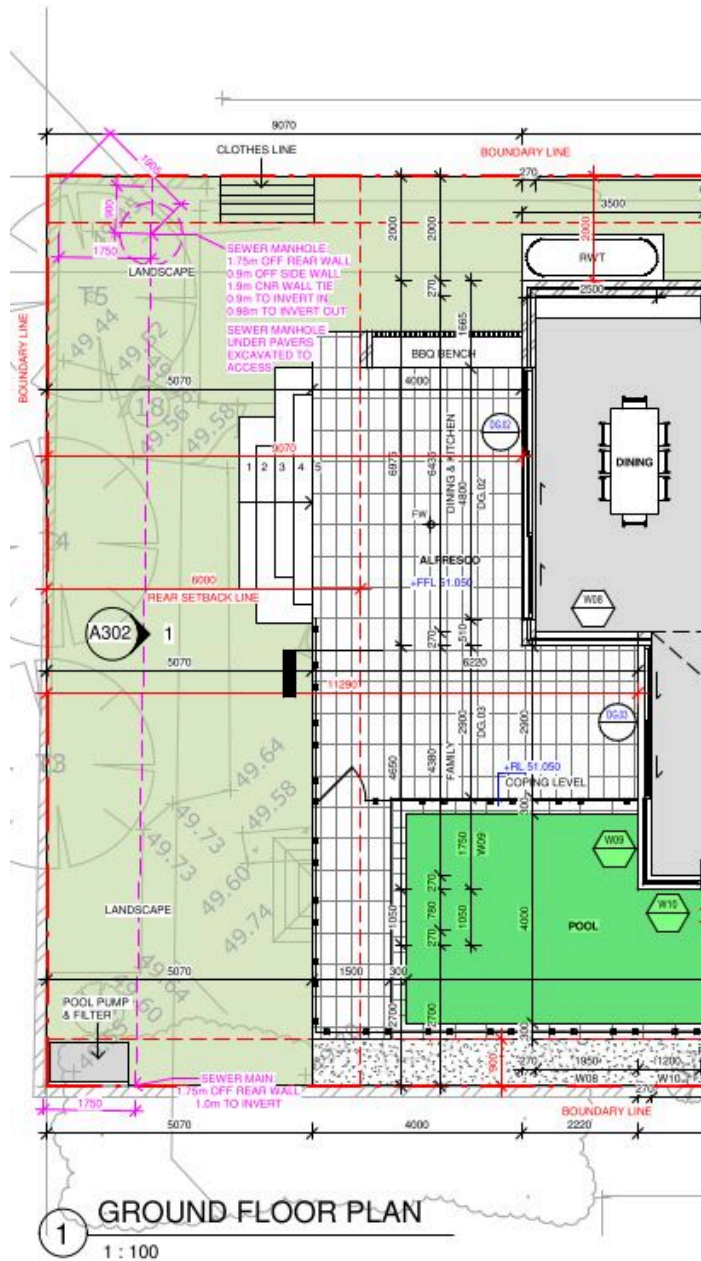


Image 2: Ground floor plan showing the location of the Alfresco to the rear boundary. The rear boundary setback line is shown in red.

Merit consideration:

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

- To ensure opportunities for deep soil landscape areas are maintained.
- Comment:

The proposal provides compliant landscaped open space and it is considered that adequate opportunities for deep soil landscaped areas are provided elsewhere on the site.

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

Comment:

The proposal is for a low level deck and stairs that is open to the rear yard. The size, height and location of the Alfresco will not unreasonably impact on the sense of openness of the rear yard of the site.

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

Comment:

The proposed development ensures adequate light, solar access and privacy is obtained between dwellings. The proposal provides adequate and compliant side setbacks to the boundaries. The proposal complies with the requirements of the D6 - Access to Sunlight control and has been designed so that there are no unreasonable impacts on the adjoining neighbours. Adequate physical separation between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.

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

Comment:

Properties along the northern side of Summit Avenue have varying lot sizes and rear setbacks. Many of the adjoining properties have similar structures, swimming pools and decks, within the rear setback. The location of the deck and stairs at the rear of the site will be consistent with other similar developments and will maintain the visual continuity and pattern of buildings found on the adjoining properties on Summit Avenue.

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

Comment:

The stairs, Alfresco and swimming pool deck are located at the rear of the site and are appropriately located to maintain privacy between dwellings.

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

D7 Views

Merit consideration

Four submissions were received that stated view loss as a concern.

Following an initial view loss inspection by the original Assessment Officer from nos. 3, 4, and 5 Summit Avenue, a request was made to the applicant to install height poles in May 2024. An addition

view loss assessment was undertaken by the original Assessing Officer and the applicant was requested to reduce the size of the front wing to improve the views from no. and 5 Summit Avenue.

Following a transfer of the application to the current Assessment Officer, a view loss assessment was undertaken from nos. 3, 4, 5 and 7 Summit Avenue. After this initial inspection the height poles were removed by the applicant. Concern was raised with the survey submitted by the applicant, for the installation of the height poles, as they did not show the height of the poles only the location. The applicant was requested to reinstate the height poles and submit a new location and height survey. Alternatively the applicant was requested to provide a photomontage in accordance with Land and Environment Court requirements. The applicant was also encouraged to reduce the floor to ceiling heights to further retain views from the adjoining properties.

The applicant submitted amended plans reducing the floor to ceiling height of the first floor from 3m to 2.7m, a photomontage from nos. 3 and 5 Summit Avenue, a letter from a registered certifier stating the photomontage was taken from accurate data, details of the height of potential solar panels and a revised site survey.

The amended plans and photomontage were sent to nos. 3 and 5 Summit Avenue to review and provide comments. Two additional submissions were received.

The view loss assessment from nos. 3 and 5 Summit Avenue are based on a site inspection by the Assessing Officer, amended plans, the survey and the photomontage. The view loss assessment from nos. 4 and 7 Summit Avenue are based on a site inspection undertaken by the Assessing Officer as well as the plans and survey.

The below view loss assessment is based on the amended plans dated 14 June 2024 issue B, 18 September Issue D and 10 December 2024 Issue C.

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:

No. 3 Summit Avenue

The site has views of Long Reef Beach, partially obstructed views of Long Reef Headland and ocean, unobstructed views of Turimetta Head and Bouddi National Park.

No. 4 Summit Avenue

The site has views unobstructed views of Long Reef Headland, Long Reef and Dee Why Beach, Turimetta Head, North Mona Vale Headland, Bungan Headland, Bilgola Head, Bouddi

National Park and Ocean.

No. 5 Summit Avenue

The site has obstructed views of Long Reef Beach, Long Reef Headland, the ocean, unobstructed views of Turimetta Head, North Mona Vale Headland, Bungan Headland, Bilgola Head and Bouddi National Park.

No. 7 Summit Avenue

The site has obstructed views of Long Reef Beach and Headland, district views of Collaroy, and ocean views.

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:

No. 3 Summit Avenue

Views are obtained from a sitting and standing position from the first floor master bedroom and north facing balcony which is accessed from the master bedroom, north-west bedroom and north facing balcony.

No. 4 Summit Avenue

The views are obtained from the roof terrace in a sitting and standing position.

No. 5 Summit Avenue

Views are obtained from ground floor dining room in a sitting and standing position. Views are also available from the first floor north facing balcony accessed from the master bedroom and north-west bedroom, the master bedroom, north-west corner bedroom and bathroom in a sitting and standing position.

No. 7 Summit Avenue

Views are obtained from first floor living room and north facing balcony in a sitting and standing position.

3. Extent of impact

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

Comment to Principle 3:

No. 3 Summit Avenue

North-west bedroom - The bedroom will lose water views towards Long Reef Headland including the interface between land and water in a standing position. The bedroom will lose partially obstructed views of long reef headland in a sitting position. A view corridor will be

retained between the proposed dwelling and no. 4 Summit Avenue of Long Reef Headland and Long Reef Beach.

North-west balcony - The balcony will lose partially obstructed views of Long Reef Headland in a standing position including the interface between land and water. From a sitting position the proposal will lose partial views of Long Reef Headland including the interface between land and water.



Image 3: Photomontage from the north-west bedroom of no. 3 Summit Avenue in a standing position.

Master bedroom - The master bedroom will lose some water views towards Long Reef from a standing position but will gain additional views of Long Reef Headland including the interface between land and water from the door and window. From a sitting position there will be a partial loss of views of Long Reef Headland. The master bedroom will retain views through a view corridor down the western side of the dwelling of Long Reef Beach, Turimetta Head, Bouddi National Park and ocean views to the north-west and west.

North-east balcony - From a standing position some water views towards Long Reef will be lost but the balcony will gain additional views of Long Reef Headland including the interface between land and water. In a sitting position obstructed views of Long Reef Headland will be

lost. In a sitting and standing position views will be retained of the ocean to the west, views of Long Reef Beach, Turimetta Head and Bouddi National Park.



Image 4: Photomontage from the master bedroom of no. 3 Summit Avenue in a standing position.

Overall, the view loss from no. 3 Summit Avenue is considered minor due to no. 3 Summit gaining additional views of Long Reef Headland. The loss of views being from the bedrooms, in a sitting position and across a side boundary for the north-western portion of the site.

No. 4 Summit Avenue

No. 4 Summit Avenue is located to the east of the site and will lose views of the ocean from a sitting and standing position. No. 4 Summit Avenue will retain views of Long Reef Headland, Long Reef and Dee Why Beach, Turimetta Head, North Mona Vale Headland, Bungan Headland, Bilgola Head, Bouddi National Park and Ocean. View loss is considered negligible.

No. 5 Summit Avenue

Dining room (ground floor) - From a sitting and standing position the proposal will lose partial views of Bouddi National Park and water views. No. 5 Summit Avenue will retain obstructed ocean views to the west.



Image 5: Photomontage from the dining room of no. 5 Summit Avenue in a standing position.

First floor balcony eastern end - The balcony will lose the narrow view corridor of Long Reef Beach including the interface between land and water in a standing position but will gain views of Long Reef and views towards Collaroy. From a sitting position, partial views of Long Reef Beach will be lost. The site will gain additional views of Turimetta Head including the interface between land and water.



Image 6: Photomontage from the first floor balcony (eastern end) of no. 5 Summit Avenue in a standing position.

Master Bedroom - The master bedroom has a window and door from which views are obtained. From the north facing window in a standing and sitting position, partial views of Long Reef Beach will be lost. The majority of the beach view will be retained. From a sitting position, partial views of Turimetta Head will be lost. However, views of North Mona Vale Headland, Bungan Headland and Bilgola Head, Bouddi National Park, Long Reef Headland and ocean views will be retained.

Bathroom - The lower portion of north facing window has obscured glazing. From a standing position partial views of Long Reef beach will be lost. Ocean views to the north west will be retained.

First floor balcony western end - From a standing position partial views of Long Reef Headland will be lost. From a sitting position partially obstructed views of Turimetta Head, North Mona Vale Headland, Bungan Headland, Bilgola Head and Bouddi National Park including the interface between land and water will be lost. Views of Long Reef Beach and ocean views to the north-west and west will be retained from both a sitting and standing position.

North-west first floor bedroom - From a standing position partial views of Long Reef Headland and ocean views to the north will be lost. Views of Long Reef Beach, Long Reef Headland and Headlands beyond will be retained. Views of Long Reef Headland, partial views of Turimetta Head and some water views will be lost. Views of Long Reef Beach, North Mona Vale Headland, Bungan Headland, Bilgola Head and Bouddi National Park including the interface between land and water will be retained.

View loss is considered minor-moderate. This is due to the majority of the view loss occurring

from the first floor bedrooms and bathroom in a sitting position. The view loss from the ground floor is considered moderate. While the majority of the view to the north will be lost, the dining room will retain obstructed ocean views to the east.

No. 7 Summit Avenue

First floor living area and first floor balcony - The proposed development will result in the loss of Collaroy district views to the north-east from a sitting and standing position. Ocean views and views of Bouddi Headland will be retained.

View loss is considered negligible as the proposal will be maintaining all ocean views and views of headlands.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The proposal complies with the building height requirement of the WLEP but has a small non-compliance with the wall height requirement on the eastern elevation. The non-compliance with the wall height (eastern envelope) control does not give rise to the significant view loss addressed above. The predominant result of the view loss impact is the overall height of the development, location and bulk and scale. The resultant affect of the proposed building mass is considered to impact on existing view corridors to nos. 3, 4, 5 and 7 Summit Avenue.

The question of a more 'skillful design' which provides the residents of the subject site with a similar development potential and amenity, whilst also retaining or reducing the extent of view loss impact to the current view corridors, has been reviewed. The proposal is well below the building height requirement and complies with all other planning controls. In this regard, the proposal is considered to be reasonable in its context and will allow for a reasonable sharing of views.

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

Comment:

The proposed new dwelling complies with and meets the objectives of the built form controls of the WDCP and will modernise the existing dwelling to provide a contemporary family home for the occupants of the site. The proposal will be consistent with the height, bulk and appearance of other modernised homes in the street.

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

Comment:

The proposal does not involve the removal of canopy trees to obtain views

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

supported, in this particular circumstance.

D8 Privacy

Description of Non-compliance

Clause D8 Privacy requires habitable rooms and outdoor living areas of dwellings to optimise visual privacy through an appropriate design outcome. Private open space areas and living rooms of the proposal, and any existing adjoining dwellings are to be protected from direct overlooking and the windows of one dwelling are to be located so they do not provide direct or close views (i.e. from less than 9m away) into the windows of other dwellings.

The proposed north facing balcony located off the first floor retreat, and the floor to ceiling, north facing glazed doors of the retreat are located 6m from the rear boundary. From the rear yard of no. 6 Lookout Avenue, the balcony and retreat will overlook the private open space of no. 6 Lookout Avenue (see below photo).



Photo 1: View from the rear yard of no. 6 Lookout Avenue looking towards the no. 6 Summit Avenue to the south.

Due to the elevated height of the first floor retreat balcony and the potential to over look the private open space of no. 8 Summit Avenue and no. 6 The Lookout Avenue, a condition is recommended requiring the balustrade of the balcony to have obscure glazing. This will allow for views outwards but not down towards the private open space of the adjoining dwellings.

Other aspects of the development will be reviewed below regarding potential privacy impacts to the site and adjoining dwellings.

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:

The proposal has been designed to maintain privacy between dwellings. The windows and balconies along the side elevations with the potential to overlook the adjoining properties have been designed with opaque glass, privacy screens or are adequately setback from the side boundaries to not cause unreasonable overlooking of the adjoining properties. Furthermore, existing and proposed landscaping on both the site and adjoining properties will maintain privacy between the private open space of dwellings.

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

Comment:

The proposed development along with the recommended conditions will result in an overall contemporary design that will successfully improve the existing urban environment.

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

Comment:

The proposed development ensures that an appropriate level of personal and property security is maintained for the occupants of the subject site and any visitors to the site.

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

D9 Building Bulk

Description of non-compliance

Clause D9 Building Bulk stipulates the following requirements:

- *Side and rear setbacks are to be progressively increased as wall height increases.*
- *Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.*
- *On sloping land, the height and bulk of development is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:*
 - *The amount of fill is not to exceed one metre in depth. Fill is not to spread beyond the footprint of the building. Excavation of the landform is to be minimised.*

- Building height and scale needs to relate to topography and site conditions.
- Articulate walls to reduce building mass.

The proposed dwelling includes the excavation of the basement level to accommodate a four car garage and the rear yard will have fill that exceeds 1m in height in places and extends beyond the footprint of the building.

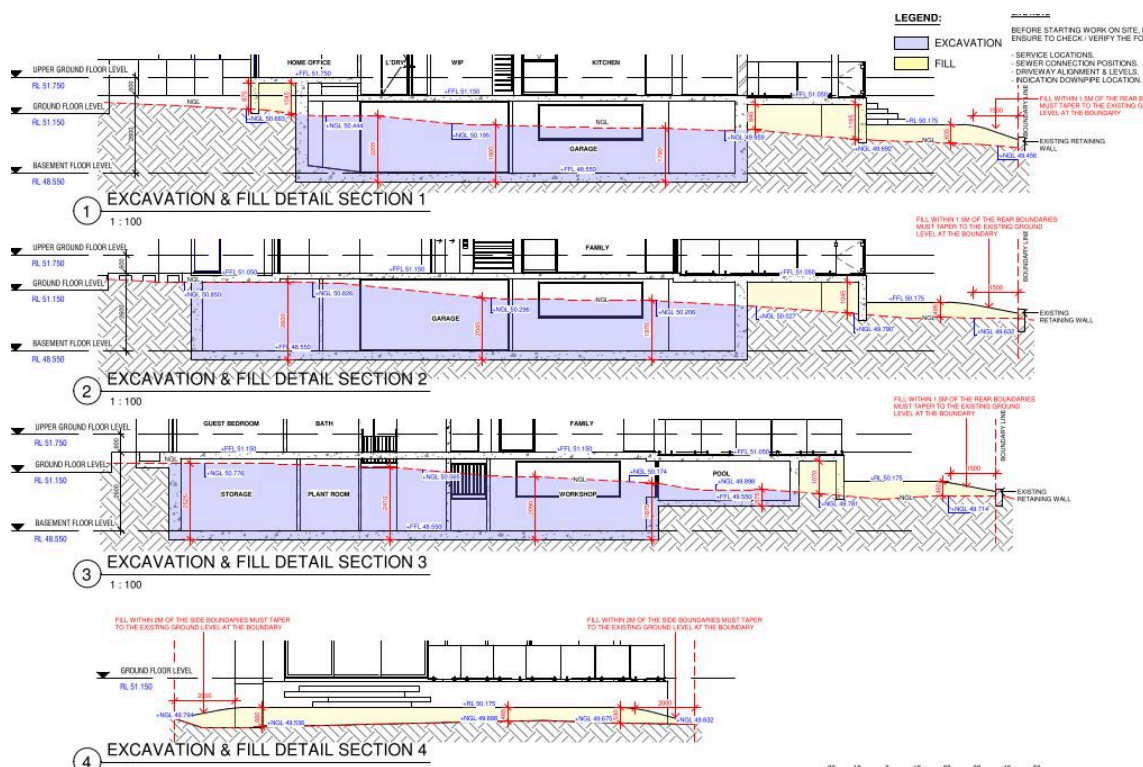


Figure : Excavation and fill plan.

Merit consideration

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

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

Comment:

The proposed fill is located to rear of the dwelling, with the highest level being located under the swimming pool deck and alfresco area. The fill does not result in the dwelling being raised up. The fill in the rear yard is minimal and will not result in privacy impacts to the adjoining dwellings (see discussion under part D8 Privacy of this report).

The design and spatial proportions of the dwelling are consistent with a number of buildings located within the immediate vicinity of the site, in particular No. 2, 4 and 8 Summit Avenue. While the proposed first floor does not step in at the rear, and western side boundaries, the proposal is well articulated and exceeds the side setback requirements. For these reasons, the proposal is considered to encourage good design and innovative architecture to improve the urban environment and to provide consistency within the area.

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

Comment:

The development provides acceptable building separation, with the dwelling itself to be compliant with side building setback. As mentioned above, the design provides visual bulk and scale that is consistent with the overall area.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

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

A monetary contribution of \$15,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,500,000.

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;
- 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

This proposal, for Demolition works and construction of a dwelling house including a swimming pool and landscaping has been referred to the Northern Development Determination Panel (DDP) due to having more than 5 individual submissions.

The concerns raised in the six objections predominantly relate to view loss, privacy, non-compliance with the WDCP, excavation, asbestos removal, devaluation of property, noise and stormwater run off.

Within this report, detailed consideration was given to view loss and the amenity concerns. The report demonstrated that, despite its non-compliance with built form controls, the proposed development is reasonable in its context and does not result in any unreasonable amenity outcomes.

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.

REASON FOR DETERMINATION

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2024/0267 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 15 DP 12667, 6 Summit Avenue, DEE WHY, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A003	B	Existing / Demolition Plan	Resolut	14.06.24
A004	B	Site Analysis Plan	Resolut	14.06.24
A100	D	Site Plan	Resolut	18.09.24
A101	C	Basement Floor Plan	Resolut	04.09.24
A102	C	Ground Floor Plan	Resolut	04.09.24
A103	C	First Floor Plan	Resolut	10.12.24
A104	D	Roof Plan	Resolut	10.12.24
A201	C	Section AA	Resolut	10.12.24
A202	B	Swimming Pool Details	Resolut	14.06.24
A203	B	Driveway Section	Resolut	14.06.24
A301	C	Elevations - Sheet 1	Resolut	10.12.24
A302	C	Elevations - Sheet 2	Resolut	10.12.24

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
A002 - Waste Management & Sediment / Soil Erosion Plan	B	Resolut	14.06.24
Geotechnical Investigation Report	PROJECT No.: G23072	AE Geotechnical Engineers	11.10.23
BASIX Certificate	Certificate number: 1733445S	SUSTAINABILITY -Z PTY LIMITED	24.01.24
Waste Management Plan	-	Resolut	-
2/4 - Landscape Plan	A	Artscience Landscapes	24.06.24
3/4 - Plants & Materials Palette	A	Artscience Landscapes	24.06.24

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

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

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

2. **Compliance with Other Department, Authority or Service Requirements**
The development must be carried out in compliance with all recommendations and

requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	10/04/2024

(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. **No Approval for Secondary Dwelling**

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

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

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, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

Dwelling house means a building containing only one dwelling.

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 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.

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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (l) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$15,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$1,500,000.00.

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.

8. 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.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

9. 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 Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

10. 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 ae Consulting Engineer, Job 24014, drawing number SW01 to SW10, Issue D, dated 07/11/2024. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. Level spreader to be designed in accordance with Appendix 4 of Council's Water Management for Development Policy.
- ii. All discharge control devices and pits are to be located externally to all structures and buildings so that 24-hour access to the OSD system is possible and that overflows from the system can be safely directed away.
- iii. OSD system should not be placed under any habitable floor.
- iv. 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.

11. Vehicle Crossings Application

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Standard Extra Low Vehicle Crossing Profile and in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

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

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

12. **Amendments to the approved plans**

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

- Solar Panels/ photovoltaic system are to be shown on the plans and are not to exceed a height of RL57.598.
- The balustrade of the first floor Balcony located off the Retreat, is to have opaque or translucent glass.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

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;
- North point and scale.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

14. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

15. **External Finishes to Roof**

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

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

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the

construction certificate.

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

16. **Sydney Water "Tap In"**

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

17. **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 Certifier 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

18. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier 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:

- No. 4 Summit Avenue, Dee Why
- No. 8 Summit Avenue, Dee Why
- No. 6 Lookout Avenue, Dee Why

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier 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 Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

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 Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

19. **Sediment and Erosion Controls**

For developments that include more than 2500sqm of disturbance:

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

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

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

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

The ESCP must include the following as a minimum:

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

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

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),

- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

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

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

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

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

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

20. Installation and Maintenance of Sediment and Erosion Control

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

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

DURING BUILDING WORK

21. Tree and Vegetation Protection

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

- i) all prescribed trees within the site, or otherwise existing trees nominated for retention on the approved plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites,
- ii) the following arboricultural requirements shall be adhered to unless authorised by an Arborist with minimum AQF level 5 qualifications: existing ground levels shall be maintained within the

tree protection zone of trees to be retained; removal of existing tree roots at or >25mm (Ø) diameter is not permitted; 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; and structures are to bridge tree roots at or >25mm (Ø) diameter, iii) the activities listed in section 4.2 of AS4970-2009 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, iv) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees, v) 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 Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

22. **Wildlife Protection**

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

Reason: To protect native wildlife.

23. **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.

24. **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.

25. **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.

26. **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.

27. **Demolition Works - Asbestos**

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

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

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

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

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

28. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

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

29. **Maintenance of Sediment and Erosion Controls**

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

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

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

- at least each week

- immediately before site closure
- immediately following rainfall events that cause runoff.

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

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

30. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

31. **Landscape Completion**

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

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan, unless otherwise imposed by conditions,
- c) all tree planting shall be a minimum pre-ordered planting size of 75 litres; meet the requirements of Australian Standard AS2303 - Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, 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 or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- d) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- e) 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,
- f) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

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

Reason: Environmental amenity.

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

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

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

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

33. 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 Certifier prior to the issue of an Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

34. 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 Certifier prior to the issue of an Occupation Certificate.

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

35. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

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 a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor), and Civil Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

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

Reason: To ensure adequate provision is made for the stormwater pump out system to be

maintained to an appropriate operational standard.

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

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

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

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

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

37. **Removal of All Temporary Structures/Material and Construction Rubbish**

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

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

Reason: To ensure bushland management.

38. **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.

39. **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 ACTIVELY 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

40. **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.

The approved landscape area shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

41. **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 and habitat.

42. **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.

DEVELOPMENT DATA

WARRINGAH LEP & DCP 2011
Accessed 30 Nov 2023 at 13:41

LOT 15 SITE AREA:	593.0m ²
PROPOSED BASEMENT FLOOR:	75.07m ²
PROPOSED GROUND FLOOR:	172.10m ²
PROPOSED FIRST FLOOR:	142.24m ²
PROPOSED PORCH AREA:	5.06m ²
PROPOSED ALFRESCO AREA:	41.68m ²
PROPOSED BALCONY AREA:	13.91m ²
PROPOSED GARAGE AREA:	104.85m ²

PROPOSED FLOOR AREA:	N/A
REQUIRED MAX. FLOOR AREA:	389.41m ²
PROPOSED TOTAL FLOOR AREA:	

LANDSCAPE	
REQUIRED MIN 40% LANDSCAPE AREA:	237.2m ²
PROPOSED TOTAL LANDSCAPE AREA:	237.99m ²

PRIVATE OPEN SPACE	
REQUIRED (MIN. DIMENSIONS 5m):	60m ²
PROPOSED PRIVATE OPEN SPACE:	86.4m ²

SETBACKS	
FRONT SETBACK:	6.5m
REAR SETBACK:	2.0m - 2.95m
SIDE SETBACK:	

BUILDING HEIGHT	
PERMITTED MAX. BUILDING HEIGHT:	8.5m
PROPOSED MAX. BUILDING HEIGHT:	8.25m

BASIX COMMITMENTS

FOR DETAILS: SEE THE BASIX CERTIFICATE NO. 17334455

Alternative water

The applicant must install a rainwater tank of at least 4000 litres.
The rainwater tank to collect rain runoff from at least 170 m² of the roof.

The applicant must connect the rainwater tank to:

- all toilets in the development
- the cold water tap that supplies each clothes washer
- at least one outdoor tap in the development

Fixtures

Shower heads 3 star (>7.5 but <= 9.0 L/min)

Toilets 4 star

Kitchen tap 5 star

Basin Tap 5 star

Hot Water System: gas instantaneous with a performance of 5.0 stars for a system with a higher energy rating/

Heating/Cooling: In at least 1 living area and 1 bedroom: 3-phase Air-conditioning; Energy rating: EER 2.5 - 3.0 (Zoned)

Ventilation

At least 1 Bathroom: individual fan, ducted to façade or roof; Operation control: interlocked to light with timer off

Kitchen: individual fan, ducted to façade or roof; Operation control: manual switch on/off

Laundry: natural ventilation only, or no laundry; Operation control: n/a

Natural lighting

The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.

The applicant must install a window and/or skylight in 4 bathroom(s)/toilet(s) in the development for natural lighting.

Artificial lighting

The applicant must ensure that a minimum of 80% of light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.

OTHER

The applicant must install a gas cooktop & electric oven in the kitchen of the dwelling.

The applicant must install a fixed outdoor clothes drying line as part of the development.

Swimming pool

The swimming pool must not have a volume greater than 56 kilolitres.

The swimming pool must be outdoors.

The development must not incorporate any heating system for the swimming pool.

The applicant must install the following pump for the swimming pool in the development, or a pump with higher energy rating: single speed with a performance of 3 stars.

The applicant must install a timer for the swimming pool pump in the development.

Alternative energy

The applicant must install a photovoltaic system as part of the development. The applicant must connect this system to the development's electrical system.

The photovoltaic system must consist of photovoltaic collectors with the capacity to generate at least 2 peak kilowatts of electricity, installed at an angle of 0 degrees to the horizontal facing north.

The Basix certificate should be read in conjunction with the NatHERs certificate (including the additional notes pages 4 & 5).

BUILDING ELEMENTS

FOR DETAILS: SEE THE NatHERs CERTIFICATE NO. 0009198466

Thermal Comfort-Simulation method

A detailed method of assessment with greater flexibility of solution choice and capacity to assess complex dwelling designs.

The dwelling design has been assessed with NatHERs software from an accredited assessor

External Walls

-Tilt up Concrete, No Insulation

-Tilt Up Concrete, Lined Timber Stud Frame, R2.5 Bulk Insulation

-Cavity Brick, Foil Sided Bubble Wrap, Anti-glare One Side

Internal Wall

-Single Skin Brick, R2.5 Bulk Insulation, No Air Gap (Against Garage)

-Single Skin Brick, No Insulation (All Others)

External Floor

-Concrete Slab on Ground

-Suspended Floor (Open to Air); R2.5

Internal Floor/Ceiling

-Concrete Timber Framed Above Plasterboard, R2.0 Bulk Insulation (Above Garage)

-Concrete Timber Framed Above Plasterboard, No Insulation (All Others)

External Ceiling

-Concrete, Plasterboard with Timber Frame R5.0 Bulk Insulation

Unventilated roofspace

Roof

-Waterproofing Membrane, No Insulation, Only an Air Gap

Note: All coffer ceiling verticals and walls against the roof-space, to be insulated, with the same insulation as the ceiling insulation

Note: All downlights: IC-F (IC-4) (insulation covered) including the control gear(s) rated as per AS/NZS standard 60596 and IP (sealed) rated as per BS EN 60529-1992, European IEC 60509:1989

Note: (where the roof is extended over an open area such as a deck or carport): A barrier to be installed within the roof space to separate the space above the zoned part of the house and the space above the open veranda.

Note-Ceiling fans: For the number and the location, see the NatHERs certificate

For additional information please refer to the additional notes on the NatHERs certificate.

1 SITE PLAN
1 : 200

20 10 0 10 20 30 40 50 100mm

NOT FOR CONSTRUCTION

Do not scale drawings. Use figured dimensions only. Check & verify levels and dimensions on site prior to the commencement of any work. The preparation of shop drawings or the fabrication of components. All construction works to AS and NCC standards.

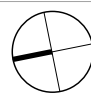
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D	18.09.24	ISSUE FOR DA
C	04.09.24	SEWER INFO
B	14.06.24	ISSUE FOR DA
A	19.02.24	ISSUE FOR DA
ISSUE	DATE	REVISION

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RESOLUT
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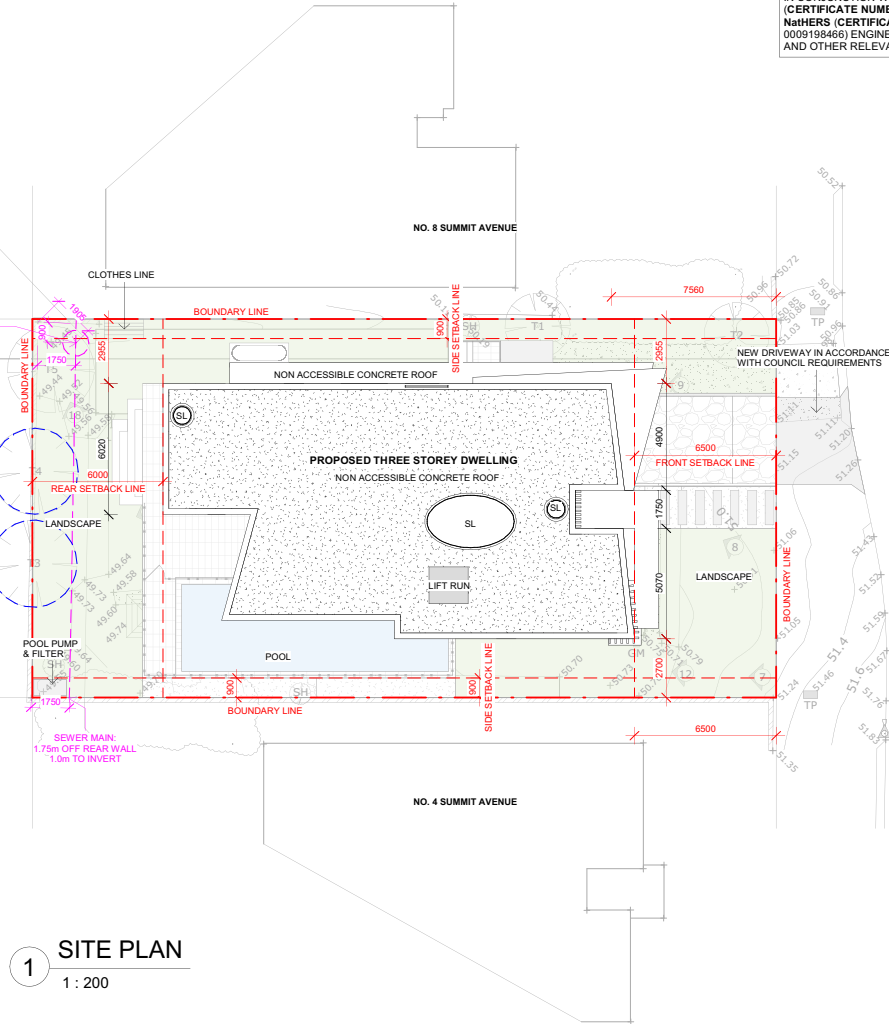
client Michael Hronopoulos & Vanessa Rowed
drawing
project PROPOSED 3 STOREY DWELLING
6 Summit Avenue, Dee Why
Lot 15. DP12667

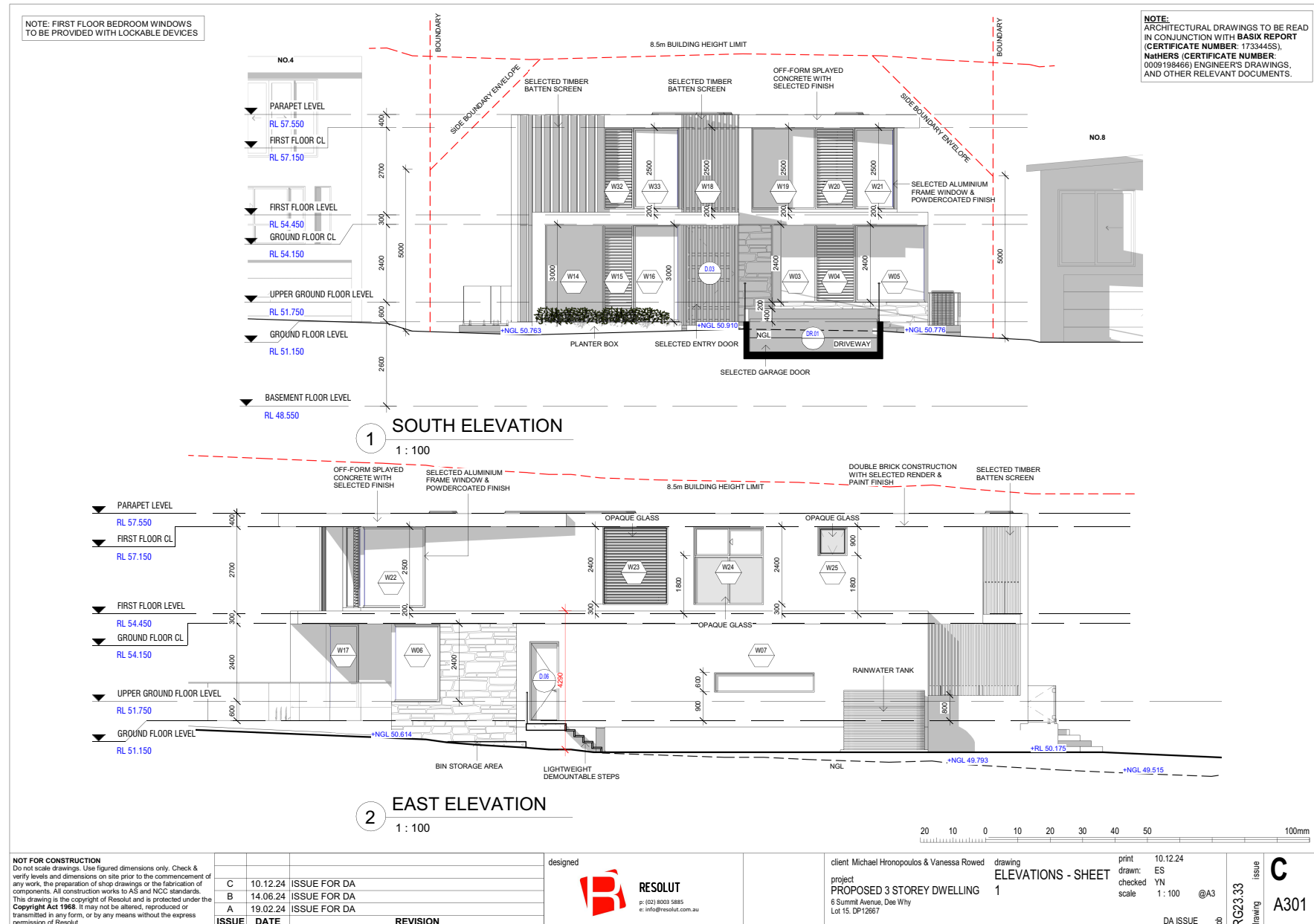
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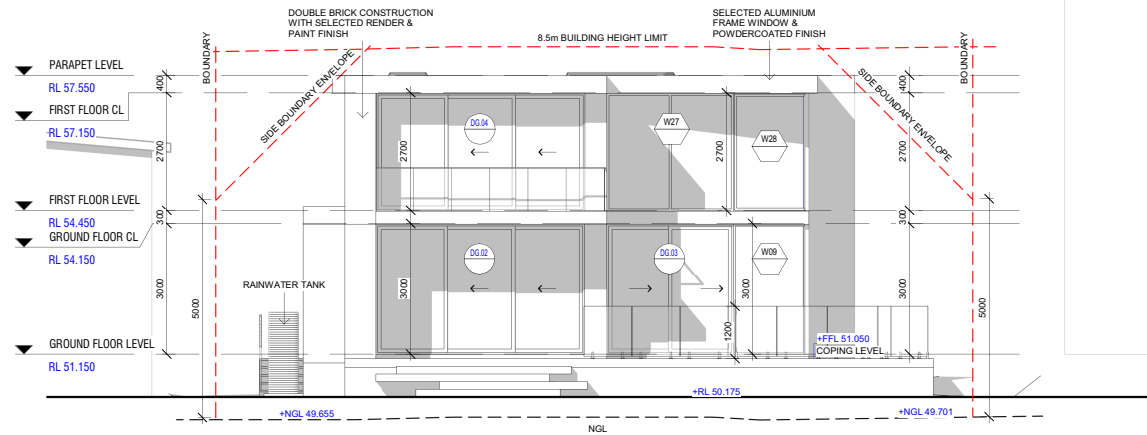
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NOTE:
ARCHITECTURAL DRAWINGS TO BE READ
IN CONJUNCTION WITH BASIX REPORT
(CERTIFICATE NUMBER: 17334455),
NatHERs (CERTIFICATE NUMBER:
0009198466) ENGINEER'S DRAWINGS,
AND OTHER RELEVANT DOCUMENTS.

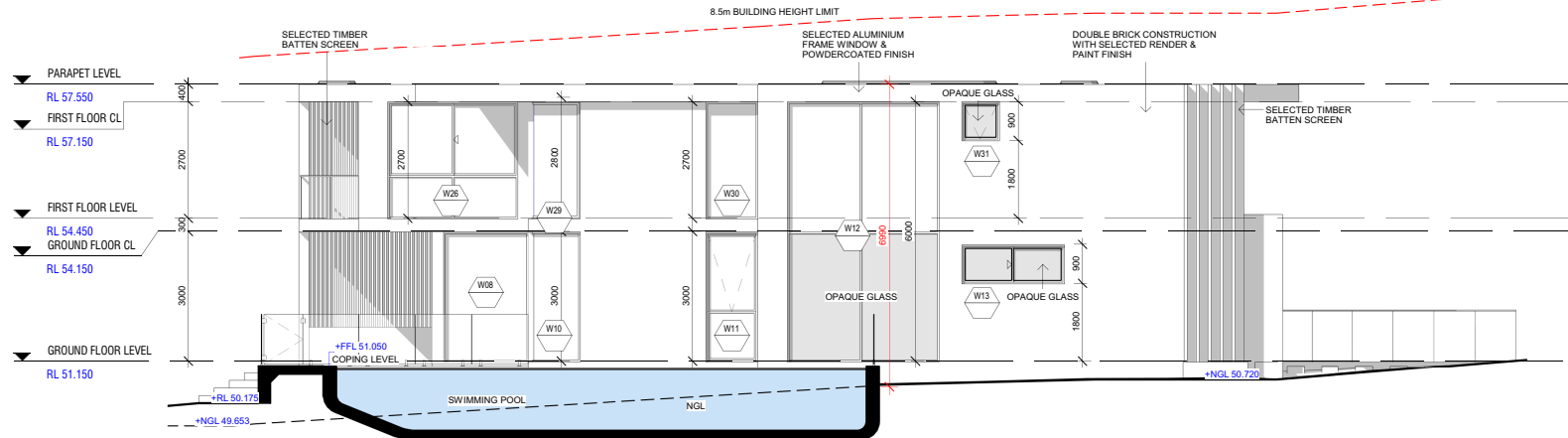




NOTE: FIRST FLOOR BEDROOM WINDOWS TO BE PROVIDED WITH LOCKABLE DEVICES



1 NORTH ELEVATION
1 : 100



2 WEST ELEVATION
1 : 100

NOT FOR CONSTRUCTION

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A	19.02.24	ISSUE FOR DA

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client Michael Hronopoulos & Vanessa Rowed
project PROPOSED 3 STOREY DWELLING
6 Summit Avenue, Dee Why
Lot 15. DP12667

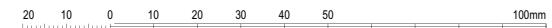
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DA ISSUE

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**ITEM 3.3 REV2024/0029 - 86 SIR THOMAS MITCHELL DRIVE DAVIDSON -
REVIEW OF DETERMINATION OF APPLICATION DA2024/1039 FOR
CONSTRUCTION OF A SWIMMING POOL AND ASSOCIATED
WORKS**

PURPOSE

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

RECOMMENDATION

THAT Council as the consent authority **approves** Development Consent to REV2024/0029 for Review of Determination of Application DA2024/1039 for construction of a swimming pool and associated works on land at Lot 15 Sec 195 DP 249830, 86 Sir Thomas Mitchell Drive DAVIDSON, subject to the conditions set out in the Assessment Report.

Reporting manager	Steve Findlay
TRIM file ref	2025/071256
Attachments	↓1 Assessment Report ↓2 Site Plan and Elevations

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2024/0029
----------------------------	--------------

Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 15 DP 249830, 86 Sir Thomas Mitchell Drive DAVIDSON NSW 2085
Proposed Development:	Review of Determination of Application DA2024/1039 for Construction of a swimming pool and associated works
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
Applicant:	Kevork Kevorkian

Application Lodged:	13/11/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/11/2024 to 05/12/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 90,200.00
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EXECUTIVE SUMMARY

This application is referred to the Development Determination Panel (the DDP) for consideration of a Review of Determination (REV2024/0029) for the construction of a swimming pool and associated works.

The application is referred to the DDP in accordance with the DDP Charter, which requires any Review of Determination application under Section 8.2, where the DA was determined under delegation by a Manager, to be referred to the Panel for determination.

The original Development Application (DA2024/1039) was approved under staff delegation on 25

September 2024, with a special condition (Condition 7 – Amendments to Approved Plans) requiring the pool coping to be reduced in width by 1.0m to mitigate potential impacts on an adjacent rock outcrop. Under this review application, the applicant seeks to remove Condition 7 and extend the pool coping to 2.3m in width.

The revised geotechnical advice and proposed amendments satisfactorily address the original reasons for imposing this condition, therefore its removal is recommended.

The main assessment issue is the rear setback control under WDCP 2011, which has been reviewed in this report and is deemed acceptable on merit.

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

This report recommends that the DDP should amend the original determination and approve the proposed development, subject to the recommended conditions attached.

PROPOSED DEVELOPMENT IN DETAIL

Proposed Development under Development Application No. DA2024/1039

The original development application was approved under delegation for the construction of a swimming pool and associated works on 25 September 2024.

The development application was approved with a special condition that reduced the width of the pool coping (Condition 7).

Condition 7 reads as follows:

7. Amendments to the approved plans

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

The proposed patio area is to be reduced in size to be no more than 1m in width when measured from the eastern pool coping. When reduced to 1m in width, the proposed pool patio area is to be setback 5.8m from the rear boundary. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

Proposed Development under Subject Application No. REV2024/0029

The proposal seeks a review of Development Application No. DA2024/1039. The applicant has requested that Condition 7 of DA2024/1039 is deleted.

The works proposed within this application are substantially the same as that approved under DA2024/1039. The proposal includes a minor amendment to the original application including:

- Extend the pool coping to 2.3m in width.

AMENDED PLANS

Following a preliminary assessment of the application, Council issued an RFI to the applicant on 10 January 2025, outlining concerns with the application.

The concerns related to owner's consent and geotechnical risk assessment.

The applicant lodged a revised geotechnical to address the concerns on 17 January 2025. In addition, amended plans were submitted by the applicant on 22 January 2025 to correct a minor discrepancy indicated on the floor plans and slightly widen the pool's wet edge.

Community Participation Plan

The proposed amendments and additional information will have a reduced environmental impact on the adjoining properties when compared to the original proposal. Therefore, formal re-notification is not required in accordance with Northern Beaches Community Participation Plan.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - C9 Waste Management

SITE DESCRIPTION

Property Description:	Lot 15 DP 249830 , 86 Sir Thomas Mitchell Drive DAVIDSON NSW 2085
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Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Sir Thomas Mitchell Drive. The site is irregular in shape with a frontage of 23.02m along Sir Thomas Mitchell Drive and a depth of 43.155m along the northern boundary. The site has a surveyed area of 898.14m². The site is located within the R2- Low Density Residential Zone from WLEP 2011 and accommodates a double storey dwelling house with an attached garage underneath. The site slopes steeply towards Sir Thomas Mitchell Drive. The rear yard below the rock-cliff face has an average slope of between 20 and 30 degrees. To the west of the dwelling the site is relatively flat across the top of the rock outcrop, with a steep drop to the street at the front of the site. The rear of the site contains significant rock outcrops and medium to low vegetation. The front yard is also dominated by significant rock outcrops and contains a section of lawn, shrubs and trees. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by one-and two-storey dwelling houses.
--	--

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's

records has revealed the following relevant history:

DA2019/1309

Development application for alterations and additions to a dwelling house. This application was approved 03 March 2020 under staff delegation.

DA2024/1039

Development application for construction of a swimming pool and associated works. This application was approved 25 September 2024 under staff delegation.

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.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 25 September 2024 and the notice of determination was issued on this date. The review was lodged on 7 November 2024 and is to be considered by 12 February 2025, which is within 6 months of the date of determination.

Section 8.3 (3) 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

Assessment of Condition imposed under DA2024/1039 that is the subject of this Review

7. Amendments to the approved plans

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

The proposed patio area is to be reduced in size to be no more than 1m in width when measured from the eastern pool coping. When reduced to 1m in width, the proposed pool patio area is to be setback 5.8m from the rear boundary. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To require amendments to the plans endorsed by the consent authority following assessment

of the development.

Applicant's Justification

The applicant has requested that this condition be deleted. In support of this request, the applicant has provided the following justification, in part:

"The design as originally proposed intended to maximize potential area on the eastern side of the pool. However, the condition as imposed reduces the potential area to effectively access only around the pool and does not lend itself to any active areas for active recreational area (versus only visual landscaped area). The AHO site inspection which did occur during the assessment did not confirm the presence of known artifacts or potential occupation sites and only concludes that if platforms were revealed during the works then further testing should be undertaken but did not specifically recommend that the proposal in itself should be reduced in scope. This requirement for an increasing the rear setback was made entirely on Council's own assessment of the proposal.

Further geotechnical investigations have been undertaken (Refer to Report PE24062g_SR_C prepared by Precision Engineering Group dated 29 October 2024. The relevant portion of the report drew the following conclusions regarding the ground conditions in vicinity of the rock wall:

- We note the revised architectural drawings indicate a lesser setback of approximately 4.2m (previously ~2.4m) of the proposed patio area from the sites rear boundary, which is expected to require significantly less excavation of the site soils and underlying sandstone bedrock,*

The Review of determination plans has had regard for these concerns raised and this control and has revised the proposal to reduce the area of patio and increase separation to the natural exposed rock wall which permits an area which would allow for usage by the occupants on the site thereby improving amenity on site whilst retaining the extant natural features of the site in situ. The rock wall is to be further protected and separated from the main excavation point with additional new landscaping to the eastern side between the patio and rock wall."

Assessing Officers Comments:

The applicant's justification is accepted. The revised geotechnical report and amended plans adequately demonstrate that the proposal will have a negligible impact on existing sandstone rock outcrops. Additionally, Council's Landscape Officer has reviewed the proposal and supports the application, subject to conditions—including Condition No. 10, *Protection of Rock and Sites of Significance*, which states:

a) all rock outcrops outside the area of approved works are to be preserved and protected at all times during demolition, excavation and construction works.

b) 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.

Given the above considerations, the proposal is deemed acceptable from a geotechnical and landscape perspective, subject to compliance with the specified conditions.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 21/11/2024 to 05/12/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The proposal is supported with regard to landscape issues. The application is assessed by Landscape Referral against Warringah Local Environmental Plan (WLEP) 2011 and the following Warringah Development Control Plan (WDGP) 2011 controls (but not limited to): • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation • E6 Retaining unique environmental features Significant rock outcropping is present in the upper rear setback. Measured from the existing deck the eastern edge of the proposed patio area is approximately 7.5 metres from the deck. This is clear of the existing exposed rock outcropping and as such impact to this environmental feature will be negligible. Some excavation will be required to accommodate the pool and deck level which can be supported. All rock outside the approved construction footprint shall be protected during works. No trees are proposed to be removed and as such all existing trees shall be protected during works.

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.
Aboriginal Heritage Office	The Aboriginal Heritage Office provided the following comment: <i>Reference is made to the proposed development at the above area and Aboriginal heritage.</i>

External Referral Body	Comments
	<i>A site inspection was undertaken by the Aboriginal Heritage Office on 10 September 2024.</i> <i>If areas of in situ sandstone outcrop are in the proposed development area or revealed during works (i.e. platforms over 2m square), the Aboriginal Heritage Office would recommend a preliminary inspection by a qualified Aboriginal heritage professional prior to any further development. If there are no existing sandstone outcrops present (or if any outcrops that were present were properly excluded from future impacts), then no further assessment is required and the Aboriginal Heritage Office would not foresee any further Aboriginal heritage constraints on the proposal.</i> <i>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.</i>

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 (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	1.7m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
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: A condition has been included to ensure that the excavated material will be processed according to a 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: A condition has been included to ensure that the excavated material will be processed according to a Waste Management Plan for the development.

(f) the likelihood of disturbing relics

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

(g) the proximity to and potential for adverse impacts on any 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, Council is satisfied 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.

(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.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	0.9m (North)	6m	N/A	Yes
	0.9m (South)	1.1m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	>6.5m	N/A	Yes
B9 Rear Boundary Setbacks	6m	4.2m	30%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	43.2% (387.9m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D22 Conservation of Energy and Water	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

B9 Rear Boundary Setbacks

Description of Non-compliance

The proposed swimming pool deck provides a minimum rear setback of 4.2m. The control requires a minimum rear setback 6.0m.

Notwithstanding, exempt development, swimming pools and outbuildings may encroach within the 6.0m rear setback. However, they must not exceed 50% of the total rear setback area.

The proposal accounts for 15.6% (16.6m²) of the total rear setback area, as displayed below:

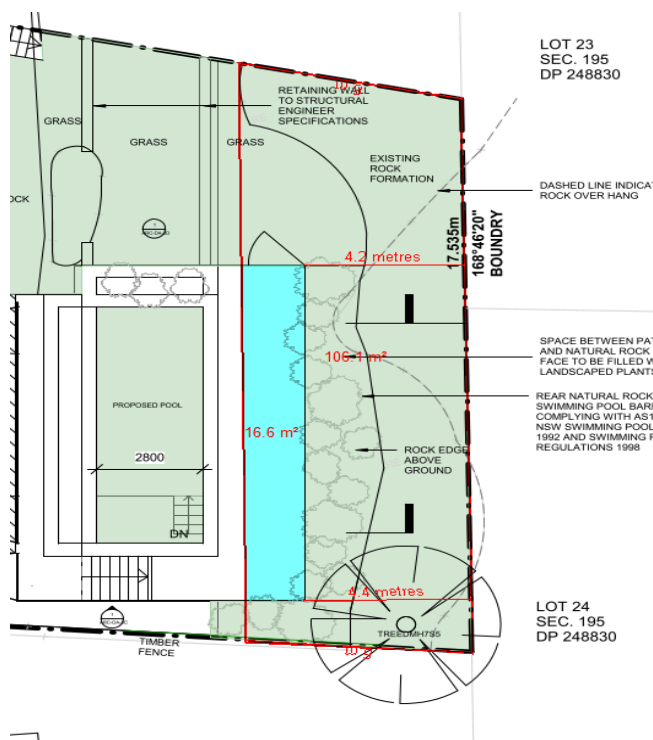


Figure 1. Rear setback non-compliance.

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 opportunities for deep soil landscape areas are maintained.

Comment:

The proposal provides an acceptable landscape setting that is compliant in accordance with Clause D1 Landscaped Open Space and Bushland Setting. In addition, the proposal involves enhancing the site's natural features with a new landscape design. Overall, the proposal will

ensure adequate opportunities for the establishment of deep soil landscaping.

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

Comment:

As above, the proposal represents a minor encroachment within the rear setback with the majority of areas being open and landscaped, which allows for a reasonable sense of openness within the rear yard.

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

Comment:

The adjoining site to the rear is located atop of an existing rock formation and is not readily visible from the subject development given the substantial elevation difference. In this regard, the proposed rear setback non-compliance will not result in any unacceptable privacy impacts.

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

Comment:

The proposal will not disrupt or compromise the existing visual continuity and pattern of buildings, rear gardens or landscape elements due to its minor encroachment within the rear setback.

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

Comment:

As above, the proposal has been adequately designed and sited to maintain privacy between dwellings.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C9 Waste Management

A detailed waste management plan has not been submitted with the application. To ensure proper disposal of demolition and builders' wastes, a condition has been included in the consent requiring details prior to the issue of a construction certificate.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

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

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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

This is a review of determination of DA2024/1039 for the construction of a swimming pool and has been referred to the Development Determination Panel (DDP) for determination due to the delegations for a Review of Determination lodged pursuant to Section 8.2 for a development application, which was previously determined a Manager, to be referred to the DDP.

The applicant seeks to remove Condition 7 of the original development approval (DA2024/1039) to allow an extension of the pool coping to 2.3m in width. Revised geotechnical advice and proposed amendments adequately address the original concerns that led to the imposition of this condition.

An assessment of the review application confirms that the rear setback control is the primary planning control under WDCP 2011 that is relevant to the review, and the changes to the rear setback are considered acceptable on merit.

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

Based on the above assessment, it is recommended that the Development Determination Panel (DDP) amend the original decision and approve the application, subject to the recommended conditions.

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 REV2024/0029 for Review of Determination of Application DA2024/1039 for Construction of a swimming pool and associated works on land at Lot 15 DP 249830, 86 Sir Thomas Mitchell Drive, DAVIDSON, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
ARC-DA-1	7	Site Plan	ORK	22 January 2025
ARC-DA-2	7	Floor Plan	ORK	22 January 2025
ARC-DA-3A	7	Section AA-AA	ORK	22 January 2025
ARC-DA-3B	5	Section BB-BB	ORK	22 January 2025
ARC-DA-3C	4	North Elevation	ORK	2 October 2024
ARC-DA-3D	4	South Elevation	ORK	2 October 2024
ARC-DA-4	6	Excavation and Fill Plan	ORK	2 October 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Geotechnical Report	PE24062g_SR_D	Precision Engineering Group	17 January 2025

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

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	9 December 2024
Aboriginal Heritage Office (AHO)	AHO Referral Response	20 September 2024

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

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

3. Prescribed Conditions

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

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

completed.

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

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

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

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

Reason: Legislative requirement.

4. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of

jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically

approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (l) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

- irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

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

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Boundary Identification Survey

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, 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 Certifier 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.

7. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

8. **Sydney Water "Tap In"**

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

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

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

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

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

9. **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 Certifier 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

10. **Sediment and Erosion Controls**

For developments that include more than 2500sqm of disturbance:

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

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

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

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

The ESCP must include the following as a minimum:

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

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

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

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

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

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

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

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

DURING BUILDING WORK

11. Protection of Rock and Sites of Significance

a) all rock outcrops outside the area of approved works are to be preserved and protected at all times during demolition, excavation and construction works.

b) 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.

12. Tree and Vegetation Protection

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

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project 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/Project 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/Project Arborist to the Principal Certifier,
- 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 AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 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 AS 4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) the Principal Certifier must ensure that:

- i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

13. **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.

14. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

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

15. **Maintenance of Sediment and Erosion Controls**

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

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

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

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

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

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

16. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

17. **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.

18. 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.

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 ACTIVELY 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. **Geotechnical Recommendations**

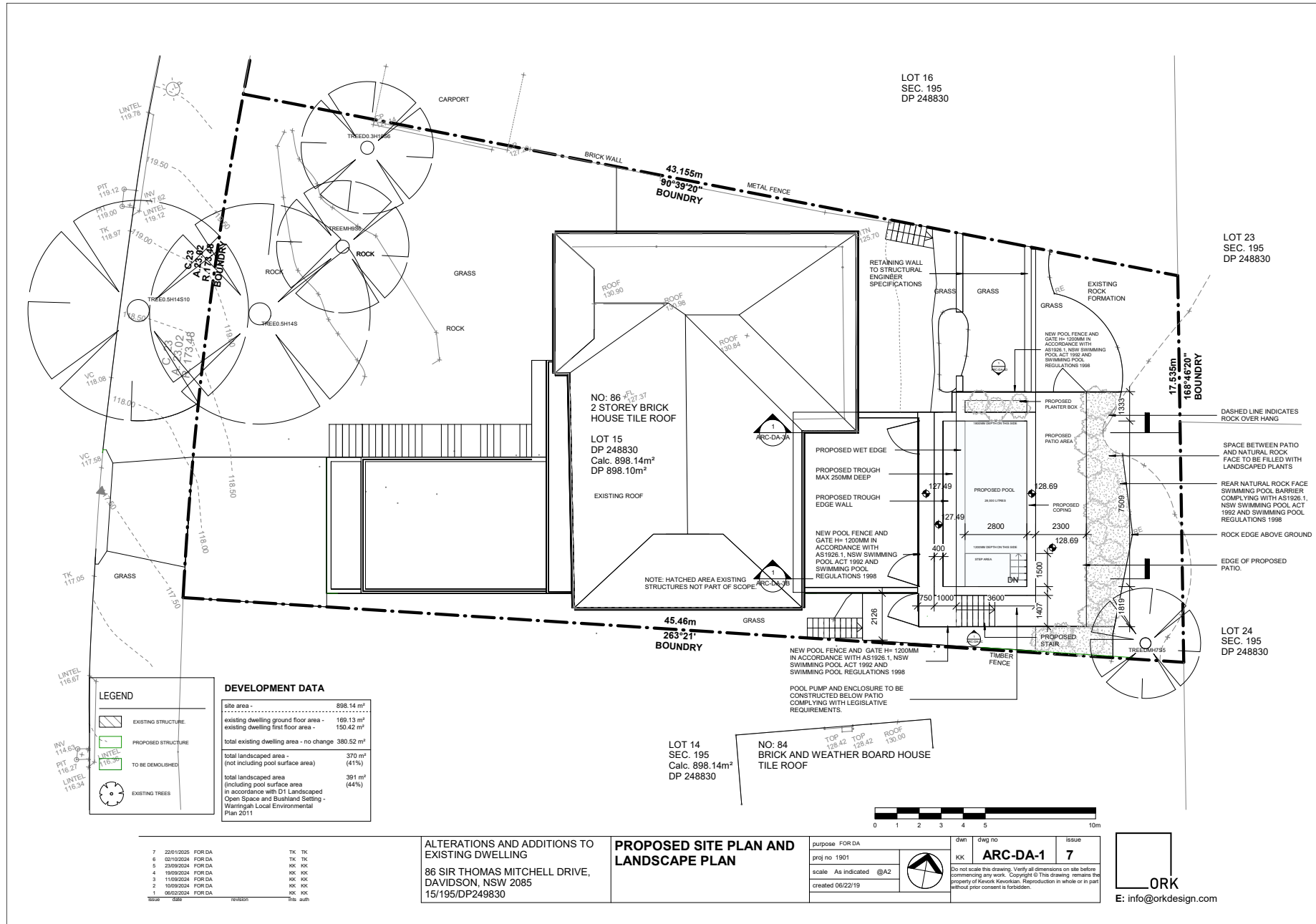
Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

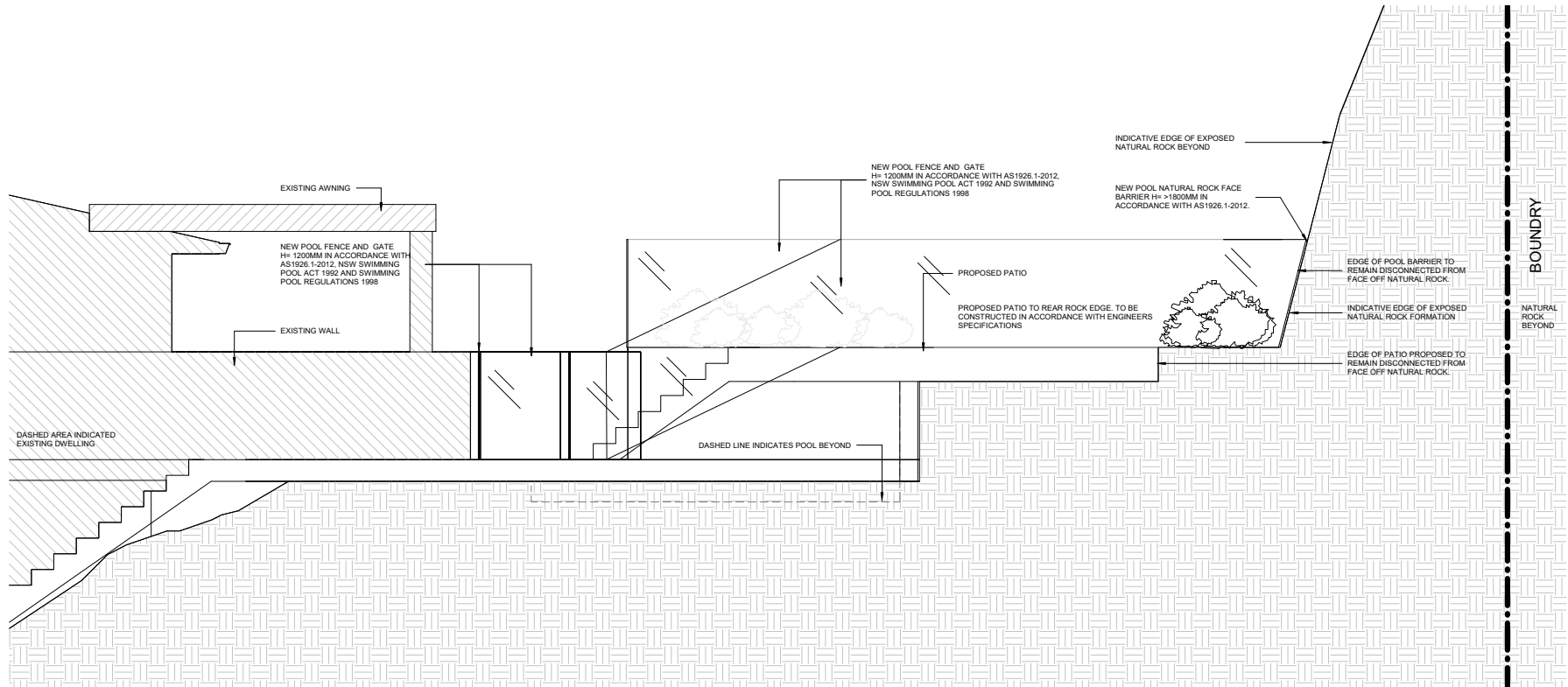
Reason: To ensure geotechnical risk is mitigated appropriately.

21. **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.





4	02/10/2024	FOR DA	TK	TK
3	23/09/2024	FOR DA	KK	KK
2	19/09/2024	FOR DA	KK	KK
1	11/09/2024	FOR DA	KK	KK

15/195 DP249830

ALTERATIONS AND ADDITIONS TO
EXISTING DWELLING
86 SIR THOMAS MITCHELL DRIVE,
DAVIDSON, NSW 2085
15/195/DP249830

PROPOSED NORTH ELEVATION

purpose FOR DA

proj no 1901

scale 1 : 30

created 06/27/19



dwn dwg no

KK

ARC-DA-3C

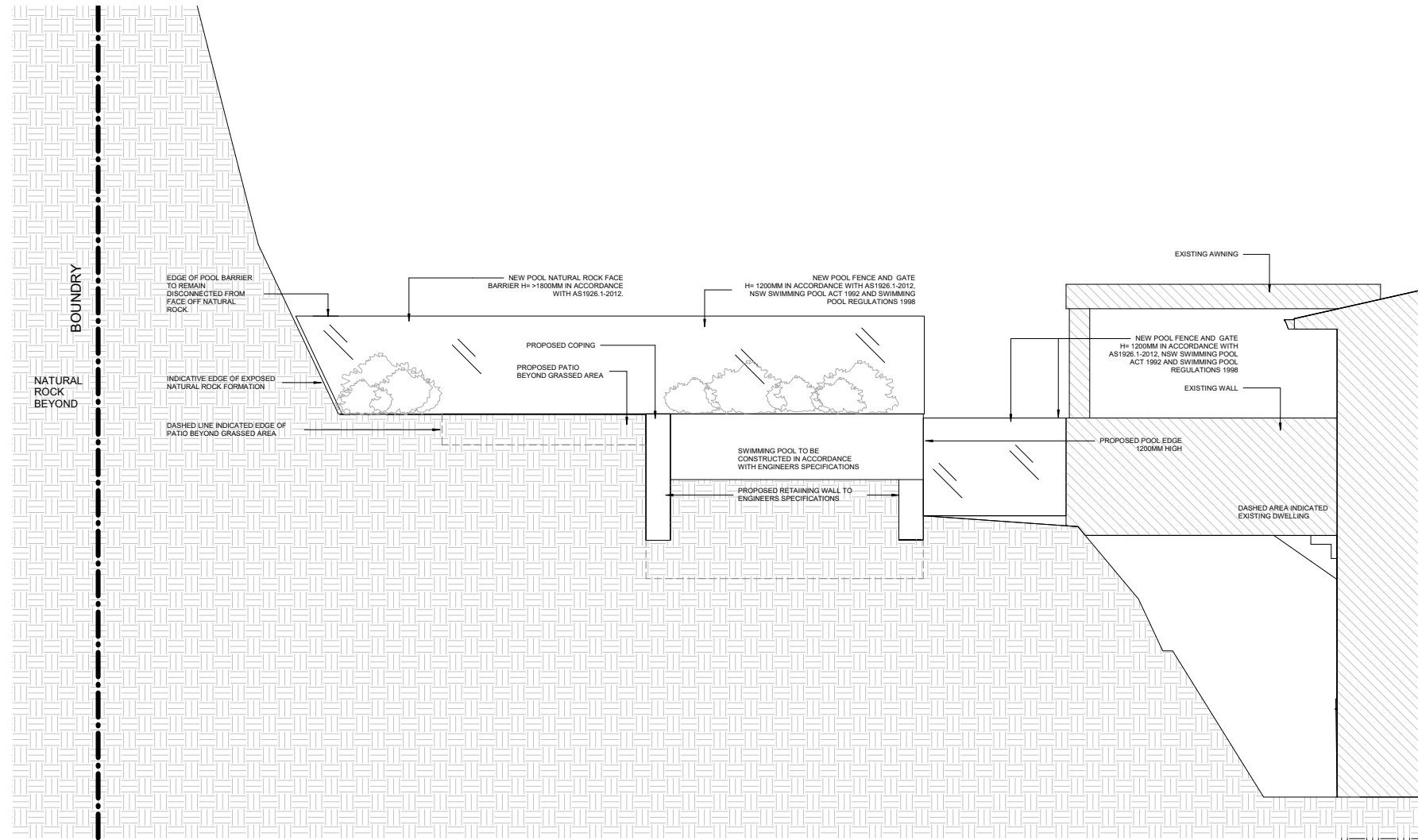
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issue

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E: info@orkdesign.com



4	02/10/2024	FOR DA	TK	TK
3	23/09/2024	FOR DA	KK	KK
2	19/09/2024	FOR DA	KK	KK
1	11/09/2024	FOR DA	KK	KK

ALTERATIONS AND ADDITIONS TO EXISTING DWELLING
86 SIR THOMAS MITCHELL DRIVE,
DAVIDSON, NSW 2085
15/195/DP249830

PROPOSED SOUTH ELEVATION

purpose FOR DA

proj no 1901

scale 1 : 30

created 06/27/19

@A2

KK

dwn dwg no

ARC-DA-3D 4

issue

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