

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

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

WEDNESDAY 9 APRIL 2025

Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 9 April 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 26 MARCH 2025

RECOMMENDATION

The Panel notes that the minutes of the Development Determination Panel Meeting held on 26 March 2025 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1	DA2024/1768 - 9 KARA CRESCENT BAYVIEW - USE OF BUILDING AS A DWELLING HOUSE AND ALTERATIONS AND ADDITIONS
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PURPOSE

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

RECOMMENDATION

- A. That Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of PLEP 2014 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. THAT Council as the consent authority **approves** Development Consent to DA2024/1768 for Use of building as a dwelling house and alterations and Additions on land at Lot 1 DP 854002, 9 Kara Crescent BAYVIEW, subject to the conditions set out in the Assessment Report.

Reporting manager	Adam Richardson
TRIM file ref	2025/227815
Attachments	1 Assessment Report 2 Site Plan and Elevations 3 Clause 4.6

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1768
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Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 1 DP 854002, 9 Kara Crescent BAYVIEW NSW 2104
Proposed Development:	Use of building as a dwelling house and alterations and additions
Zoning:	R5 Large Lot Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Applicant:	Glenn Richard Botha

Application Lodged:	06/01/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	17/01/2025 to 31/01/2025
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 14.9%
Recommendation:	Approval

Estimated Cost of Works:	\$ 99,330.00
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EXECUTIVE SUMMARY

This development application seeks consent for the use of unauthorised works as part of an existing dwelling house as well as additions and alterations.

The site is currently subject to a Stop Works Order (EPA2024/0032) in relation to unauthorised works. These works are subject to a Building Information Certificate Application (BC2024/0250) which is currently under consideration by Council. The proposed works under this development application relate to the works which have not yet commenced and the use of the unauthorised works as dwelling house.

The application is referred to the Development Determination Panel (DDP) as the proposal results in a variation of more than 10.0% to Clause 4.3 Height of Buildings of the *Pittwater Local Environmental*

Plan 2014 (PLEP 2014).

The maximum permitted building height under the PLEP 2014 is 8.5 metres. The proposed works include a window replacement that will be situated above the 8.5 metre building height standard, with a maximum height of 9.77 metres (RL 100,356), causing a variation of 14.9% to the maximum building height development standard. Notwithstanding this, the window however, will be located below the overall existing building height of the dwelling (RL 102,750).

The applicant has supported the height variation with a written Clause 4.6 variation request where it is argued that compliance with the development standard is unreasonable in the circumstances of this case. The variation arises from an existing door being replaced to a fixed window, which is above the maximum height limit.

The proposal includes variations to the built form controls under the Pittwater 21 Development Control Plan (P21DCP), these being; D2.5 Front building line, D2.6 Side and rear building line and D2.9 Landscaped Area - Non Urban, which can be attributed to the existing building. The proposal in regard to these variations have been found to achieve the relevant objectives.

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for fourteen (14) days. One (1) submission was received. The concerns raised in the objection are addressed in the 'Submissions' section of the assessment report, and primarily relate to works which have already been constructed/commenced, without prior approval.

Based on a detailed assessment of the proposal (works not yet commenced) against the applicable planning controls, it is considered that, on balance the proposal is an acceptable development for the subject site for the reasons outlined in this report.

This report concludes with a recommendation that the DDP **approve** the development application, subject to a deferred commencement condition for a Building Information Certificate to be obtained for the unauthorised works.

PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks consent for the use of a building as a dwelling house including alterations and additions.

Specifically, the works comprise of the following:

Use

- Use of the building from an approved "two attached dwellings" (consent no. N0376/10) to a single dwelling house.
- Use of unauthorised works as a dwelling house. This would include the extensions to the rear and front of the dwelling house. The physical aspect of these areas will be considered under a Building Information Certificate Application.

Lower Ground Floor

- Reinstate flooring to RL 92,300 to the proposed enclosed area between rumpus and lobby.
- Additional window/door to enclosed area on the rear elevation.
- New balustrade to internal stair (lobby area) and to the pool terrace area.
- New pool fencing.

- Render and paint western pool wall.
- New external stair case from pool area to levelled lawn area.

Ground Floor

- New balustrade to internal stair (entry hall).
- New balustrade to rear window located in open lounge area to create Juliet balcony.
- Complete unfinished terrace/balcony (floor level to RL 95,290) associated with kitchen area and add new balustrades.

First Floor

- New balustrade to rear window located in Bedroom B2 to create Juliet balcony.
- Replace glass door in Master Bedroom WIR to a fixed window.
- Use of arched structure as small balcony to Bedroom B4 and Bedroom B3, including new lining to underside of floor and roof and balustrades.

Roof

- New roof covering to arch structures located over the proposed balconies.

External

- Paint and render already completed retaining walls and columns.
- Complete brickwork to external retaining wall to create levelled lawn area, paint and render wall and install balustrade;
- Remove existing driveway across the front of building and reinstate to soft landscaping (lawn).
- Repair existing driveway that runs along the east of the building.
- Construct new entry stairs and pave front porch area.
- Paint and render arched structures along the front façade.
- Front fence to revert back to existing height and design.

Landscaping

- Raised grassed area to the rear (RL 90.570).
- Lawn area to the front of dwelling façade (RL 95.20).
- The south eastern side of the property is to revert back to existing by grading the soil and landscape.

Note: The physical works listed above have not yet commenced and seek approval under a development consent. The physical works that have commenced are subject to a concurrent Building Information Certificate (BC2024/0250), which is currently under consideration of Council.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D2.5 Front building line

Pittwater 21 Development Control Plan - D2.6 Side and rear building line

Pittwater 21 Development Control Plan - D2.9 Landscaped Area - Non Urban

Pittwater 21 Development Control Plan - D2.11 Fences - Flora and Fauna Conservation Areas

SITE DESCRIPTION

Property Description:	Lot 1 DP 854002 , 9 Kara Crescent BAYVIEW NSW 2104
Detailed Site Description:	The subject site consists of one (1) allotment located on the south-western side of Kara Crescent. The subject site is legally identified as Lot 1 DP 854002, No. 9 Kara Crescent, Bayview. The site is irregular in shape with a frontage of 57.33m and a depth of 65.96m to the south-eastern boundary and 95.91m to the north-western boundary. The site has a surveyed area of 4074.0m². The site is located within the R5 Large Lot Residential zone pursuant to the <i>Pittwater Local Environmental Plan 2014</i> accommodates a dwelling house, attached garage, swimming pool and tennis court. A Right of Way for vehicle access cuts through the south-eastern portion of the subject site, servicing multiple properties to the south. The site is currently under construction. The site slopes downward from north to south by

	approximately 12.0m. The site consists of large open lawn areas, garden beds, screen planting and canopy trees. Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEE) Biodiversity Values Map (BV Map) Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by dwelling houses upon large allotments.
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Map:



SITE HISTORY

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

N0593/09

Development Application for the alterations and additions to existing dwelling house, including new rear deck and front fence.

Determined on 19 December 2009.

N0376/10

Development Application for the internal alterations to form two attached dwellings.

Determined on 17 August 2010.

BC2024/0250

Building Information Certificate for unauthorised works.

This application is in relation to this Development Application and is currently under assessment by Council's Compliance Team.

The site is currently subject to a Stop Works Order (EPA2024/0032) in relation to unauthorised works. The above Building Information Certificate (BIC) application (BC2024/0250) was lodged. This BIC application is currently active in Council, at the time of this assessment. The proposed works under this development application relate to the works which have not yet commenced and the use of the building as a dwelling house.

Current Application

The development application was notified for a period of fourteen (14) days, in accordance with Council's Community Participation Plan (CPP), with one (1) submission received.

Amended information was requested on 20 January 2025 to address the following:

- Section Plans/Floor Plans for basement level.
- Detailed Fence Plan.
- Landscape Officer concerns
- Bushfire Report.
- Environmental Health – Unsewered Lands concerns.

Additional information was submitted on 6 February, 7 March, 18 March 2025 and was considered to be satisfactory. The additional information was not re-notified, as the proposal has not changed. The only amendment is in reference to reverting the front fence back the original design. The additional material primarily related to further information and additional plans for clarity.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 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)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a

Section 4.15 Matters for Consideration	Comments
	design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested, refer to 'Site History'. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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 Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site includes a portion of bush fire prone land toward the south. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

It is noted that the proposed works are located outside for the bushfire prone land, refer to Figure 1 below.



Figure 1: Northern Beaches Bushfire Prone Land - Yellow indicated Vegetation Buffer on site.

Bush Fire Advice was submitted with the application (prepared by Bushfire Planning Services Pty Limited, dated 30 January 2025) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. This advice has been referenced in the conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 17/01/2025 to 31/01/2025 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Withheld	BAYVIEW NSW 2104

One (1) submission was received and the issues raised in the submission are summarised and addressed below.

- **Retaining wall**

The retaining wall at the rear of the property was constructed after Council had issued a 'Stop Works Order'. The retaining wall is located partly within the side setback area and nearly extends to the boundary line, restricting access in case of an emergency. No purpose for retaining wall, the existing lawn area was undisturbed and followed the natural fall of the land. No mention of what is to be placed atop the retaining wall. The unauthorised retaining wall should be removed and the area restored.

Comment

A site inspection at the property revealed that the retaining wall structure to the rear has been partly completed and that works to this wall have currently ceased. The portions of the retaining wall structure that have commenced without consent are subject to obtaining a Building Information Certificate. This application proposes to complete the wall (sections not commenced, render the wall and add a balustrade). The retaining wall is to be filled and include a grassed area on top, as per the submitted landscape plan. Retaining walls are permitted within the side setback areas as stipulated within Clause D2.6 Side and rear building line of the P21DCP. For further discussion, refer to 'Clause D2.6 Side and rear building line' section of this assessment report. Conditions have been recommended in relation to the fill and balustrade of the wall. Furthermore, screen planting is to be included along the rear of the wall to soften the built form.

- **Pool Wall to western elevation**

The giant wall created on the western side of the swimming pool is unsightly and unnecessary. The over-height poolside wall needs to be reduced in height, or at the very least tapered in height at the southern end of it in line with the slope of the land.

Comment

It is noted that the pool wall was built without consent and is therefore subject to a Building Information Certificate. The wall is screened by mature hedging to soften the built form. The pool wall exhibits a minor non-compliance in terms of the location, being located with a 5.6m setback rather than a compliant 6.5m setback. Refer to 'Clause D2.6 Side and rear building line' section of this assessment report, for further discussion.

- **Front Fence**

The increased height of the front fence and the front gate are in breach of the requirements of the P21DCP. The unauthorised works to the front fence results in a design that does not conform with the neighbourhood. The fence should be restored to its former height and within the relevant guidelines.

Comment

Amended plans were submitted that includes the notation to re-instate the front fence to the original design and height. This is reflected on the plans.

- **Structure to North-western corner of the site**

There appears to be a ground structure (not disclosed on the plans) in the north-western corner of the site.

Comment

Any structures that have been built without authorisation, are to be subject to a Building Information Certificate. This application is in reference to only the works that have not commenced, that seek approval and the use of the building as a dwelling house.

- **Cost of works incorrect**

The cost of works in the application are noted to be below \$100,000. The real number is closer to \$1 million.

Comment

This application only relates to the works that have not been completed as specified in the 'Description of Works' section of this report. All other works that have been completed are subject to a Building Information Certificate. A cost summary report has been provided.

- **Engineering Integrity**

The unauthorised two-level structure created at the rear of the house was built atop an original verandah which was supported by a beam (running south from the main wall of the house) and was designed to take the load of a verandah, not a new two-story structure and roof extension. Much of the original supportive brick wall has been removed from under the beam, increasing the risk of collapse. There are significant safety concerns with the unauthorised works.

Comment

The works noted above have already been completed and are subject to a Building Information Certificate. Such concerns, regarding engineering integrity to these structures will form part of the assessment of the Building Information Certificate. Despite this, structural integrity conditions have been recommended in reference to the works that have not yet commenced under this application.

- **Safety Concerns**

No regard for process and safety of workers in the course of the alterations, with Work NSW having been involved at one stage.

Comment

This is not considered to be a planning matter, and hence no further comment is required.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Unsewered Lands)	<i>Supported, no conditions required.</i> <u>General Comments</u> Plumber's report suggests connection to Sydney water main. <u>Recommendation</u> APPROVAL - no conditions.
Landscape Officer	<i>Supported, subject to conditions.</i> The development application is for works following from the Building Information Certificate Application, including unapproved building works commenced and yet to be completed, and described in reports and as illustrated on plans. An Arboricultural Impact Assessment (AIA) is submitted that has assessed the tree impacts from unauthorised works executed and determines that while "there are significant trees within proximity to some aspects of the works, the works are considered to be of low impact to the trees which are unlikely to be significantly affected by the works", and this is based on site review and calculations of tree protection zone encroachments. The submitted Landscape Plans as reviewed raise no concerns. To ensure ongoing works are not detrimental to existing trees, conditions shall be imposed.
NECC (Bushland and Biodiversity)	<i>Supported, subject to conditions.</i> <u>Amended Comments</u> Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act 2016, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). Furthermore, the site is on land mapped as proximity area for littoral rainforest and as such the development must not impact on the ecological integrity of the rainforest. A Bushfire report has been submitted with the application and no further vegetation management has been required to reach compliance with PBP 2019. Therefore, impacts to the BV Map area are avoided and entry into the BOS is not triggered. <u>Original Comments</u> The comments in this referral relate to the following applicable controls and provisions: • Pittwater LEP - Clause 7.6 Biodiversity Protection

Internal Referral Body	Comments
	• Pittwater DCP- Clause B4.7 Pittwater Spotted Gum Forest Endangered Ecological Community • SEPP (Resilience and Hazards) 2021 - Littoral Rainforest and Proximity Area • Planning for Bushfire Protection 2019 Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act 2016, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). Furthermore, the site is on land mapped as proximity area for littoral rainforest and as such the development must not impact on the ecological integrity of the rainforest. Lastly, the site is also identified on bushfire prone land and no bushfire report has been submitted with the application. Although it is acknowledged that the proposed works will take place outside of the areas identified on the bushfire prone land, the proposed alterations bring the habitable structures closer to the areas identified as bushfire prone. Therefore, as per section 4.14.1.b, a bushfire report prepared by "a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements" will need to be prepared and submitted with the application. It should be noted that if any measures recommended in the Bushfire report require the removal of vegetation from areas that have been mapped in the BV Map area, a BDAR will need to be submitted with the application. The Biodiversity referral will recommence upon receipt of a Bushfire report and a BDAR if vegetation removal is required for compliance with PBP 2019.
NECC (Development Engineering)	<i>Supported, subject to conditions.</i> The proposed development is fundamentally an alteration of the existing dwelling. The geotechnical hazard area map show the site is only affected at the rear of the subject site. The proposed alteration for dwelling is located in front of the property. A geotechnical hazard report is not required for the proposed remedial works to the dwelling as suggested in SEE. No Development Engineering objection subject to conditions.

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. A1775439 noted 30 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 who raised no objections, subject to conditions which have been

included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

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 - In reference to the physical works proposed under Development Application (DA2024/1768)	8.5m	All other works: Below 8.5m Window to FF WIR: 9.77m	- 14.9%	Yes No <i>Refer to Clause 4.6</i>

Note

- The proposed works will be situated below the overall building height of the dwelling which consists of an existing non-compliance.
- The works that have occurred to the building (extensions on first floor) that are located in part, above the 8.5m building line, but below the overall existing roof ridge of the building. As these works have been completed and are unauthorised, the built structures will be assessed under the concurrent Building Information Certificate Application (BC2024/0250).

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes

Clause	Compliance with Requirements
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

The application seeks consent to vary a development standard as follows:

Development Standard: Clause 4.3 Height of Buildings

Requirement: 8.5 metres

Proposed: 9.77 metres (window)

Percentage of Variation: 14.9%

Note: The works that have already commenced without consent are subject to consideration under a Building Information Certificate Application. This would include the extension to the rear and front of the dwelling that exceed the 8.5m height standard.

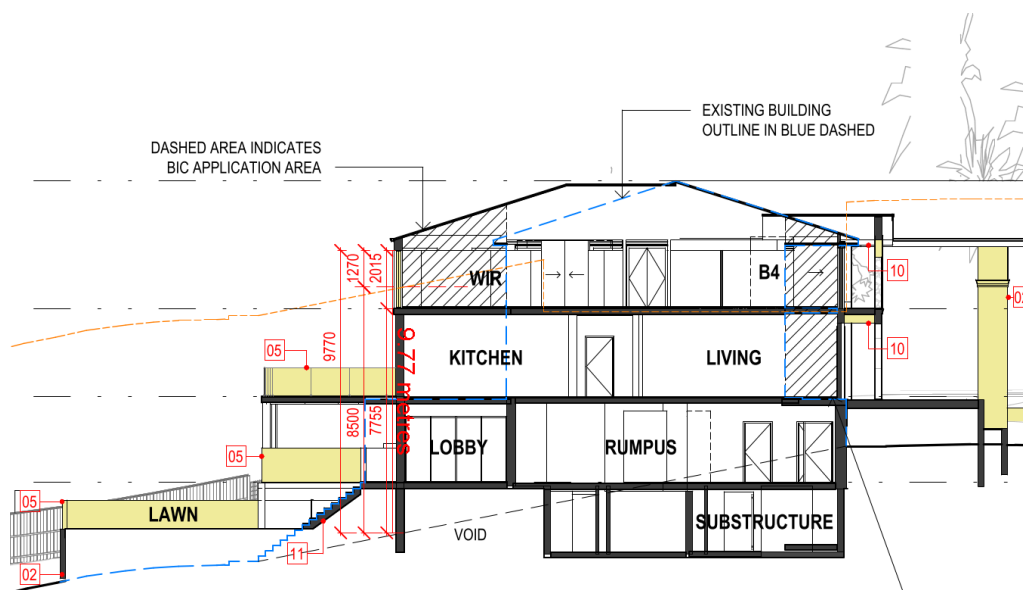


Figure 2: Submitted Section BB indicating the window replacement (not yet commenced) above the 8.5m height standard).

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the PLEP 2014 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

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

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

Comment

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

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

Comment

Clause 4.3 Height of Buildings is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment

Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Height of Buildings is unreasonable or unnecessary in the circumstances of this application.

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

Comment

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

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

The Clause 4.6 Request argues, in part:

- The existing part 2/ part 3 storey dwelling approved by Council under DA376/2010 contravenes the 8.5 metre building height standard.
- The dwelling is consistent in with the character of the built form in the locality and the R5 Large Lot Residential zoning, with the contravention of the 8.5 metre standard directly related to the steep topography of the site and the existing dwelling approved and built in 2010.
- The proposed work (Item04) is minor in scope with a change of glazing to an existing opening for reasons of safety.
- The works embodied in the BIC and use DA will not introduce any adverse visual impacts when viewed from the public domain and will not create any adverse visual impacts on the natural setting in Kara Crescent.
- The non-compliant works will not introduce any adverse amenity impacts, such as overshadowing, overlooking and views.
- There will be no change to the principal roof form nor to the presentation of the existing dwelling to the Kara Crescent streetscape, in terms of number of storeys (two) and height roof ridge at RL 102. 750.
- The proposed work to the existing window opening on the first-floor level at the rear of the dwelling is to replace a glass door to a fixed glass window. The reason for the change is safety.

The replacement of the door to a fixed window will not create adverse impact but is rather to ensure safety and achieve Australian Standards. The window although above the 8.5 metre height standard is below the existing ridge height of the dwelling (102,750). Therefore, such amendment proposed will not alter the existing overall height of the building. In this instance, the proposed window is supported, subject to a Building Information Certificate for the works that have already commenced without consent.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 Height of Buildings.

The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the PLEP 2014.

It is considered on balance, that having regard to the particular circumstances, this being the replacement of existing door to a fixed window above the height standard of 8.5 metres is acceptable as the window will not result in adverse impact. The window will be located below existing overall building height of the dwelling. Subject to a Building Information Certificate being obtained for the works that have already commenced, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

7.7 Geotechnical hazards

The subject site is mapped within the Geotechnical Hazard Area H1 on the south-western corner. The proposed works are not located in this area. A Geotechnical Report is not required in this instance.



Figure 3: Northern Beaches Geotechnical Hazard Area Map.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	20.0m North-eastern Boundary	Entry Stairs and Porch: 12.9m Decorative Arch (Driveway): 15.4m Front Balconies: 16.1m - 18.3m Decorative Arch (Dwelling): 13.0m All other works: > 20.0m Retaining walls and fencing within front setback*	35.5% 23.0% 19.5% 35.0% - -	No " " " Yes Yes
Rear Building Line	20.0m South-western Boundary	Proposed Works: > 20.0m	-	Yes
Side Building Line	6.5m North-western Boundary	Pool Wall: 5.6m Retaining Wall: 1.2m - 4.4m*	13.8% -	No Yes
	6.5m South-eastern Boundary	Proposed Works: > 6.5m	-	Yes
Building Envelope	3.5m North-western Elevation	Proposed Works: Within Envelope	-	Yes
	3.5m South-eastern Elevation	Proposed Works: Within Envelope	-	Yes
Landscaped Area	80.0% (3259.2m ²)	58.8% (2394.1m ²)	26.5% (865.1m ²)	No

*Clause D2.5 Front building line of the P21DCP permits driveways, fences and retaining walls to be situated within the front setback area.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.2 Bayview Heights Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.6 On-Street Parking Facilities	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D2.1 Character as viewed from a public place	Yes	Yes
D2.2 Scenic protection - General	Yes	Yes
D2.3 Building colours and materials	Yes	Yes
D2.5 Front building line	No	Yes
D2.6 Side and rear building line	No	Yes
D2.7 Building envelope	Yes	Yes
D2.9 Landscaped Area - Non Urban	No	Yes
D2.11 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D2.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

Merit Consideration

Clause C1.5 Visual Privacy stipulates that private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9.0 metres, by building layout, landscaping, screening devices or greater spatial separation.

The swimming pool wall to the south-western elevation was completed without authorisation and is subject to a BIC. The proposed works to this wall include the rendering/painting and the use of the works. The swimming pool wall location is addressed elsewhere in this report. It is considered that the wall will provide privacy to the swimming pool area. In addition, the existing vegetation along the adjacent boundary will screen the development (refer to Figure 4 and Image 1 below).

The retaining wall and raised lawn area is located 1.2 - 4.4 metres from the south-western boundary and is elevated approximately 1.2 - 1.8 metres from natural ground level. The existing screening as mentioned above, will provide for visual screening to protect privacy for both occupants of the subject site and adjoining (refer to Figure 4 and Image 1 below). Furthermore, the proposed balustrade to the south-western will be recommended to be conditioned as opaque glazing.

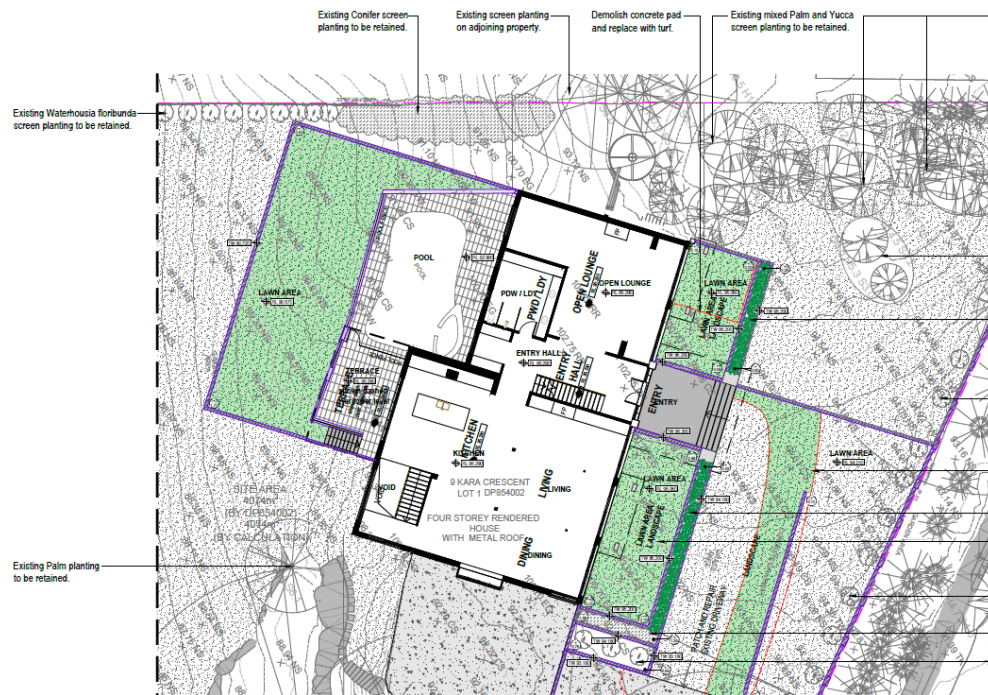


Figure 4: Submitted Landscape Plan notating existing vegetation along south-western boundary.



Image 1: Site Inspection Image of existing vegetation along south-western boundary.

The rear balcony is located in excess of 9.0 metres from adjoining properties.

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

D2.5 Front building line

Description of Non-compliance

Clause D2.5 Front building line stipulates that the front setback to the subject site is to be 20.0 metres.

The proposed works (which have not yet commenced) exhibit the following front setbacks:

- Construct entry stairs and porch: 12.9 metres
- Paint decorative arch (driveway): 15.4 metres
- New lining to front balconies: 16.1 - 18.3 metres
- Paint and new lining to decorative arch (dwelling): 13.0 metres
- All other proposed works (not yet commenced): > 20.0 metres
- Remainder of retaining walls and fencing (revert back to existing) within front setback*

*Fences and retaining walls permitted in front setback as specified under Clause 2.5.

Merit Consideration

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

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

Comment

The proposed works within the front setback primarily relate to the construction of an entry porch and stairs including painting/rending works to existing (unauthorised) structures. Subject to a BIC for the unauthorised works (that have commenced), the overall proposal is not considered to disrupt the character of the area.

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

Comment

The works located in the front setback is not considered to adversely impact views and vistas to and/or from public/private places.

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

Comment

Kara Crescent is not a main road, and therefore this outcome does not apply.

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

Comment

The proposed works seek to replace the existing additional driveway area with soft landscaping. Although there is a shortfall in landscaping numerically, the works will result in a net increase in landscaped open space. Therefore, the additional landscaping elements will aid in visually reducing built form. It is also noted that the front setback area consists of a garden and canopy trees which will further assist in screening the development.

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

Comment

Vehicle manoeuvring in a forward direction could occur given the parking and driveway layout. Council's Development Engineer has reviewed the proposal and is in support, subject to conditions.

- ***To preserve and enhance the rural and bushland character of the locality. (En, S)***

Comment

The proposed works will result in a net increase in landscape open space when compared to existing, which will assist in enhancing the rural and bushland character of the locality.

- ***To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.***

Comment

The proposed works within the front setback are located below the existing canopy tree height and is consistent or situated below overall building height of the existing dwelling.

- ***To encourage attractive street frontages and improve pedestrian amenity.***

Comment

The proposed works within the front setback relate to the front porch construction and the rending of already built structures. When complete and subject to a BIC for the unauthorised

works, the overall design is considered to provide visual interest from the streetscape.

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

Comment

Despite the front setback non-compliance, the works primarily align with the existing building line of the dwelling and maintain large front setbacks. The front setbacks can be deemed variable along Kara Crescent, due to the orientation and topography of the area. The design is considered acceptable in relation to the spatial characteristics of the existing urban environment within the immediate vicinity, subject to a BIC for the unauthorised works (works that have commenced).

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

D2.6 Side and rear building line

Description of Non-compliance

Clause D2.6 Side and rear building line stipulates that all built structures are to be setback 6.5 metres from side boundaries, and 20.0 metres from the rear boundary.

In the case of the subject site, the 6.5 metre setback is applied to the north-western and south-eastern boundaries, with the 20.0 metre setback applied to the south-western boundary.

The proposed works (that have not yet commenced) exhibit the following setbacks:

- South-western Boundary: Proposed works are setback more than 20.0 metres.
- North-western Boundary: Pool wall (rendering/painting/use of the wall) setback 5.6 metres, with a 13.8% variation.
- North-western Boundary: Retaining wall (completion of wall) setback 1.2 - 4.4 metres*.
- South-eastern Boundary: Proposed works are setback more than 6.5 metres.

*Under this clause elements such as driveways, fences and retaining walls are permitted within the side and rear setback areas.

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 works within the side setback area relate to works (painting and rendering) to the pool wall and completion of retaining wall. The pool wall has already been constructed (unauthorised) and part of the retaining wall (unauthorised). Subject to a BIC for the unauthorised works (that have commenced), the overall proposal is not considered to disrupt the character of the area.

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

Comment

The subject site consists of various native canopy trees and screen vegetation, which will aid in reducing any perceivable bulk and scale of the development. The pool wall is located within the side setback area and is approximately 4.5 metres in height (lowest to highest point). Despite the non-compliance of the wall it is located 5.6 metres from the boundary and is screened by extensive hedging. The retaining wall to accommodate for a raised lawn area is also screened by vegetation along the boundary and is approximately between 1.2 metres to 1.8 metres in height. A condition will be included for screen planting along the rear of the wall to further aid in vegetative screening and reduction of an perceivable bulk.

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

Comment

The works located in the side setback is not considered to adversely impact 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

As above.

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

Comment

The overall building exhibits acceptable spatial separation, and the south-western boundary includes screen hedging for privacy which is to be retained. The proposal in relation to the solar access comply with the relevant requirements of the P21DCP. Refer to 'Clause C1.5 Visual Privacy' for discussion relating to amenity - privacy, elsewhere in this report.

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

Comment

The subject site exhibits an existing shortfall in landscaping when compared to the requirements under the P21DCP. The proposal will result in a net increase to landscaped open space. No canopy trees are proposed for removal under this application. The elements assessed under this section (pool wall painting and completion of retaining walls) are not easily viewed from street.

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

Comment

The works retain spatial separation to the south-western boundary. The north-eastern boundary (other side) is open and provides for greater separation to allow flexibility and access.

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

Comment

As mentioned previously, the south-western boundary consists of mature vegetation. The

existing large hedge is adjacent to the pool wall and majority of the retaining wall, which will aid in screening the built form and providing a vegetative buffer for visual reprieve and softening. The overall existing vegetation on site is considered to continue to aid in the visual reduction of the built form.

- ***A landscaped buffer between commercial and residential zones is achieved.(En,S)***

Comment

The subject site is located in and is surrounded immediately by rural or environmental zones, this outcome does not apply.

- ***To preserve and enhance the rural and bushland character of the locality. (En, S)***

Comment

The proposal will retain the vegetation on site, preserving the rural and bushland character of the locality.

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

D2.9 Landscaped Area - Non Urban

Description of Non-compliance

Clause D2.9 Landscaped Area - Non Urban prescribes a minimum landscaped area of 80.0% of the site, in this case 3259.2m². The existing landscaped area was approximately 2270.0m².

The landscaped area as a result of the unauthorised works and works proposed under this application would result in 58.8% or 2394.1m² of the site. Hence a variation of 26.5% or 865.1m².

It is noted that this clause permits the following *"Dams, ponds, on-site detention tanks, the water surface area of swimming pools and water tanks that provide reserve capacity and an approved adaptor for fire fighting purposes, or waste water treatment systems can be included as landscaped area for the purpose of this control"*. The swimming pool water surface is 48.5m². With this inclusion, the proposed landscaped area would result in 2442.6m² or 59.95%.

The subject site is also constrained by the Right of Carriageway located on the eastern portion of the site to service properties to the south, the area of this driveway is approximately 446.8m².

The proposed landscaped open space although exhibiting a shortfall numerically, does increase the landscaped open space by 124.1m².

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 development will be situated on a site that will be landscaped to a level that is considered to be consistent with the area. Despite the non-compliance, the landscaped open

space shall increase to that of the existing.

- ***To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.***

Comment

The overall building height of the dwelling will be maintained. The works proposed that have not been completed are situated below the existing building height of the dwelling. The dwelling will remain under existing tree canopy height. The landscaping within the front setback will be enhanced by additional lawn area and the vegetation also located in the road reserve is to be maintained.

- ***To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site. (En, S)***

Comment

The proposed works comply with the requirements for solar access under P21DCP.

- ***To preserve and enhance vegetation to visually reduce the built form. (En)***

Comment

Majority of the vegetation is to be retained on site including trees and screen planting which will aid in mitigating bulk. Additional lawn areas are proposed.

- ***To minimise the impact of development on Pittwater's biodiversity by minimising the removal of indigenous vegetation and naturally occurring soils, conserving existing significant indigenous and native trees, and encouraging planting of indigenous and native plants and trees on private property. (En)***

Comment

Council's Biodiversity Team have reviewed the proposal and are in support, subject to conditions. No trees are proposed for removal.

- ***To conserve significant natural features of the site and contribute to effective management of biodiversity. (En)***

Comment

The proposed works (that have not been completed) are not considered to further impact the natural features of the site and is supported by Council's Landscape Officer and Biodiversity Team. It is noted that the unauthorised rear retaining wall structure (which is proposed to be completed under this application), does result in changes to the natural topography of the land. Despite this, the site toward the north via previous/historical building approvals and works have disrupted the land through excavation and landscaping works.

- ***To provide for infiltration of water to the water table, minimise stormwater runoff and assist with stormwater management to reduce and prevent soil erosion and the siltation of natural drainage channels. (En)***

Comment

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for Stormwater management and has raised no objections subject to conditions included in the recommendation of this report. Stormwater runoff is not expected result in any

unreasonable impacts to soil erosion and siltation of natural drainage channels.

- ***To preserve and enhance the rural and bushland character of the area. (En, S)***

Comment

The subject site is located within, and is surrounded by, environmental and rural zones. No trees or bushland are to be removed under this application.

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

Comment

As above, the proposal has been reviewed by Council's Development Engineer, having regard to provisions for Stormwater management.

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

D2.11 Fences - Flora and Fauna Conservation Areas

Merit Consideration

The proposal 'as amended' will revert the front fence from the unauthorised structure to the original fence height and design. As the fence will be reinstated to existing, no further comment is considered necessary.

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;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and

- Codes and Policies of Council.

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

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

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

PLANNING CONCLUSION

This proposal, for the use of a building as a dwelling house including alterations and additions, has been referred to the Development Determination Panel (DDP) as the proposal results in a variation of more than 10.0% to Clause 4.3 Height of Buildings of the *Pittwater Local Environmental Plan 2014* (PLEP 2014).

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for fourteen (14) days. One (1) submission was received. The concerns raised in the objection are addressed in the 'Submissions' section of the assessment report, and primarily related to works which have already been constructed/commenced, without prior approval, and are subject to a Building Information Certificate.

On balance, and considering the preceding detailed assessment of the application, including a detailed analysis of the variation to Clause 4.3 of the PLEP 2014, it is considered that the proposal, subject to recommended conditions will result in a development that is acceptable in design, and not detrimentally impact the character or amenity of the area.

Overall, the development performs well against the relevant controls and will not result in adverse impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval, subject to a deferred commencement condition, for a Building Information Certificate to be obtained for the unauthorised works.

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 Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Pittwater Local Environmental Plan 2014 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly Council as the consent authority grant Development Consent to DA2024/1768 for Use of building as a dwelling house and alterations and additions on land at Lot 1 DP 854002, 9 Kara Crescent, BAYVIEW, 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.

DEFERRED COMMENCEMENT CONDITIONS

1. Deferred Commencement- Building Information Certificate

This current development application does not grant retrospective approval to any unauthorised works that have been undertaken on site.

In this instance, the Building Information Certificate (BC2024/0250) is to be obtained from Northern Beaches Council prior to this consent becoming operative. This Building Information Certificate must cover all the works that have been completed without prior consent.

Evidence required to satisfy these conditions must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation. Applicants must complete two essential steps to request their consent become operational:

1. Submit a completed 'Deferred Commencement Document Review Form' (available on Council's website), include the relevant evidence and the application fee as per Council's Fees and Charges.
2. Submit a request for operational consent to Council via the NSW Planning Portal. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

Reason: To ensure appropriate consent is obtained.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence

is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

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

Evidence required to satisfy these conditions must be submitted to Council (through the NSW Planning Portal) within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

Applicants must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

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

GENERAL CONDITIONS

2. 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
DA10	Issue 2	Substructure Floor Plan	Metropoint Group Architects	11 March 2025
DA11	Issue 3	Lower Ground Floor Plan	Metropoint Group Architects	26 March 2025
DA12	Issue 3	Ground Floor Plan	Metropoint Group Architects	26 March 2025
DA13	Issue 3	First Floor Plan	Metropoint Group Architects	26 March 2025
DA14	Issue 3	Roof Plan	Metropoint Group Architects	26 March 2025
DA21	Issue 2	North-east Elevation	Metropoint Group Architects	26 March 2025
DA22	Issue 2	South-east Elevation	Metropoint Group Architects	26 March 2025
DA23	Issue 2	South-west Elevation	Metropoint Group Architects	26 March 2025
DA24	Issue 2	North-west Elevation	Metropoint Group Architects	26 March 2025
DA25	Issue 3	Front Fence Elevation	Metropoint Group Architects	26 March 2025

DA31	Issue 3	Section AA	Metropoint Group Architects	26 March 2025
DA32	Issue 3	Section BB	Metropoint Group Architects	26 March 2025
DA33	Issue 3	Section CC	Metropoint Group Architects	26 March 2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate (No. A1775439)	-	AENEC - OFFICE	30 November 2024
DA81, Waste Management Plan	Issue 1	Metropoint Group Architects	21 November 2024
Waste Management Plan	-	Glenn Botha	10 December 2024
Report: <i>To provide advice to the Principal Certifying Authority regarding compliance with bushfire risk requirements.</i>	-	Bushfire Planning Services Pty Limited	30 January 2025
Arboricultural Statement	-	Hugh The Arborist	30 January 2025
L-02 of 3, Detail/Planting Plan	Revision A	Serenescapes Landscape Designs	4 February 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.

3. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	16 January 2025

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

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

4. 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.

5. 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

6. Security Bond

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

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. **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.

8. **Amendments to the approved plans**

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

a) **Notation Removal:** The notation "*Extend Roof Area*" on Sheet No. DA14 - Roof Plan in reference to the rear extension of the building is to be removed. This is to be dealt with under a Building Information Certificate.

b) **Balustrade Rear Lawn Area:** The balustrade atop the rear leveled lawn area, along the north-western elevation is to be of opaque glazing to limit privacy impact and increase a sense of security to both the residents of the subject site and adjoining property.

c) **Screen Planting:** Screen planting is to be provided in front of the retaining wall (lower side) along the the south-western edge and shall be planted in accordance with the following:

- selected species shall be either *Syzygium* 'straight and narrow', *Syzygium* 'pinnacle', or *Nandina domestica*, or a similar species in form and size,
- selected species are to be native and capable of achieving a height upon maturity to screen the retaining wall and provide visual softening, and
- plants are to be installed at minimum 1 metre intervals and be of a minimum container size of 200mm at planting in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

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.

9. **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.

10. **Compliance with Standards**

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

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

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

11. **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

12. **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.

13. **Structural Adequacy**

Prior to commencement of any works as approved under this application, the Principal Certifier shall be satisfied that those components of the building to be retained and/or altered will be structurally sound and able to withstand the construction and demolition process.

Evidence from a qualified practising structural engineer, demonstrating compliance with the above and detailing, where relevant, means of support for those parts of the retained building shall be provided to the Principal Certifier.

Reason: To ensure that the development can be undertaken in accordance with accepted construction practices as indicated on the endorsed development plans, without the need for modification of the Development Consent.

DURING BUILDING WORK

14. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all prescribed trees within the site, 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,
 - 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 and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

15. **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.

16. **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.

17. **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.

18. **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.

19. **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.

20. **Survey Certificate**

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

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

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

21. **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.

22. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

23. **Site filling - Virgin Excavated Natural Material (VENM)**

Where additional site fill material is necessary, fill materials must:

- Be Virgin Excavated Natural Material (VENM) only, as defined in The Protection of the Environment Operations Act 1997.
- Be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.

The Applicant shall provide certification by a N.A.T.A. approved laboratory to the Principal

Certifier for approval prior to importation of material.

Reason: To ensure protection of the natural environment.

24. **Remediation of south-eastern landscaped area**

The earthworks and site disturbance between the dwelling's south-eastern elevation and adjacent boundary shall be remediated and reverted back to it's existing state.

Details demonstrating compliance are to be submitted to the Principal Certifier when the remediation works have been completed.

Reason: To ensure compliance with this consent.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

25. **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.

26. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

27. **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.

28. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(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 warning sign stating 'YOUNG CHILDREN SHOULD BE ACTIVELY SUPERVISED WHEN USING THIS POOL' has been installed.

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

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.

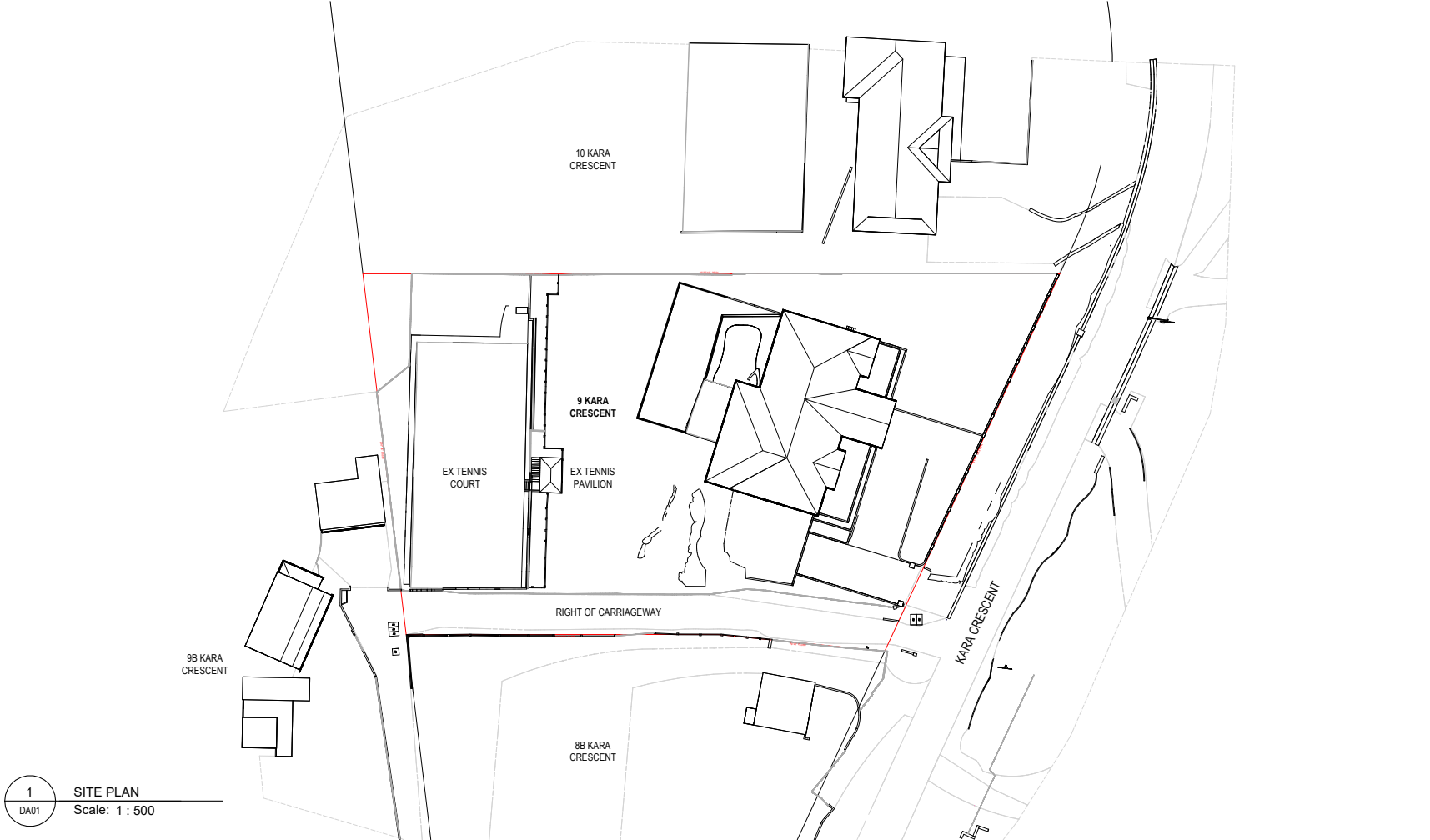
ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

29. **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.



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Do not scale drawings. Verify all dimensions on site

Issue	Amendment	Date
1	Issue for Development Application	21.11.2024

LIST OF PROPOSED WORKS

- 01 PAINT
- 02 RENDER AND PAINT
- 03 FRONT FENCE RENDER AND PAINT AND REINSTALL METAL FENCING
- 04 REPLACE GLASS DOOR WITH FIXED WINDOW
- 05 NEW GLASS BALUSTRADE
- 06 COMPLETE UNFINISHED TERRACE
- 07 COMPLETE BRICKWORK WITH RENDER AND PAINT
- 08 GRADED SOIL AND LANDSCAPE TO EXISTING SLOPE
- 09 NEW ROOF COVERING
- 10 NEW LINING TO UNDERSIDE OF FLOOR AND/OR ROOF
- 11 NEW STAIRCASE
- 12 NEW POOL FENCE
- 13 NEW GLAZING TO ENCLOSE SPACE
- 14 NEW ENTRY STAIRS AND PAVED ENTRY LOBBY

LEGEND

- W - WINDOW
EX PF - EXISTING PAINT FINISH
PF - PAINT FINISH
BL1 - FRAMELESS GLASS BALUSTRADE
EX - EXISTING



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Checked	YT/TL	Scale	As indicated@A3
Drawn	JL	Project No.	202223

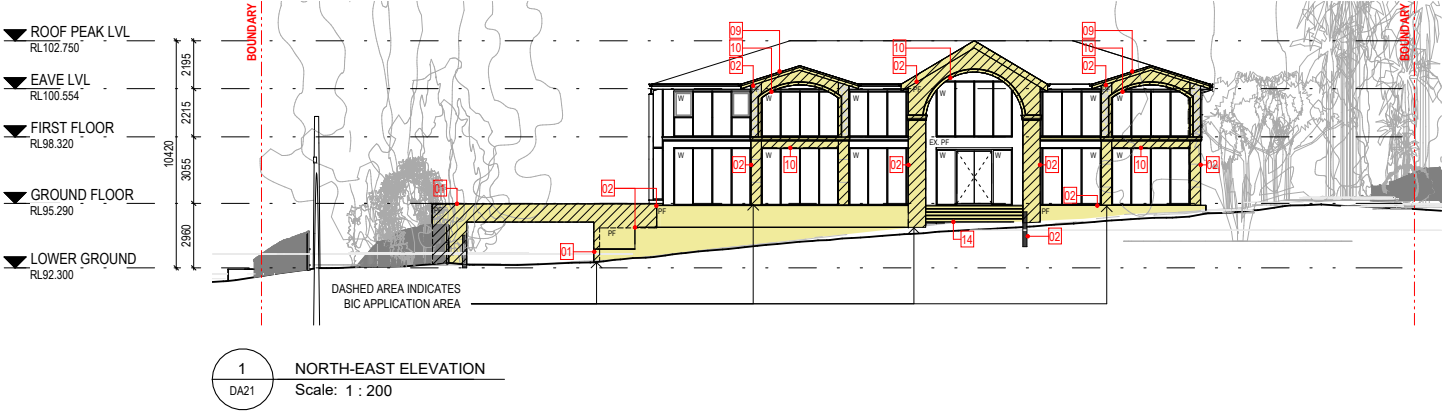
DEVELOPMENT APPLICATION FOR USE AS
SINGLE DWELLING AND MINOR BUILDING WORKS

Project
9 KARA CRESCENT BAYVIEW NSW
2104

Drawing
SITE PLAN

Drawing No.	Issue
DA01	1

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Issue	Amendment	Date
1	Issue for Development Application	21.11.2024
2	Issue for Development Application - Request for Further Information	26.03.2025

LIST OF PROPOSED WORKS

01	PAINT
02	RENDER AND PAINT
03	FRONT FENCE RENDER AND PAINT AND REINSTALL METAL FENCING
04	REPLACE GLASS DOOR WITH FIXED WINDOW
05	NEW GLASS BALUSTRADE
06	COMPLETE UNFINISHED TERRACE
07	COMPLETE BRICKWORK WITH RENDER AND PAINT
08	GRADED SOIL AND LANDSCAPE TO EXISTING SLOPE
09	NEW ROOF COVERING
10	NEW LINING TO UNDERSIDE OF FLOOR AND/OR ROOF
11	NEW STAIRCASE
12	NEW POOL FENCE
13	NEW GLAZING TO ENCLOSE SPACE
14	NEW ENTRY STAIRS AND PAVED ENTRY LOBBY

LEGEND

W - WINDOW
EX - PF - EXISTING PAINT FINISH
PF - PAINT FINISH
BL1 - FRAMELESS GLASS BALUSTRADE
EX - EXISTING

DEVELOPMENT APPLICATION FOR USE AS
SINGLE DWELLING AND MINOR BUILDING WORKS

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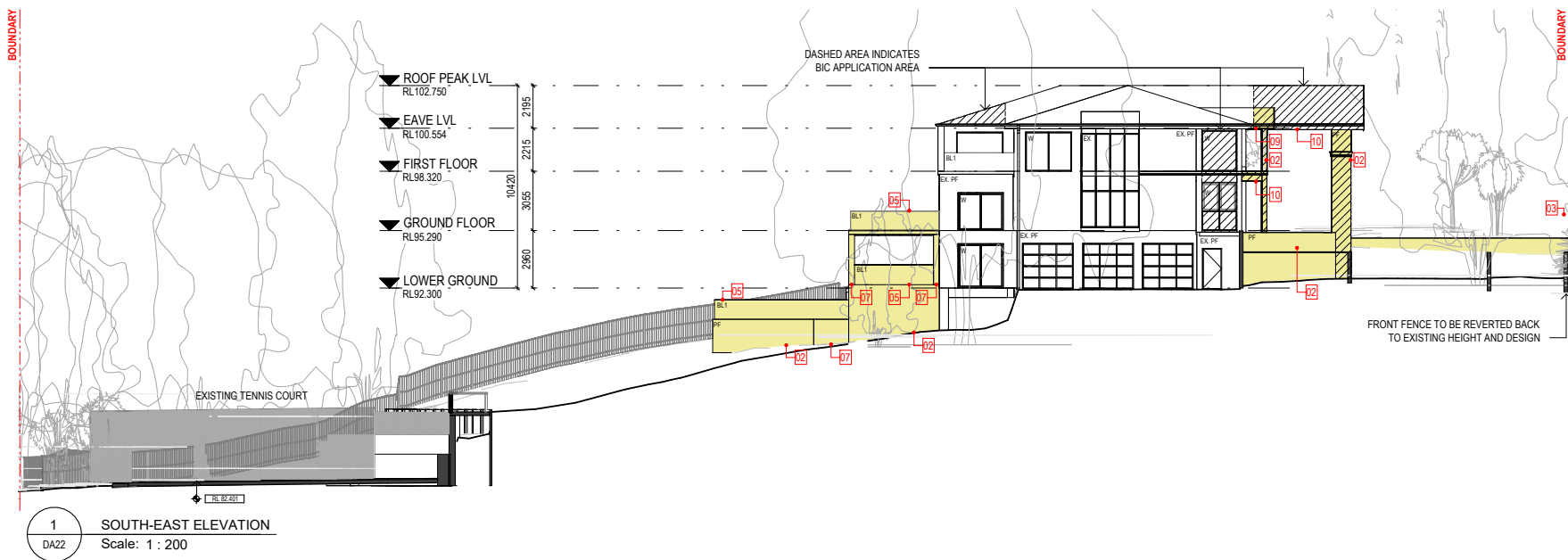
Project
9 KARA CRESCENT BAYVIEW NSW
2104

Drawing
NORTH-EAST ELEVATION

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Drawn	JL	Project No.	202223

Drawing No.	Issue
DA21	2

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Do not scale drawings. Verify all dimensions on site

Issue	Amendment	Date
1	Issue for Development Application	21.11.2024
2	Issue for Development Application - Request for Further Information	26.03.2025

LIST OF PROPOSED WORKS

- 01 PAINT
- 02 RENDER AND PAINT
- 03 FRONT FENCE RENDER AND PAINT AND REINSTALL METAL FENCING
- 04 REPLACE GLASS DOOR WITH FIXED WINDOW
- 05 NEW GLASS BALUSTRADE
- 06 COMPLETE UNFINISHED TERRACE
- 07 COMPLETE BRICKWORK WITH RENDER AND PAINT
- 08 GRADED SOIL AND LANDSCAPE TO EXISTING SLOPE
- 09 NEW ROOF COVERING
- 10 NEW LINING TO UNDERSIDE OF FLOOR AND/OR ROOF
- 11 NEW STAIRCASE
- 12 NEW POOL FENCE
- 13 NEW GLAZING TO ENCLOSE SPACE
- 14 NEW ENTRY STAIRS AND PAVED ENTRY LOBBY

LEGEND

- W - WINDOW
EX. PF - EXISTING PAINT FINISH
PF - PAINT FINISH
BL1 - FRAMELESS GLASS BALUSTRADE
EX - EXISTING

DEVELOPMENT APPLICATION FOR USE AS
SINGLE DWELLING AND MINOR BUILDING WORKS

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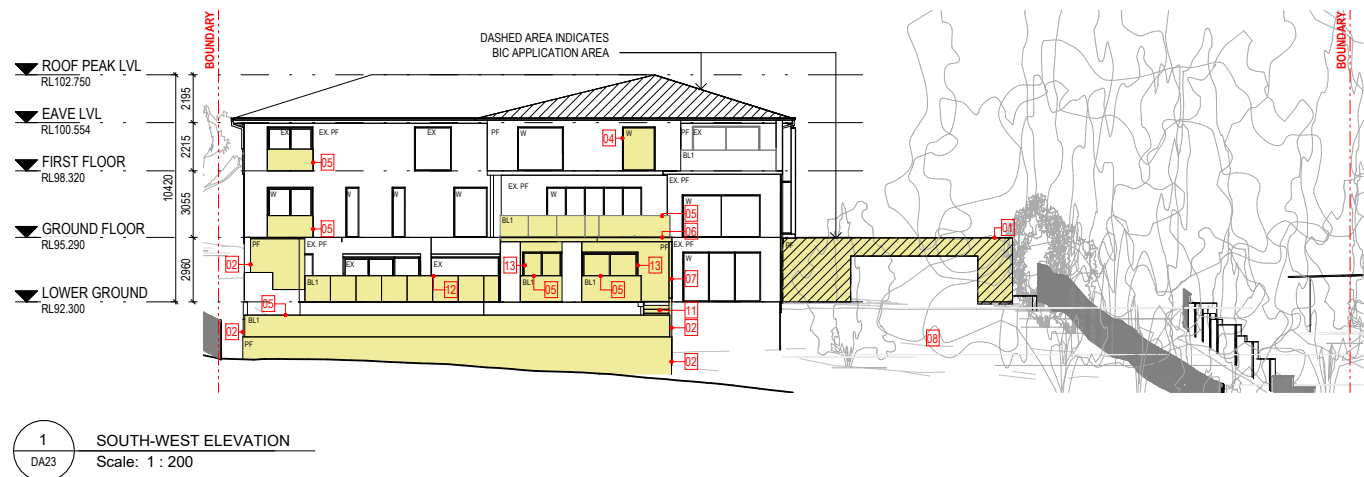
Project
9 KARA CRESCENT BAYVIEW NSW
2104

Drawing
SOUTH-EAST ELEVATION

Checked	YT/TL	Scale	1 : 200@A3
Drawn	JL	Project No.	202223

Drawing No.	Issue
DA22	2

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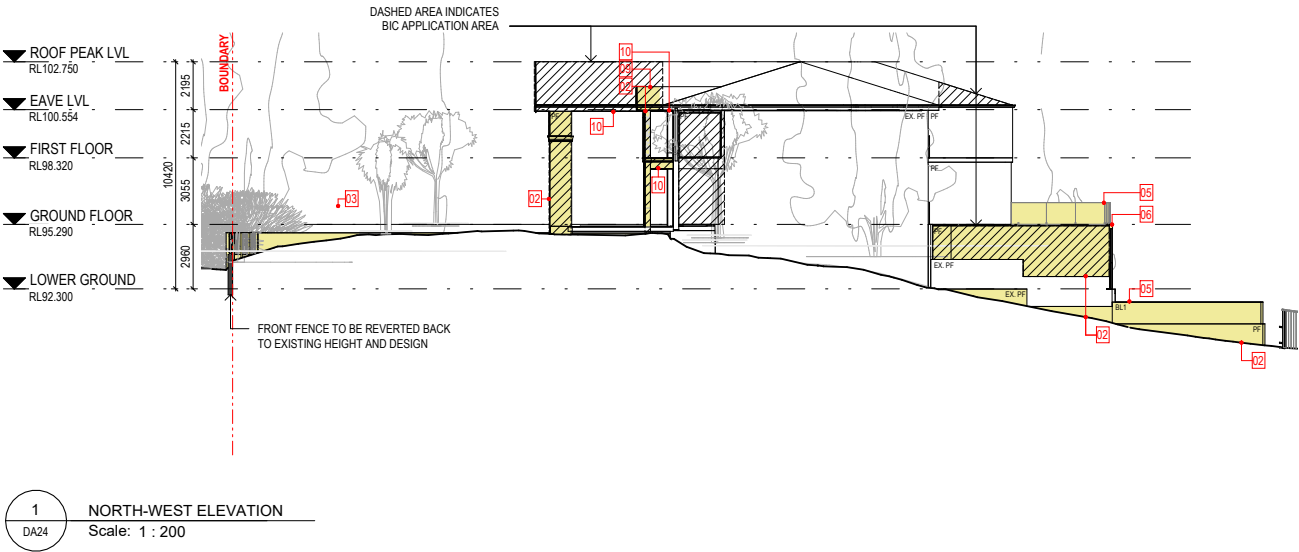
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Drawing
SOUTH-WEST ELEVATION

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Drawing No.	Issue
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Drawing No.	Issue
DA24	2

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APPENDIX 8 TO STATEMENT OF ENVIRONMENTAL EFFECTS**Clause 4.6 Submission – Height of Buildings**

This written request under clause 4.6 of the Pittwater LEP 2014 has been prepared to address non-compliance with the height of building development standard under clause 4.3 of the Pittwater LEP 2014.

“Clause 4.6 of the Pittwater LEP 2014

Clause 4.6 in the Pittwater LEP 2014 provides for exceptions to development standards embodied in the planning instrument in the following terms:-

4.6 Exceptions to development standards

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

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

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

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

(3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

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

(b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) *The consent authority must keep a record of its assessment carried out under subclause (3).*

(5) *(Repealed)*

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

(a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

(b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note—

When this Plan was made it did not include all of these zones.

(7) *(Repealed)*

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(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (caa) clause 5.5.”

Section 35B of the Environmental Planning and Assessment Regulation 2021 requires:

“35B Additional requirements for development applications involving contravention of development standards

(1) This section applies to a development application that proposes, in accordance with a relevant EPI provision, development that contravenes a development standard imposed by any environmental planning instrument.

(2) The development application must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that—

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

(3) In this section—

relevant EPI provision means—

- (a) clause 4.6 of a local environmental plan that adopts the provisions of the Standard Instrument, or
- (b) an equivalent provision of another environmental planning instrument.”

This written request under Clause 4.6 has been prepared in accordance with the past judgements in the Land and Environment Court, including *Wehbe v. Pittwater Council* [2007]; *Micaul Holdings Pty Ltd v Randwick City Council* [2015] NSWLEC 1386; *Randwick City Council NSW v. Micaul Holdings Pty Ltd* [2016] NSWLEC 7; *Initial Action Pty Limited v. Woollahra Council* [2018] NSWLEC 118; and *Baron Corporation Pty Ltd v Council of the City of Sydney* [2019] NSWLEC 61.

The proposal

The existing detached dwelling on the land at 9 Kara Crescent Bayview was approved under Development Application 376/10 on 17 August 2010. The principal roof form of the dwelling (roof ridge RL102.750) approved under DA376/10 remains unchanged. The existing dwelling contravenes the 8.5-metre-high building height standard applying to the site

The land at 9 Kara Crescent Bayview is currently the subject of a Stop Works Order (EPA2024/0032) issued by Northern Beaches Council on 20 February 2024, in respect to unauthorised building works carried out on the land.

A Building Information Certificate Application No. BC2024/0250 was lodged with Northern Beaches Council on 24 September 2024. By letter dated 18 November 2024, Northern Beaches Council has requested, amongst other thing, that a development application be

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submitted for use of the building as a single dwelling and for all proposed works to the building yet to be completed.

This development application (DA2024/1768) seeks consent for the use of the part 2/part 3-storey detached building for the purposes of a single dwelling house comprising 4 bedrooms each with an ensuite, living areas and parking for 3 vehicles. The property includes an existing swimming pool and tennis court. The proposal includes removal of an existing driveway in the front setback area and landscaping.

Council, by letter dated 27 February 2025, has requested that *"if any proposed works are located above the 8.5m (despite being lower than the overall building height of the dwelling) must be accompanied with a clause 4.6 Variation."*

There is one (1) item of proposed work detailed on the architectural drawings that will occur above the 8.5 metre height standard, namely:

- Item 04 - replace glass door to walk-in-robe on first floor of south-western (rear) elevation with fixed window. The proposed replacement of the window opening with fixed glazing will have a sill height at RL98.341 (7.755 metres above existing ground level) and a head height of RL100.356 (9.770 metres above existing ground level). The portion of the proposed replacement of the fixed glazing above the 8.5 metre height of building standard is 1.270 metres which represents a non-compliance of 14.9%, as detailed in *Figure A8.1*.

The proposed work (Item 10 – new ceiling lining to underside of portico structure over main entry to the dwelling) is not included in the clause 4.6 submission as the portico structure is wholly within the 8.5 metre height of buildings as evidenced by the drawing at *Figure A8.2*.

Development Application DA2024/1768 has been lodged for the use of the whole building as a single dwelling, given that last consent was for a dual occupancy.

However, for an abundance of caution, as part of the use of the dwelling includes building works undertaken prior to and covered by the BIC application (EPA2024/0032) above the 8.5 metre height of buildings standard are included in the clause 4.6 submission, namely:

- walk-in-robe and ensuite to Bedroom 1 on the first-floor level; and
- the enclosure of the first-floor balcony on the front façade of the dwelling east of the enclosed room under the gable roof form on the original 2010 approval. The balcony west of this room did not contravene the 8.5 metre height control

The use of these portions of the building have been included in this clause 4.6 submission.

The extent of non-compliance with the standard varies from that detailed in Item 04 above (1.270m/14.97%) for the walk-in-robe/ensuite on the rear elevation to approximately 300mm at the alignment of the original structure (*Figure A8.1*) and 2.015m/ 23.7% for the enclosed balcony now forming part of Bedroom 4 and Family Room.

The further amended architectural drawings at **Attachment 1**.

The developments standard

Clause 4.3(2) of the Pittwater LEP 2014 provides for a maximum building height for a dwelling as indicated on the Height of Buildings Map.

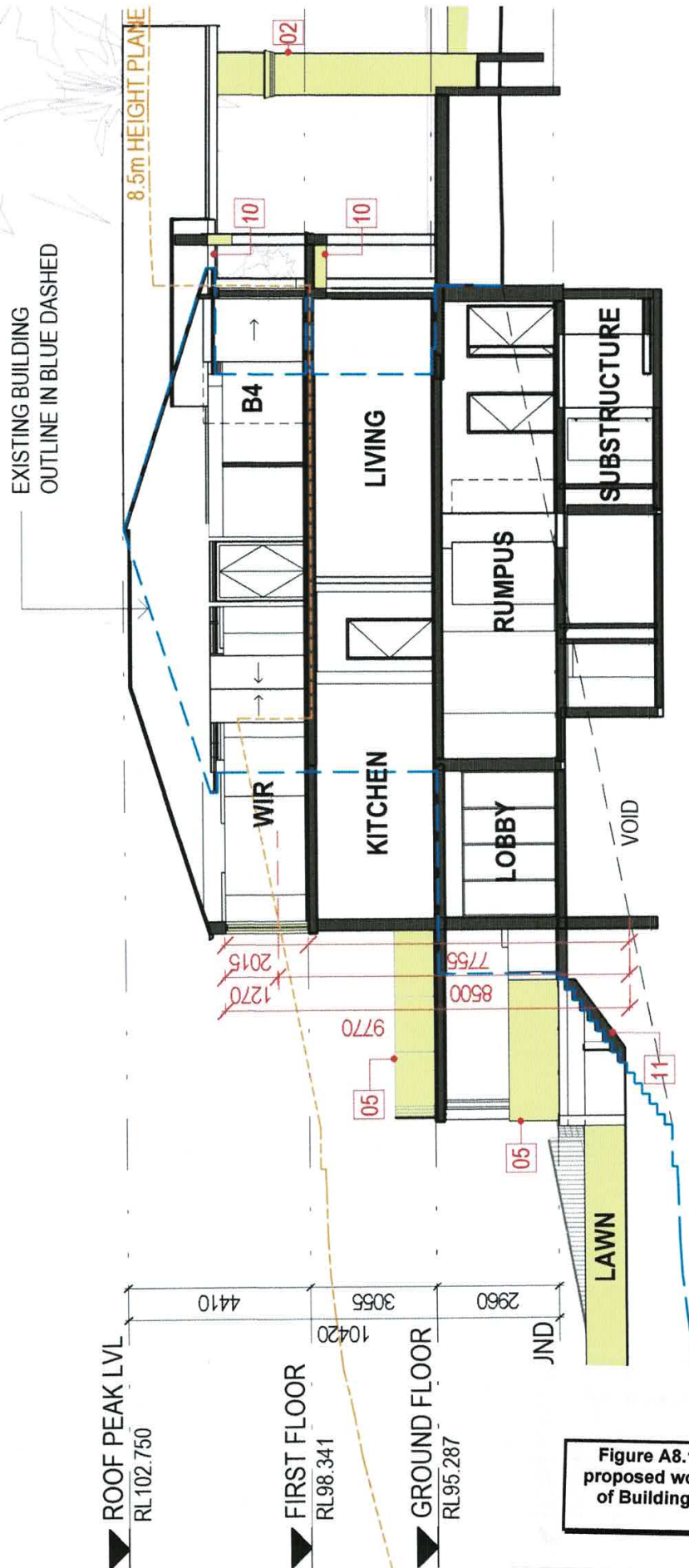
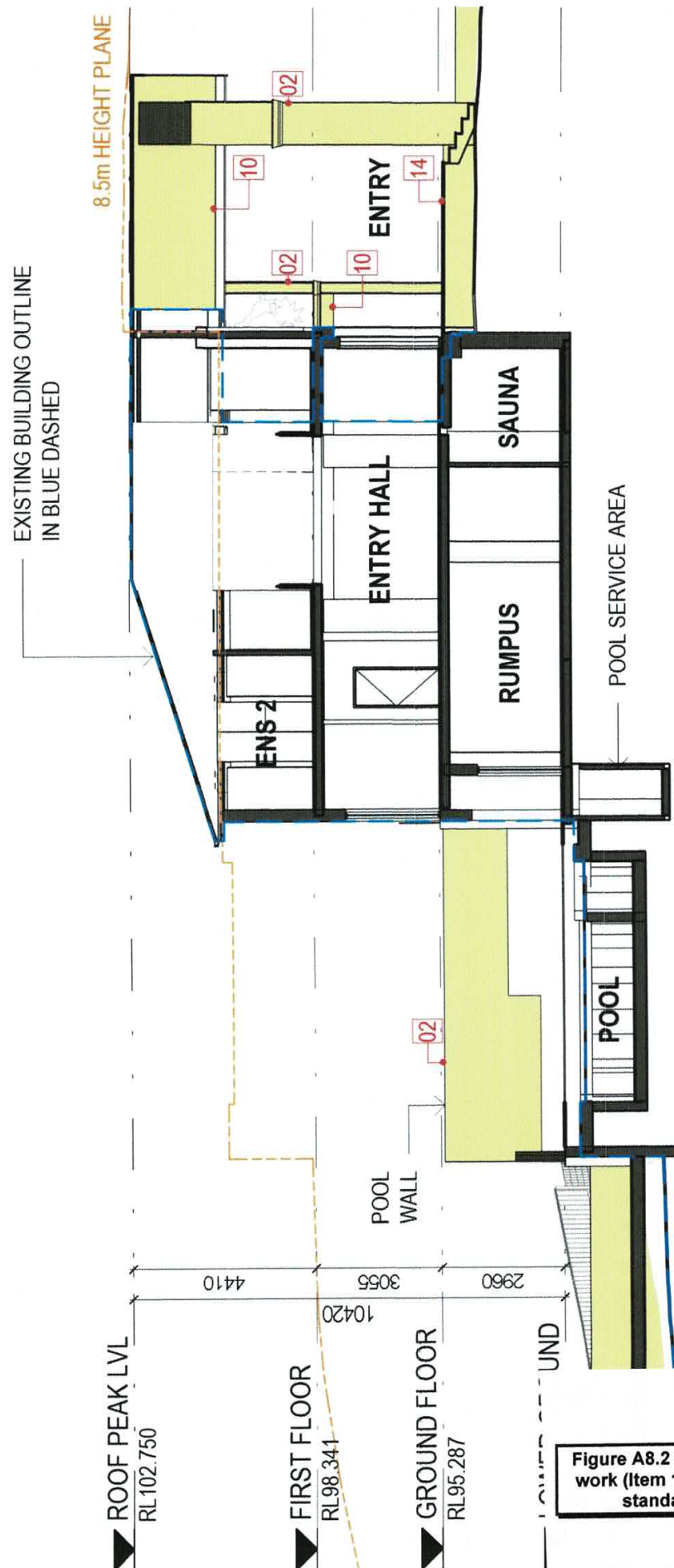
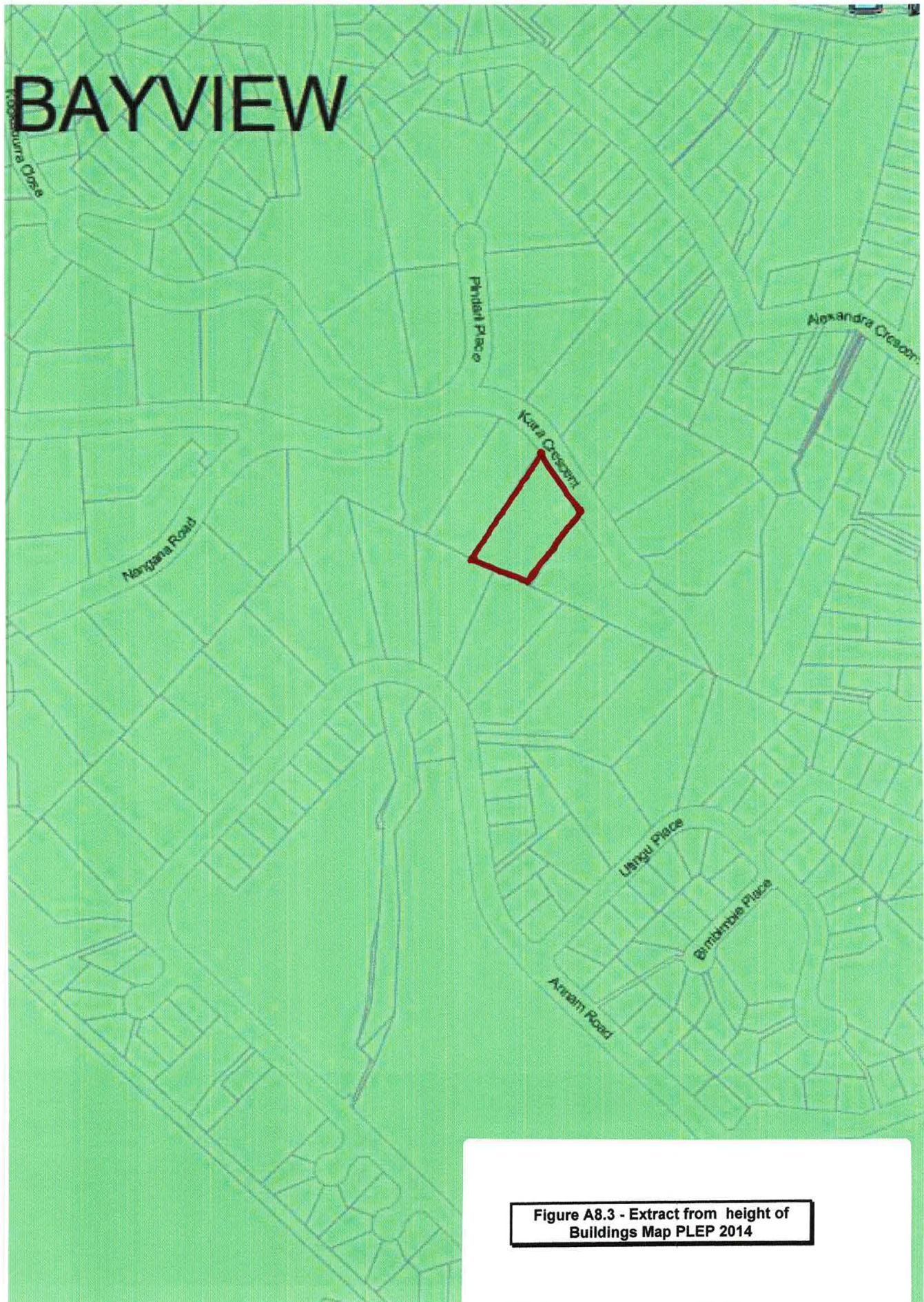


Figure A8.1 – Non-compliance of proposed work (Item 04) with Height of Building standard under PLEP 2014





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The Height of Buildings Map (Figure A8.3) identifies a maximum height of buildings for the subject site of 8.5 metres.

The existing dwelling, some of the works covered by EPA2024/0032 application and the proposed item of work detailed above, contravene the 8.5- metre-high standard.

Whilst DA2024/1768 has been lodged for the use of the building as a single dwelling, the items of work and proposed work detailed above have been included in this clause 4.6 submission prepared to justify the contravention with the height of building development standard.

Sub-clause 3(a) of Clause 4.6

In the context of the provisions in sub-clause 3(a) of Clause 4.6, as to whether “*compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*” it is appropriate to consider the judgement of Preston, CJ in *Wehbe* in which he identified five common ways in which the applicant may demonstrate under Clause 4.6(3)(a) that compliance with a development standard is unreasonable and unnecessary, namely:-

- “(i) The first way is to demonstrate whether the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- “(ii) The second way is to establish that the underlying objective or purposes is not relevant to the development with a consequence that compliance is unnecessary.
- “(iii) The third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
- “(iv) The fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
- “(v) A fifth way is to establish that the zoning of particular land was unreasonable or inappropriate so that “a development standard appropriate for that zoning would also be unreasonable or unnecessary” as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary.”

In respect to the “first way” it is relevant to consider the objectives of the Height of Building development standard under clause 4.3(1) of the Pittwater LEP 2014, namely:

“4.3 Height of buildings

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

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
- (c) to minimise any overshadowing of neighbouring properties,
- (d) to allow for the reasonable sharing of views,
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.”

Objectives (a) and (b) are satisfied as the existing part 2/part 3-storey detached dwelling on the 4000m² allotment is consistent with the scale of built form for dwellings on Kara Crescent, Pindara Place and Lentara Road where, whilst they may present as a single or two storey

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dwelling to the street, the steep topography of the sites enables a second or third floor respectively as the dwelling steps down the slope.

There will be no change to the principal roof form nor to the presentation of the existing dwelling to the Kara Crescent streetscape, in terms of number of storeys (two) and height – roof ridge at RL102.750.

The proposed work to the existing window opening on the first-floor level at the rear of the dwelling is to replace a glass door to a fixed glass window. The reason for the change is safety.

It is noted that most of the first-floor level on the rear (south-westerly) elevation is above the 8.5-metre height standard reflecting the fall of the land to the rear of the site. Thus, changing the opening to fixed glazing will not introduce any additional or new amenity or environmental impacts and it certainly will not be visible from the public domain.

The enclosure of the eastern first floor balcony is compatible with the character of built form in the locality and consistent in terms of height and scale.

The proposal satisfies Objectives (a) and (b).

Objective (c) is satisfied as the enclosure of the first-floor eastern balcony, extension to the rear (walk-in-robe/ensuite to Bedroom 1 and proposed installation of fixed glazing to an existing window opening will not generate any overshadowing impacts on neighbouring residential properties given the separation distances between dwellings and orientation of the dwelling on the site.

The proposal satisfies Objective (c).

Objective (d) is satisfied as the proposed work, except for the walk-in-robe/ensuite to Bedroom 1 on the first-floor level, are within the existing building envelope and will not impact on views over the site from 10 Kara Crescent and from the public domain.

The proposal satisfies Objective (d).

Objective (e) is achieved as the existing dwelling responds to the topography of the site continuing to present as a 2-storey detached dwelling to Kara Crescent surrounded by mature trees both within the site and on the public domain.

The proposal satisfies Objective (e).

Objective (f) is achieved as there are no heritage considerations affecting the site and the proposed works will not introduce any adverse visual impacts on the natural environment given the location and nature of the existing and proposed work.

The proposal satisfies Objective (f).

Given that the objectives to the height of buildings standard in clause 4.3(1) of the Pittwater LEP 2014 are achieved, compliance with the height of buildings development standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

In the circumstances, it is considered that the proposal satisfies the “first way” in *Wehbe* and thereby satisfies the requirements under Clause 4.6(3)(a) of the Pittwater LEP 2014 in respect to the height of building standard applying to the site.

The second to fifth ways in *Wehbe* are not relevant to the proposed development.

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Sub-clause 3(b) of Clause 4.6

In respect to the requirement in sub-clause 3(b) of Clause 4.6 that *"there are sufficient environmental planning grounds to justify the contravention of the development standard"*, the following commentary is provided in support of the proposal, namely:

- The existing part 2/ part 3 storey dwelling approved by Council under DA376/2010 contravenes the 8.5 metre building height standard. The works covered by the BIC application (EPA2024/0032) and the proposed work (Item 04) covered under DA2024/1768 that have contravened the 8.5 metre standard have been embodied in this clause 4.6 submission to ensure certainty of use.
- The dwelling is consistent in with the character of the built form in the locality and the R5 Large Lot Residential zoning, with the contravention of the 8.5 metre standard directly related to the steep topography of the site and the existing dwelling approved and built in 2010.
- The proposed work (Item04) is minor in scope with a change of glazing to an existing opening for reasons of safety.
- The works embodied in the BIC and use DA will not introduce any adverse visual impacts when viewed from the public domain and will not create any adverse visual impacts on the natural setting in Kara Crescent.
- The non-compliant works will not introduce any adverse amenity impacts, such as overshadowing, overlooking and views.

In the circumstances, it is considered that there are sufficient environmental planning grounds to justify the non-compliance of the height of building standard under Clause 4.6(3)(b) of the Pittwater LEP 2014.

Conclusion

It is considered that compliance with the height of building standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds for the contravention, and as the proposed development is consistent with the objectives of the height of building ratio standard, the Council can be satisfied in respect to the provisions in Clause 4.6(3)(a) and (3)(b) of the Pittwater LEP 2014. The submission under Clause 4.6 is considered substantiated and well-founded.



Kerry Nash
Director, KN Planning Pty Ltd

10 March 2025

Attachment 1

9 KARA CRESCENT BAYVIEW - DEVELOPMENT APPLICATION



DRAWING LIST		
DRAWING NO.	SHEET CONTENT	CURRENT REVISION DATE
DA00	COVER PAGE	10.03.2025
DA01	SITE PLAN	21.11.2024
DA11	LOWER GROUND FLOOR PLAN	10.03.2025
DA12	GROUND FLOOR PLAN	10.03.2025
DA13	FIRST FLOOR PLAN	10.03.2025
DA14	ROOF PLAN	10.03.2025
DA21	NORTH-EAST ELEVATION	21.11.2024
DA22	SOUTH-EAST ELEVATION	21.11.2024
DA23	SOUTH-WEST ELEVATION	21.11.2024
DA24	NORTH-WEST ELEVATION	21.11.2024
DA25	FRONT FENCE ELEVATION	10.03.2025
DA31	SECTION AA	10.03.2025
DA32	SECTION BB	10.03.2025
DA33	SECTION CC	10.03.2025
DA51	SHADOW ANALYSIS	21.11.2024
DA61	SCHEDULE OF FINISHES	21.11.2024
DA71	LANDSCAPE PLAN	21.11.2024
DA81	DEMO, CONST, & ON-GOING WASTE MANAGEMENT PLAN	21.11.2024

Grand total: 18

AREA SUMMARY	
LEVEL	AREA
LOWER GROUND	301.1 m ²
GROUND FLOOR	302.3 m ²
FIRST FLOOR	290.0 m ²
TOTAL GFA	893.4 m ²
LANDSCAPE AREA CALCULATIONS	
LANDSCAPE AREA PROPOSED	2394.1 m ²
EXISTING LANDSCAPE AREA	2270.0 m ²
DWELLING FOOTPRINT	427.0 m ²

NOTE:
- SITE AREA = 4074 m²
- SITE AREA EXCLUDING RIGHT OF CARRIAGEWAY = 3627.2 m²
- D2.9 VARIATION - RESIDENTIAL DEVELOPMENT WITH A MAXIMUM OF 800 SQUARE METRES WILL BE ALLOWED EVEN IF THE MINIMUM LANDSCAPE AREA, CAN'T BE PROVIDED

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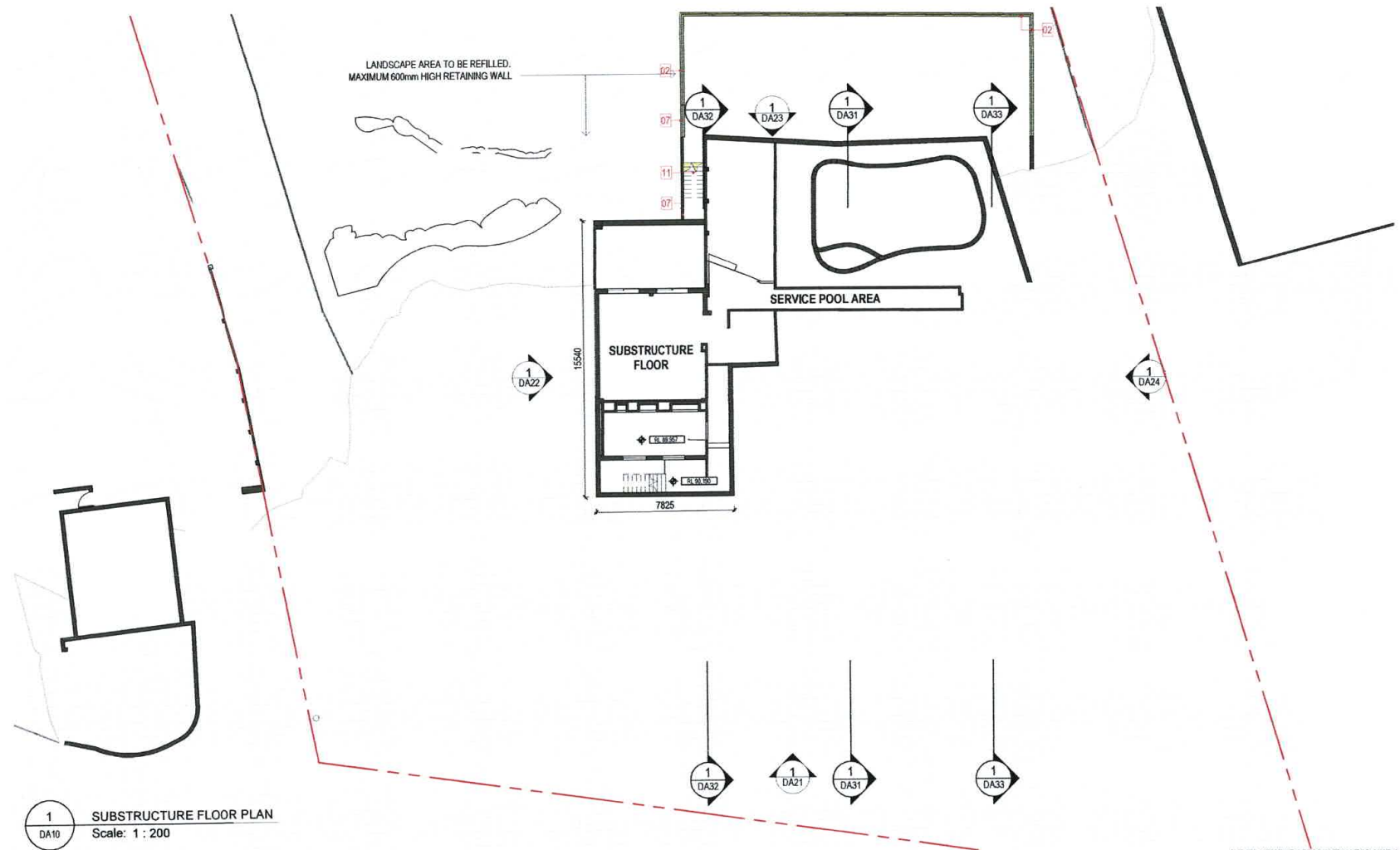
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Drawing
COVER PAGE

Drawing No.	Issue
DA00	3

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1 SUBSTRUCTURE FLOOR PLAN
DA10 Scale: 1 : 200

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Checked	Y/T/L	Scale	1 : 200@A3
Drawn	J.L.	Project No.	202223

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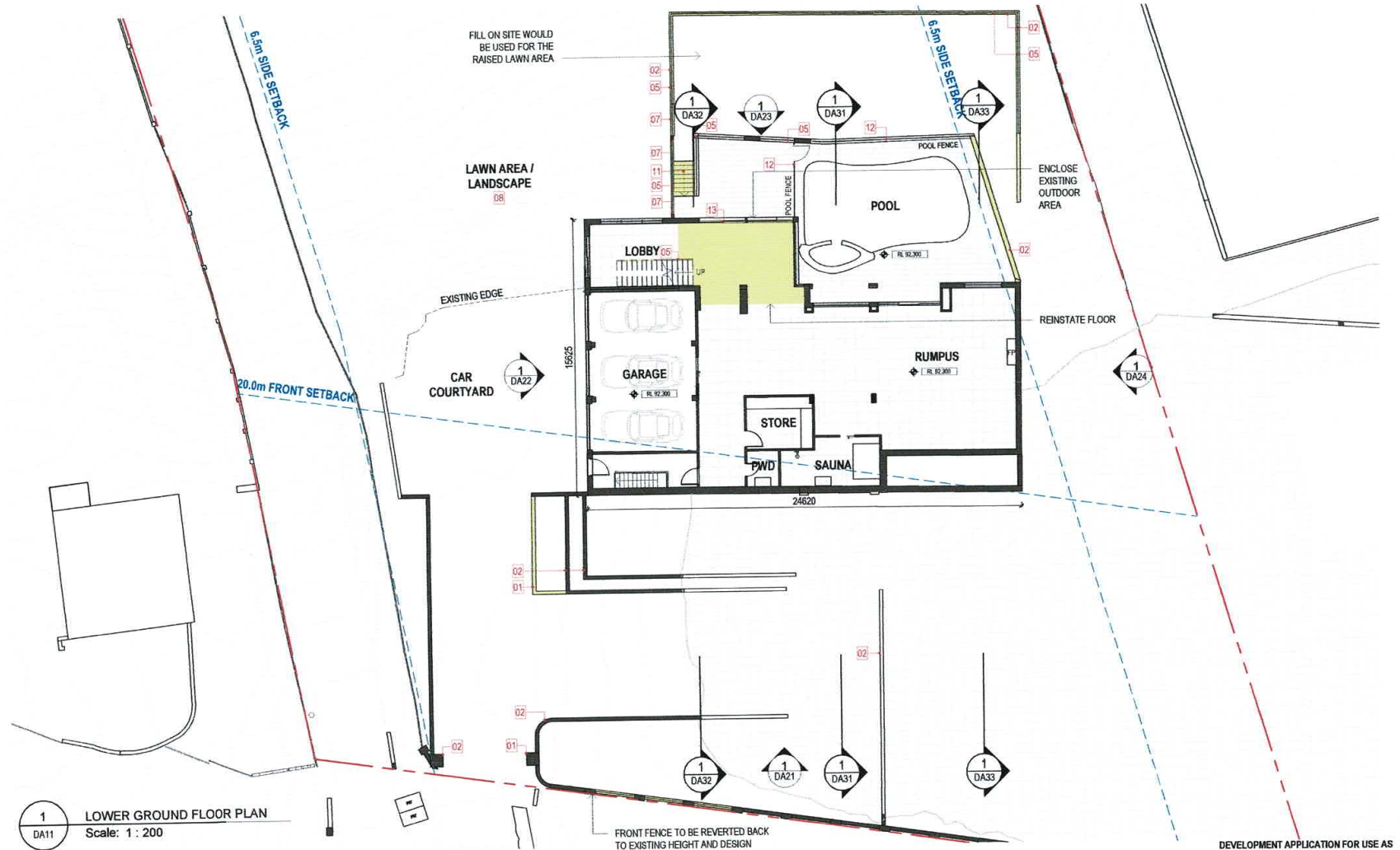
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9 KARA CRESCENT BAYVIEW NSW
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Drawing
SUBSTRUCTURE FLOOR PLAN

Drawing No.	Issue
DA10	2

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1 LOWER GROUND FLOOR PLAN
DA11
Scale: 1 : 200

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- 10 NEW LINING TO UNDERSIDE OF FLOOR AND/OR ROOF
- 11 NEW STAIRCASE
- 12 NEW POOL FENCE
- 13 NEW GLAZING TO ENCLOSE SPACE
- 14 NEW ENTRY STAIRS AND PAVED ENTRY LOBBY

LEGEND

- W - WINDOW
- EX - PF - EXISTING PAINT FINISH
- PF - PAINT FINISH
- BL - FRAMED GLASS BALUSTRADE
- EX - EXISTING

Checked	Y/T/L	Scale	1 : 200@A3
Drawn	J.	Project No.	202223

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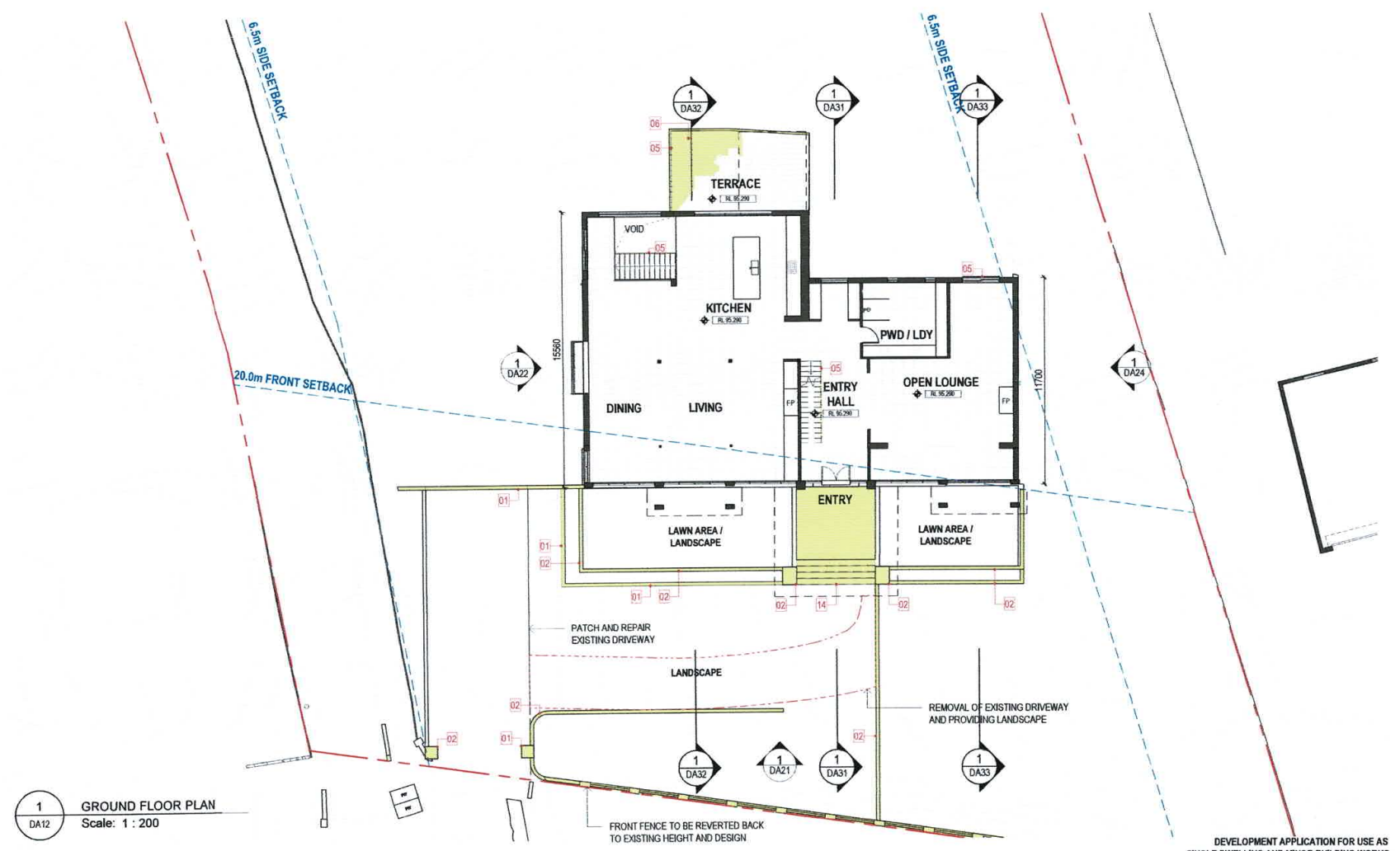
DEVELOPMENT APPLICATION FOR USE AS
SINGLE DWELLING AND MINOR BUILDING WORKS

Project
9 KARA CRESCENT BAYVIEW NSW
2104

Drawing
LOWER GROUND FLOOR PLAN

Drawing No.
DA11
Issue
2

10/03/2025 2:21:05 PM



1 GROUND FLOOR PLAN
DA12 Scale: 1 : 200

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Issue	Amendment	Date
1	Issue for Development Application	21.11.2024
2	Issue for Development Application - Request for Further Information	10.03.2025

LIST OF PROPOSED WORKS

- 01 PAINT
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- 06 COMPLETE UNFINISHED TERRACE
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- 13 NEW GLAZING TO ENCLOSE SPACE
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LEGEND

- W - WINDOW
- EX - EXISTING PART FINISH
- PP - PAINT FINISH
- BL - FRAMELESS GLASS BALUSTRADE
- EX - EXISTING



Checked	Y/T/L	Scale	1 : 200@A3
Drawn	J.	Project No.	202223

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Drawing
GROUND FLOOR PLAN

Drawing No.	Issue
DA12	2

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1 FIRST FLOOR PLAN
DA13 Scale: 1 : 200

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LEGEND

- W - WINDOW
EX - EXISTING PAINT FINISH
PF - PAINT FINISH
BL - FRAMELESS GLASS BALUSTRADE
EX - EXISTING



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Drawn	JL	Project No.	202223

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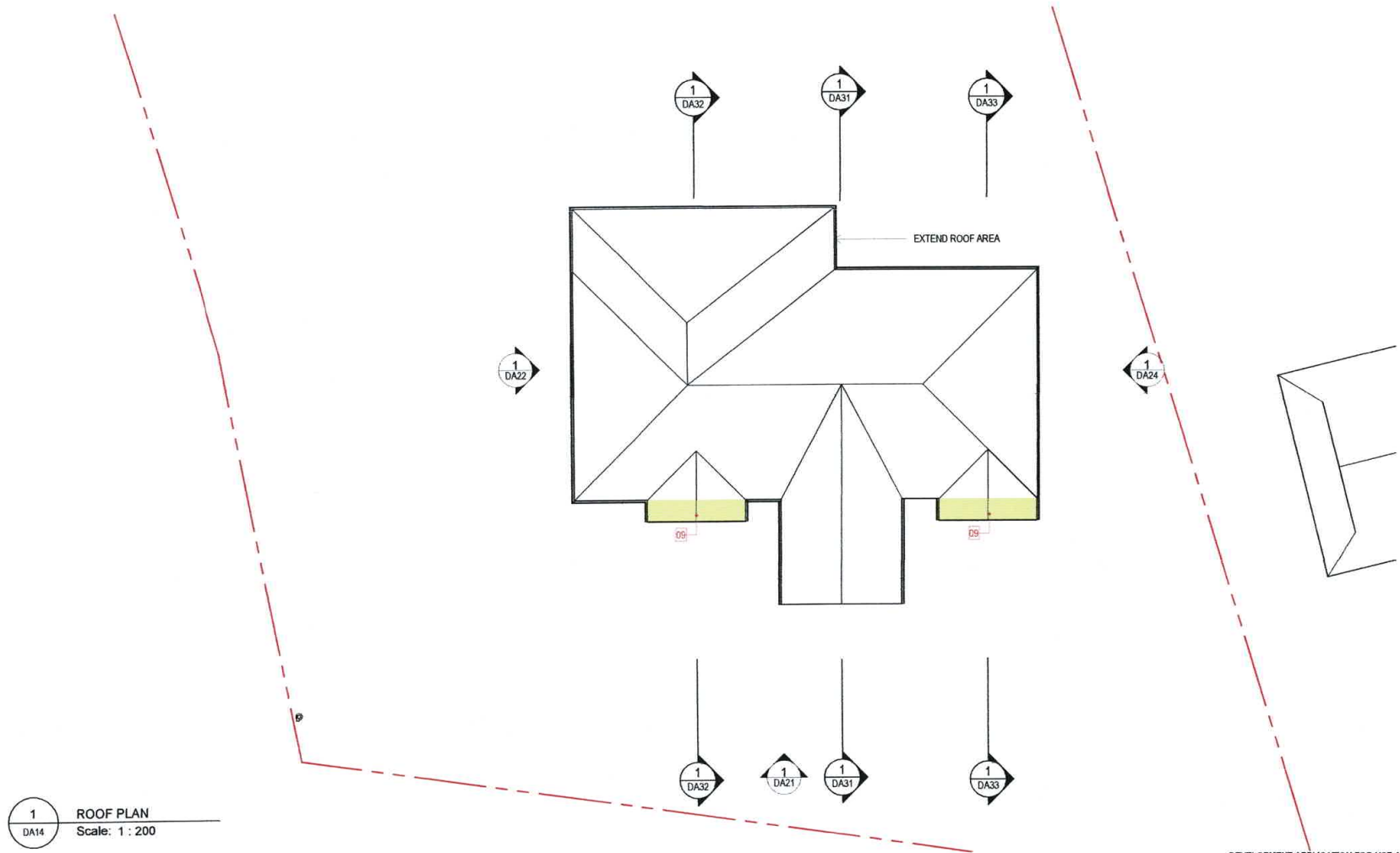
DEVELOPMENT APPLICATION FOR USE AS
SINGLE DWELLING AND MINOR BUILDING WORKS

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9 KARA CRESCENT BAYVIEW NSW
2104

Drawing
FIRST FLOOR PLAN

Drawing No.	Issue
DA13	2

10/03/2025 2:21:09 PM



1
DA14
ROOF PLAN
Scale: 1 : 200

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LEGEND

- W - WINDOW
EX - EXISTING PAINT FINISH
PF - PAINT FINISH
BL - FRAMELESS GLASS BALUSTRADE
EX - EXISTING



Checked	YTL	Scale	1 : 200@A3
Drawn	JL	Project No.	202223

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DEVELOPMENT APPLICATION FOR USE AS
SINGLE DWELLING AND MINOR BUILDING WORKS

Project
9 KARA CRESCENT BAYVIEW NSW
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Drawing
ROOF PLAN

Drawing No.	Issue
DA14	2

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Issue	Amendment	Date
1	Issue for Development Application - Request for Further Information	31.01.2025
2	Issue for Development Application - Request for Further Information	10.03.2025

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- EX - EXISTING

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Drawn	Author	Project No.	202223

DEVELOPMENT APPLICATION FOR USE AS SINGLE DWELLING AND MINOR BUILDING WORKS

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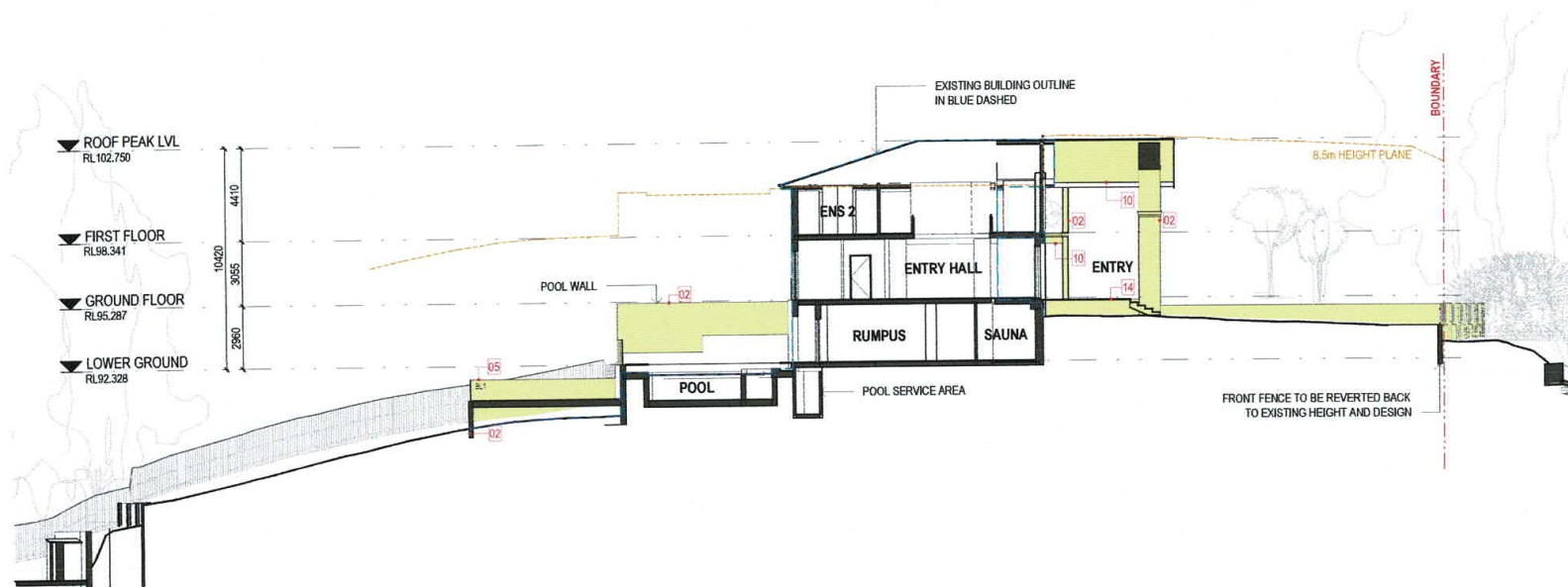
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9 KARA CRESCENT BAYVIEW NSW
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Drawing
FRONT FENCE ELEVATION

Drawing No.	Issue
DA25	2

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1 SECTION AA
DA31 Scale: 1 : 200

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Issue	Amendment	Date
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LEGEND

- W - WINDOW
- EX - PF - EXISTING PAINT FINISH
- PF - PAINT FINISH
- BL1 - FRAMELESS GLASS BALUSTRADE
- EX - EXISTING

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Drawn	JL	Project No.	202223

DEVELOPMENT APPLICATION FOR USE AS SINGLE DWELLING AND MINOR BUILDING WORKS

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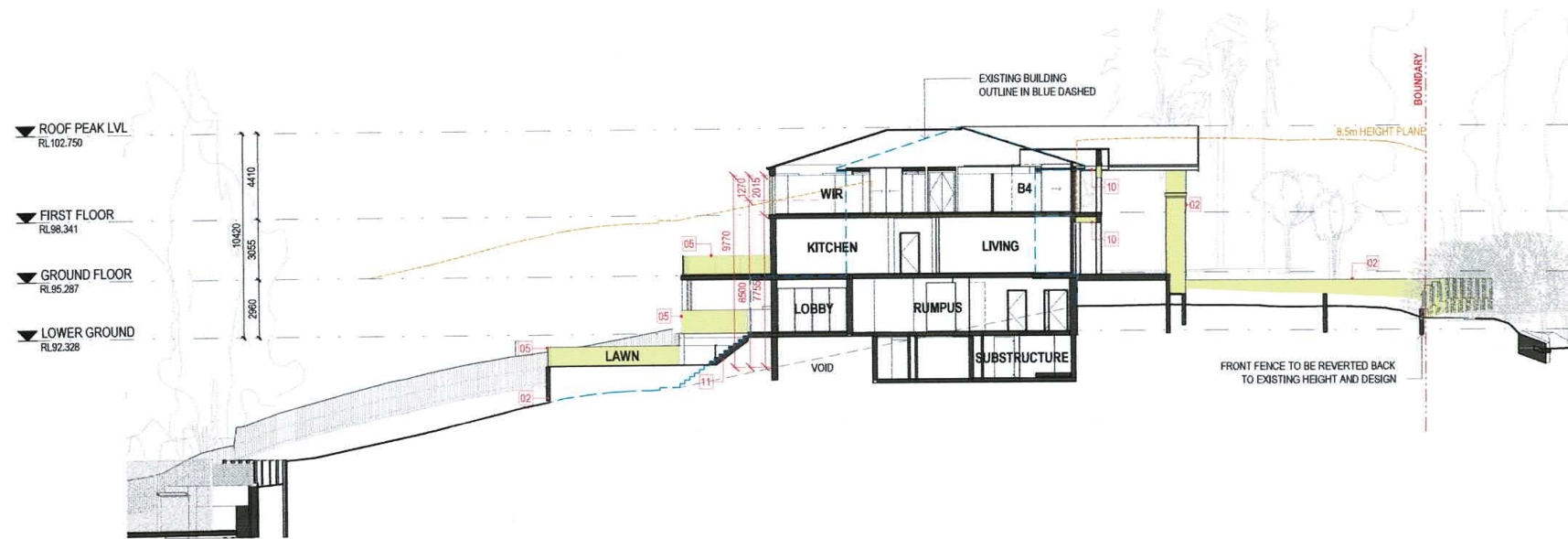
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9 KARA CRESCENT BAYVIEW NSW
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Drawing
SECTION AA

Drawing No.
DA31

Issue
3

16/03/2025 2:21:17 PM



1 SECTION BB
DA32 Scale: 1 : 200

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Issue	Amendment	Date
1	Issue for Development Application - Request for Further Information	10.03.2025

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- W - WINDOW
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PF - PAINT FINISH
BL - FRAMELESS GLASS BALUSTRADE
EX - EXISTING

DEVELOPMENT APPLICATION FOR USE AS
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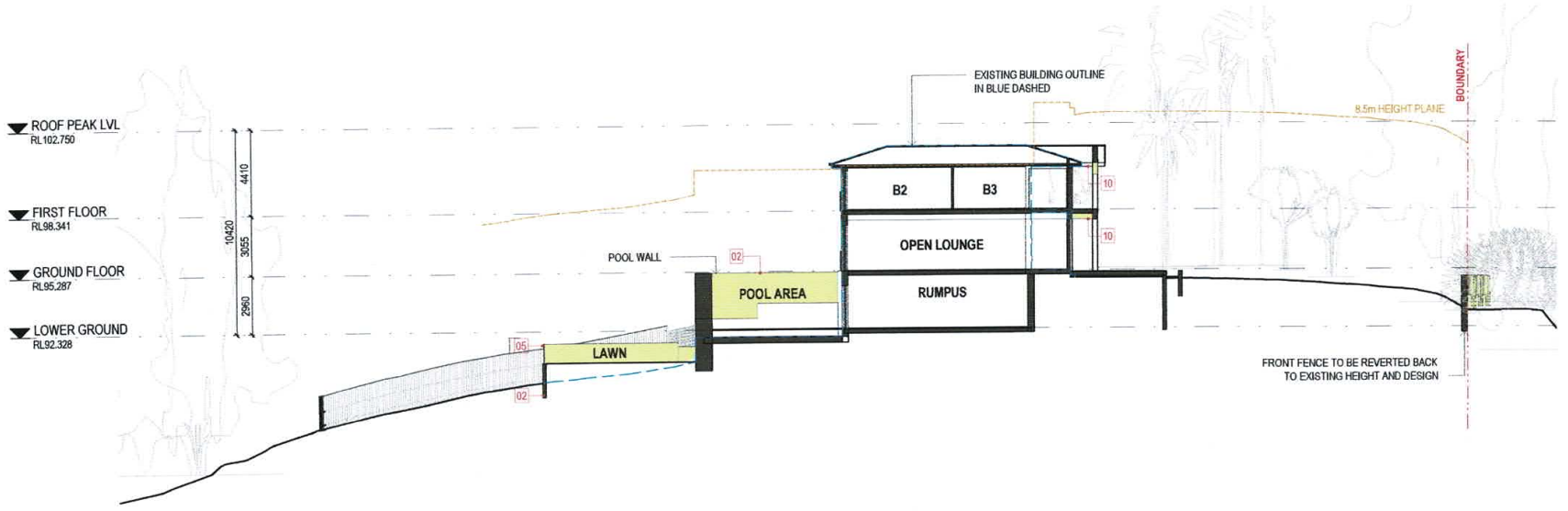
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Drawing
SECTION BB

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Drawn	JL	Project No.	202223

Drawing No.	Issue
DA32	1

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1 SECTION CC
DA33 Scale: 1 : 200

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1	Issue for Development Application - Request for Further Information	10.03.2025

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- W - WINDOW
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DEVELOPMENT APPLICATION FOR USE AS SINGLE DWELLING AND MINOR BUILDING WORKS

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Drawing
SECTION CC

Checked	YT	Scale	1 : 200@A3
Drawn	JL	Project No.	202223

Drawing No.	Issue
DA33	1

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ITEM 3.2	DA2024/0891 - 12-14 ROCK BATH ROAD PALM BEACH - DEMOLITION WORK AND CONSTRUCTION OF A DWELLING HOUSE WITH A SWIMMING POOL, INCLUDING ASSOCIATED SITE WORKS
-----------------	---

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment.

RECOMMENDATION

THAT Council as the consent authority **approves** Development Consent to DA2024/0891 for demolition work and construction of a dwelling house with a swimming pool, including associated site works on land at Lot 289 DP 16362 & Lot 290 DP 16362, 12 - 14 Rock Bath Road PALM BEACH, subject to the conditions set out in the Assessment Report.

Reporting manager	Adam Richardson
TRIM file ref	2025/227921
Attachments	1 Assessment Report 2 Site Plan and Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0891
Responsible Officer:	Andrew Martin – External Town Planning Consultant
Land to be developed (Address):	Lot 289 DP 16362, 12 - 14 Rock Bath Road PALM BEACH NSW 2108 Lot 290 DP 16362, 12 - 14 Rock Bath Road PALM BEACH NSW 2108
Proposed Development:	Demolition work and construction of a dwelling house with a swimming pool, including associated site works.
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	Northern Beaches Development Determination Panel (DDP)
Land and Environment Court Action:	No
Applicant:	Darren Paul Harvey
Application Lodged:	9 July 2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	First Round - 17 July 2024 to 31 July 2024 Second Round - 27 February 2025 to 13 March 2025
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 6,646,464.00

EXECUTIVE SUMMARY

This development application seeks consent for the demolition of existing structures and construction of a dwelling house including a swimming pool. Whilst an application for a new dwelling, the proposal retains part of the existing garage structure adjacent to the eastern boundary. Part of the existing external garage wall is located on 10 Rock Bath Road Palm Beach. No work is proposed to the wall located on the neighbouring property.

The application is referred to the Northern Beaches Development Determination Panel (DDP) at the request of the Executive Manager of Development Assessment. The site has the benefit of a Development Consent for a new dwelling which is not dissimilar to that subject of this assessment, however that DA is subject an application seeking judicial review of the decision to grant the development consent in Class 4 of the Land and Environment Court.. This DA is to be assessed as a fresh application essentially as if DA2023/0342 issued on the 13 December 2023 had never been made.

The development application was notified upon lodgment for a period of fourteen (14) days. The amended application was also re-notified for a period of fourteen (14) days. A total of three (3) submissions were received. An amended application was received during the assessment process which provided additional information as

opposed to amending the actual proposal (i.e. the design was not altered and as such a reference to the 'amended scheme' is simply a reference to the 'as lodged' scheme supported by additional information). The amended application provided updated site analysis information and height assessment as well as a response to view loss concerns. The amended application included a written response from the owner's consultant town planner and detailed view loss assessment modelling. The applicant's view loss modelling undertaken by Veew Studio compared the initial view loss information and modelling information that was submitted with the DA and the modelling prepared by Urbaine for the owners of 10 Rock Bath Road Palm Beach, which were presented as part of an objection to the development. The applicant's planning consultant had demonstrated that some of the objector's view impact images prepared by Urbaine were not representative of the extent of view impact and hence an updated view loss report was prepared.

The concerns raised in the recorded objections are addressed under the 'submissions' section of this report. The primary concerns raised were in relation to view loss; non-compliance with front, side and rear setbacks; ability to retain existing garage structure; geotechnical issues; coastal issues (cliff instability risks); adverse amenity impacts in relation to view loss.

The site was inspected, and all reports and plans have been reviewed. The proposal is considered to be acceptable (noting that the consent authority is not compelled to strictly apply DCP controls and is to apply those controls in a flexible manner under 4.15 3A (b) of the EP&A Act 1979) based on the following:

- Satisfies the objectives of the C4 Environmental Living zone
- Satisfies the objectives of the Pittwater Local Environmental Plan 2014 (PLEP)
- Maintains appropriate side and rear setbacks due to the proposals ability to provide acceptable residential amenity between all adjoining properties
- Provides acceptable side building envelopes having regard to the constraints and context of the site.
- Provides 10 Rock Bath Road Palm Beach with acceptable residential amenity
- Maintains acceptable view sharing between the subject site and 10 Rock Bath Road noting that the views of Palm Beach, North Palm Beach, Pittwater, headland and lighthouse are across a side boundary. Pacific ocean views are retained from all rooms within 10 Rock Bath Road Palm Beach
- Conforms to the relevant requirements and development standards under the Pittwater Local Environmental Plan 2014 such as the 8.5m maximum height
- The proposed dwelling demonstrates general compliance with the built form controls under the Pittwater 21 Development Control Plan such that the dwelling has an appropriate presentation to the street and the waterway in keeping with low scale residential development
- The development application is accompanied by the required technical reports and certified forms Notwithstanding the fact that the site is located in Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map and on Hazard Zone 1 (H1) on the Geotechnical Hazard Map

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

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 development consent for the demolition (part retention of garage) and construction of a dwelling house including a swimming pool. The works will be noted in detail below.

- Demolition of existing structures (exception of part of the existing garage as notated in Red on Drawings DA02, 03 and 04.
- Construction of a dwelling house with four levels with internal stairs and lift.
Lower Ground Floor: Rainwater tank, rumpus room, storeroom, terrace with spa.
Ground Floor: Six (6) bedrooms with ensuites, study area, laundry and storeroom.
- Level 1: Entry level with replacement pedestrian bridge, and new living area, family room, dining room, kitchen, study and bathroom. This level will also include a suspended swimming pool and terrace/courtyard.
- Level 2: Master bedroom with ensuite and outside jacuzzi.
- Roof Level: terraced roofing with green roof and planter boxes.

Existing double garage to be retained with slight amendments and existing driveway. Landscaping and associated drainage works.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

- Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living Pittwater Local Environmental Plan 2014
- Clause 7.2 Earthworks PLEP 2014 Clause 7.5 Coastal risk planning PLEP 2014–
- Clause 7.6 Biodiversity protection PLEP 2014
- Clause 7.7 Geotechnical hazards PLEP
- Pittwater 21 Development Control Plan - B3.4 Coastline (Bluff) Hazard
- Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve

- Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management
- Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
- Pittwater 21 Development Control Plan - C1.3 View Sharing
- Pittwater 21 Development Control Plan - C1.5 Visual Privacy
- Pittwater 21 Development Control Plan - D12.1 Character as viewed from a public place
- Pittwater 21 Development Control Plan - D12.5 Front building line
- Pittwater 21 Development Control Plan - D12.6 Side and rear building line
- Pittwater 21 Development Control Plan - D12.8 Building envelope

SITE DESCRIPTION

Property Description:	Lot 289 DP 16362 , 12 - 14 Rock Bath Road PALM BEACH NSW 2108 Lot 290 DP 16362 , 12 - 14 Rock Bath Road PALM BEACH NSW 2108
Detailed Site Description:	The subject site consists of two (2) allotments located on the northern- eastern side of Rock Bath Road. The subject site is legally identified as Lots 289 and 290 within Deposited Plan 16362, No. 12-14 Rock Bath Road, Palm Beach. The site is irregular in shape with a frontage of 39.625 metres with an average depth of 29.925 metres. The site has a surveyed area of 1163.3m². The site is located within the C4 Environmental Living zone under the provisions of the Pittwater Local Environmental Plan 2014 and accommodates a dwelling house and double garage, with a pedestrian bridge for access which links the street to the dwelling. The site topography slopes downward from the south-west to the north-east. The site consists of a steep coastline cliff with heavy vegetation and rocks below. The northern part of the site includes a terraced lawn area with vegetation (i.e. shrubbery/trees). Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by multi- storey/terraced housing due to the slope topography of the area, within a landscaped/coastal setting. Existing approved development immediately to the south of the site is three (3) storeys and to the north the dwelling is two (2) storeys.



Map 1: Development sites in Red known as 12 -14 Rock Bath Road Palm Beach

SITE HISTORY

A search of Council's records has revealed that the land has been used for residential purposes for an extended period of time.

Previous Application History

N0271/12

Development application for the addition of a double carport. Approved on 8 November 2012.

DA2018/1749

Development application for the construction of a garage. Approved on 15 January 2019.

DA2022/0793

Development application for the construction of a swimming pool and associated works. Approved on 31 August 2022.

DA2023/0342

Development application for the construction of a new dwelling and swimming pool and associated works. Approved on 13 December 2023.

Current Application History

The development application was notified for a period of fourteen (14) days, as stated within Council's Community Participation Plan (CPP), with three (3) submissions received (Submissions from Boston Blyth Fleming, Tulloch and Hall).

As a result of the initial notification the owners of 10 Rock Bath Palm Beach through Boston Blyth Fleming submitted a report titled "View Impact Assessment" prepared by Urbaine Design Group (herein referred to as the Original Urbaine report which was also referenced in the objection by Boston Blyth Fleming).

The Original Urbaine report was reviewed by the applicant's planning consultant and found to be erroneous in certain areas. Boston Blyth Fleming were afforded the opportunity to amend the Original Urbaine report in the

event they agreed the report was indeed erroneous in some areas. Following a review Urbaine produced an updated objection report dated 13 December 2024 herein referred to as the 'Urbaine Report' to support the view loss claims made by Boston Blyth Flemming. The applicant's consultants Veew Studio then prepared a review of the Urbaine Report Rev B dated 17 February 2025.

Council advised the applicant of the issues in a RFI letter dated 3 December 2024 which included the following:

1. Demonstrate that the proposal complies with Clause 4.3 Height of Building numerical standard under Pittwater Local Environmental Plan
2. Provide a more detailed context analysis.
3. Provide updated geotechnical engineering report that refers to the correct plans
4. Provide further assessment dealing with the Tenacity v Warringah Council view loss planning principles

The applicant submitted the following additional information in response to the RFI letter issued on the 3 December 2024:

- View loss assessment by Veew Studio Rev B dated 17 February 2025 which compares the Urbaine Report with the modelling analysis undertaken by Veew Studio.
- Updated plan package that included a more detailed site analysis and context assessment
- Roof plan overlay on the survey plan with spot measurements demonstrating height compliance
- Updated letter by Crozier Geotechnical Consultants Engineering stating that the original report remains valid because the current plans are "unchanged from the April Issue". A condition of consent is imposed requiring the report to be formally updated regardless.
- Cover letter by the applicants town planners dealing with view loss under Tenacity Consulting v Warringah Council

Upon re-notification of the amended application, Boston Blyth Fleming maintained their objection to the application based on the findings in the Urbaine Report.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

(EP&A Regulation 2021)	<u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested, refer to 'Site History' for further detail. <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 recommended condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. All BCA compliance matters will be dealt with at the construction certificate stage. <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 recommended 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 recommended condition of consent.
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Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was publicly exhibited in the first round of notification from the 17 July 2024 to 31 July 2024 and then in a second round of notification from the 27 February 2025 to 13 March 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 process council is in receipt of three (3) submissions from the first round and one (1) submission in the second round.

Name:	Address:
Bill Tulloch for the owners of 16 Rock Bath Road Palm Beach	Po Box 440 MONA VALE NSW 1660
BBF Town Planners on behalf of owners of 10 Rock Bath Road Palm Beach includes Urbaine Design Group on behalf of the owners of 10 Rock Bath Road Palm Beach	1/9 Narabang Way BELROSE Urbaine Design Group 19c/74 The Corso Manly NSW 2095NSW 2085
Mr Andrew and Elizabeth Hall	18 Rock Bath Road PALM BEACH NSW 2108

In response to the initial design proposal over the course of the first notification period three (3) submissions were received, which raised a number of concerns.

The amended plans were notified and one (1) objection was received to the proposal from Boston Blyth Fleming dated 13 March 2025

The submissions are addressed below:

Boston Blyth Fleming for the owners of 10 Rock Bath Road Palm Beach***The proposal is inconsistent with the desired future character of the Palm Beach Locality***

Design is generally compliant with the built form controls of the LEP and DCP and as demonstrated in plan DA 22 Issue A limits excavation to a reasonable level. The proposed dwelling is compliant with the building height standard of 8.5 metres. The subject site consists of two (2) allotments where the dwelling has been designed to step down the site moving in a south – north direction down the site. We note that the land within the site near the existing low metal fencing slopes away substantially. The immediate context to the south includes three (3) storey dwellings and the subject dwelling proposes a third storey for a very limited area of the building footprint. From the street the dwelling presentation is compatible noting that the retention of the garage structure offers a familiar streetscape presentation. The bulk, scale and height is compatible with the adjoining development as demonstrated in plan DA 15 and DA 18 (plans show stepping effect). The three (3) storey element occurs for about ¼ of the eastern elevation thus affects a limited area.

The proposal incorporates dark/earthy colours and materials such as sandstone to aid in complementing the Pittwater natural area and is considered to provide acceptable visual interest from the public domain. The extent of excavation is approximately 160.5m³ as demonstrated on the submitted excavation plan. To address any concerns a Dilapidation Report for 10 Rock Bath Road has been obligated through recommended condition to be undertaken prior to commencement of works on site.

The proposed dwelling will sit below the two (2) properties to the south No. 10 and No. 8 Rock Bath Road. The desired future character of Palm Beach requires development to be primarily of two (2) storeys. It is also that the upper and lower levels are not large in size and accommodate a singular space (i.e. master bedroom or living space). In this particular instance, a variation in the number of storeys is acceptable as the dwelling generally fits within the required side building envelope, exhibits compliance with the landscaped open space and 8.5m maximum building height and provides for acceptable building separation, with limited amenity impacts. Unlike some typical side boundary interfaces the subject proposal has limited exposure to 10 Rock Bath Road with regard to elevated private open space.

Council's Biodiversity Officer and Landscape Officer has reviewed the proposal, subject to conditions and has raised no concerns regarding the above concern. It can be considered that all relevant documents relating to landscaping and biodiversity have been submitted, for this particular application.

The proposal is inconsistent with the objectives of the C4 Environmental Living zone

This has been addressed within the main body of the report. The proposal achieves the objectives of the C4 Environmental Living zone.

As mentioned above, the proposal complies with Clause 4.3 Height of Buildings and achieves the objectives of the C4 Environmental Living zone under the Pittwater LEP 2014. Where the proposal seeks to vary a non-statutory control under the Pittwater 21 DCP, a merit assessment is conducted against the objectives of that clause. The proposal generally complies with these controls, any non-compliances (front setback, side setback and envelope and existing garage structure) have been assessed against the relative objectives and have been found to be acceptable in the circumstances.

The submitted Landscape Plan includes vegetation such as ground covers, shrubbery, palms and screen planting (Lily Pilly - height capable of 2.0 metres - 4.0 metres) which will upon maturity visually soften the built form and aid in visual privacy.

Landscaping along the western boundary (front boundary) includes various forms of vegetation including new tree planting, subject to recommended conditions, in addition the landscaping within the road reserve shall be protected and will also aid in visual softening and landscaping.

The proposal is inconsistent with the Chapter 2 – Coastal Management considerations of State Environmental Planning Policy (Resilience and Hazards) 2021

The applicant has submitted the relevant coastal and geotechnical reports that have been reviewed by Council internal offices and is supported subject to conditions contained within this report.

The site is located within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the proposed development. The subject site is also shown to be affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map and on Hazard Zone 1 (H1) on the Geotechnical Hazard Map in Pittwater LEP 2014. As such, the proposal was accompanied by both a Geotechnical Assessment Report and Coastal Engineering Report which was reviewed by Council's Coastal and Development Engineering Teams. These specialist disciplines have included recommended conditions to ensure that the development incorporates the recommendations made within these reports. In addition, signed Forms - Geotechnical Risk Management for Pittwater Form No. 1 and No. 1A have been included. These forms are essential to verify that the author of a Geotechnical Report is a Geotechnical Engineer or Engineering Geologist (in this instance a Geotechnical Geologist) as defined by the "Geotechnical Risk Management Policy for Pittwater". Where a coastal bluff area is included, then it is verified that the author of the coastal component is a Coastal Engineer (this is the case). Refer to Clause 7.5 and Clause 7.7 for further detail. The proposal does not extend into the foreshore building area and complies with Clause.

The application does comply, subject to conditions, with the requirements of the coastal policies and relevant geotechnical clauses of the Pittwater LEP 2014 and Pittwater 21 DCP, as well as those contained in SEPPR&H, as stated by Council's Coastal Officer.

Insufficient information has been provided to demonstrate that the development will not compromise the stability of the coastal bluff area and adjoining land

The application is supported by a Coastal report that has been reviewed by Council's internal officers and deemed to be acceptable. On this basis the application is supported subject to conditions of consent (see internal referral comments).

Does not satisfy and address Clause C1.3 of the PDCP.- View Loss

The owners of 10 Rock Bath Road rely on a view loss report titled "Visual Impact Assessment" dated 13th December 2024 prepared by Urbaine Design Studio (the "Urbaine Report"). The Original Urbaine Report has been reviewed by the applicant's visual impact consultant (Veew Studio) and there are alleged inaccuracies (issue relates to the fact that the 50mm camera lens removes some of the peripheral view therefore accentuating the impact). Veew Studios own report on page 5 acknowledges the fact that 50mm can be used but we accept 35mm lands in the middle of the 24mm, 35mm and 50mm lens available to complete view impact assessments.

Both visual impact reports have been reviewed, and the differences are minor. The difference between the reports seems to be related to use of either a 35mm camera or a 50mm camera. Because the images are very similar, we have used the Urbaine Report images as the baseline to assess the DA because the Urbaine Report images are showing the development to have slightly more impact. Based on our analysis and site inspection we are of the opinion that the view loss is not sufficient to refuse the application or require further amendments. The more analysis of the images is contained elsewhere within this report.

This report specifically considers the relevant provisions prescribed by Clause C1.3 of the PDCP which are non-statutory provisions and the Tenacity v Warringah Council planning principles which provides a 4 step process when assessing view loss. In this case 10 Rock Bath Road has uninterrupted views of the Pacific Ocean from numerous rooms over all levels. The proposal does not affect iconic views and provides an acceptable view of North Palm Beach, Pittwater and the headland/lighthouse. The view which is affected is across a side boundary which is to be given determining weight. It is considered that the proposal achieves view sharing and satisfies clause 1.3 Controls and Outcomes and is reasonable in the circumstances.

Does not satisfy 12.5 Front building line of the garage structure and does not comply with the side setback under Clause 12.6 . As a consequence, the proposed setbacks and dwelling/ garage design result in unacceptable privacy and amenity impacts

D12.5 Front Building Line

The proposal balances the need to provide a reasonable building footprint with the front setback control. The site slopes aggressively to the east and therefore a limited area is available between the eastern and western boundaries. The front setback concession is supported as it facilitates a setback that is generally consistent with the adjoining development to the south along Rock Bath Road. Views are preserved to the extent necessary. Compliance with the control would see the built form move to the east and cantilever out across the steep land which would have greater impacts on views to 10 Rock Bath Road. No vegetation is to be removed as a result of the variation. The scale and density is appropriate for the streetscape and the surrounding natural environment. The PDCP allows for variations to front setbacks and in this case the proposal is justified having regard to the outcomes of the control as set out in D12.5 of the PDCP. We note specifically that the PDCP contemplates garaging breaching the numerical setback control and states "Where carparking is to be provided on steeply sloping sites, reduced or nil setbacks for carparking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable". Whilst breaching the front setback the existing garage is considered acceptable and fits within the streetscape.

D12.6 Side Setback

The side setback of the existing garage are existing and considered to be acceptable given the arrangement of the sites and how the dwelling at 10 Rock Bath Road functions with regard to private open space. The pool functionality and privacy is not compromised and the dwelling at 10 Rock Bath Road has a range of options when it comes to outdoor space.

The setback has no significant impact on privacy and the zero side setback has existed for a considerable period of time. Further the proposed building very much focusses its private open space (POS) areas away from 10 Rock Bath Road. This design feature of the subject proposal represents a positive outcome for 10 Rock Bath Road in terms of overall privacy and amenity as the interface comprises highlight windows and no open terraces or outdoor decks directly facing the side boundary. This arrangement is typically not the case with waterfront properties. The subject proposal orientates its POS areas away from the boundary and there is unlikely to be a more private interface offered to 10 Rock Bath Road than the one proposed because of these sensitive design features. The design has been able to achieve this outcome because the site is two (2) allotments as ordinarily a dwelling on a single lot would not have flexibility.

A merit assessment has been undertaken of the proposal dealing with the side setback controls noting that the proposal generally complies with the building envelope controls (apart from small section of the proposed roof). The landscaped open space and side/rear setbacks comply numerically (with exception of the existing garage structure). The proposed front setback is however numerically non-compliant, refer to 'Clause 12.5 Front Building Line' for further discussion. There are no controls for wall height under the Pittwater 21 DCP.

Refer to Clause C1.5 Visual Privacy for a detailed discussion on visual privacy within this report. To ensure that the development does not impact on the acoustic privacy of surrounding residential properties, a condition for the swimming pool / spa motors to not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary. Overall, the proposal is considered to provide acceptable; spatial separation that would result in noise levels that would be considered reasonable within a residential environment.

No justification to keep the existing garage structure

There is no reason for this assessment to require demolition of the garage structure and in accordance with ESD principles the applicant is entitled to demolish certain components and retain the existing building where specified which in this case are indicated in red on the floor plans with the notations to retain existing.

Objection - Tulloch

Non-compliance with conditions of consent issued on 14 December 2023 on DA 2023/0342, on the subject site

As detailed below the new DA is recommended for approval subject to conditions which will at a minimum offer an equal level of performance as DA2023/0342 approved on 13 December 2023.

Council's internal specialist staff have reviewed the subject application and found it to be satisfactory subject to conditions attached to this report.

Construction Traffic Management Plan. [CTMP]

Condition 15 will be applied to any new consent therefore ensuring that the subject DA offers the same level of protection to neighbours as DA 2023/0342 issued on 13 December 2023.

Privacy

As stated by the objector Condition 16 of DA2023/0342 requires privacy screen within 16[b] that has not been provided.

16. **Amendments to the approved plans**

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

a) South-eastern Wall: The south-eastern wall of the garage and subfloor structure shall be confirmed by survey whether any portions are located on the common property boundary. Unless owners consent is obtained from No. 10 Rock Bath Road Palm Beach, any structures on the common boundary are to be retained and not demolished.

b) Internal Stairwell: The stairwell window to the northern end of the dwelling (WG-06) shall consist of an external fixed privacy screen for the full height of the windows. The privacy screen shall be of fixed opaque panels or angled louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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.

The objector further states the following:

Drawing DA 16 fails to show the outcomes to the full extent of this glazed wall. It requires a privacy screen for the 'full height of the windows', not 'to the upper banks of glass' depicted on DA 16. My clients ask that this matter is amended on the drawings for clarity.

Drawing DA 07, Section DD shows a highly elevated Terrace with inadequate privacy screen to ensure there is no direct overlooking across a side boundary directly into my client's property. My clients ask Council to impose a condition of a 1.7m high privacy screen to the northern edge of this highly elevated Terrace.

It is considered that the screen to the stairwell glazing facing north (WG 06) has not been complied with on the drawings as they stand. A full screen to the entire window is required as the landing of the stair remains elevated above natural ground level at 3 metres from the boundary (see condition 15a).

In relation to the terrace screen this is not considered to be necessary as the terrace has a small spa with limited area inside the spa zone for congregating. The terrace area to the south of the spa is set back from the boundary and is a relatively small terrace when the available area outside of the spa safety fence is considered. The standing position outside the spa safety fence is at least 5 metres from the boundary unlike the area at the bottom of the internal stair which is 3 metres. Potential for large gatherings is limited inside or outside of the spa safety fence.

Objection - Hall

The following is stated by the objector:

Our objection is to the proposed use of the existing dilapidated and largely unformed driveway for construction access. This access is described in the Construction Management Plan. The Construction Management Plan states:

An unformed road lies immediately adjacent to the site on the western side. This unformed road provides access to other properties. The unformed road is very steep with a rough brick paved surface. Smaller construction vehicles will be able to use this road for lower site access. Vehicular access to the site will be via either:

- 1) Florida Road*
- 2) Whale Beach Road*
- 3) Unformed Road west of site (light vehicles only)*

No. 12-14 does not currently use the existing unformed road and has an existing access driveway and crossover to the corner of Whale Beach Rd and Florida Road. This driveway is entirely suitable for a construction access point.

The use of the existing driveway on the unformed road for construction has the potential to prevent the construction of the new access driveway to No 16 and 18 and seriously impede any construction works that we may undertake. We request that Council condition any development approval to require construction access to be exclusively via the existing driveway and crossover to 12-14 Rock Bath Road. For reference Council made this condition as part of their Notice of Determination dated 14/12/2023 for the previous DA 2023/0342. Condition 46 was as follows:

'46. Not to impede access to No 16 and No 18 Rock Bath Road

Construction vehicles and construction materials are not to be stored or placed in such a manner so as to impede access to the properties that use and or rely upon the unformed part of Rock Bath Road to the North West of the subject site throughout the entirety of the demolition and construction phase. No construction or demolition access, materials, excavated materials or movement of workers, vehicles or machinery shall occur on the unformed part of Rock Bath Road that services No. 16 and No. 18 Rock Bath Road, Palm Beach.'

The proposed development is a dwelling house and is not considered to be traffic generated development, a Construction Traffic Management Plan (CTMP) has been required through recommended condition to be prepared by a Transport for NSW accredited person and submitted to, and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate. This is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. In addition, Council's Development Engineer and Riparian Lands Officer have reviewed the proposal and have included conditions to mitigate stormwater runoff and erosion and sediment management to mitigate ocean contamination. Concerns have been raised in regard to the existing rock structures being fragile in nature, refer to Geotechnical comments above.

It is intended to apply condition 46 wording to the new consent which will address the concerns raised by the neighbours to the north of the subject site. The Traffic Management Plan can be updated accordingly prior to issue of a Construction Certificate.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<i>Supported, subject to conditions.</i> <u>Officer comments</u> Council's Landscape Referral is assessed against the Pittwater Local Environment Plan (PLEP) clause C4 zone Environmental Living, and the following Pittwater 21 Development Control Plan (PDCP) controls (but not limited to): B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; D12 Palm Beach Locality. The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone. The application is for demolition of existing structures and the construction of a new dwelling, swimming pool and external works. An Arboricultural Impact Assessment (AIA) and Landscape Plans are submitted for consideration by Landscape Referral. The AIA report recommends the removal of one native Banksia the subject of development impact and no concerns are raised subject to tree replacement. Exempt species are identified in the AIA report within the property, and these do not require Council consent for management or removal. All trees and vegetation within adjoining properties shall be preserved and protected. The submitted Landscape Plans provide for an enhanced landscape outcome and the proposal is consistent with the PDCP control provisions for minimum landscape area. The landscape proposals include tree and other planting into natural ground and additionally on structure, to enhance the landscape setting. Any new planting is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants.

	The proposal is therefore supported. Planner Note: The subject site is not mapped under 'Littoral Rainforest; under the SEPP (Resilience and Hazards) 2021 but is subject to Clause B4.17 Littoral Rainforest - Endangered Ecological Community under the Pittwater 21 Development Control Plan. Both the Aboriginal Heritage Office and Council's Biodiversity Team have reviewed the proposal.
NECC (Bushland and Biodiversity)	<i>Supported, subject to conditions</i> <u>Officer comments</u> The comments on this referral relate to the following applicable controls and provisions: State Environmental Planning Policy (Resilience and Hazards) 2021 - Coastal Environment Area Pittwater LEP 2014 - Clause 7.6 - Biodiversity Protection Pittwater 21 DCP - Clause B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor
	The proposal would take place in a heavily disturbed site and would require the removal of all vegetation on site. An Ecological Impact Assessment (Land Eco Consulting, May 2024) has been prepared and submitted with the application. The report establishes that parts of the subject site are located within the Department of Climate Change, Energy, the Environment and Water (DCCEE) Biodiversity Values Map (BV Map) when in fact the trigger for the subject land would be the area clearing threshold. The subject site is not currently mapped in the BV Map. The assessment concludes that no significant impacts would take place and that the proposal does not trigger entry into the Biodiversity Offsets Scheme. No objections are raised in relation to this conclusion. However, high priority weeds have been found on site and conditions will be recommended to ensure their removal and ensure that active management is in place. Furthermore, the proposal has been submitted with a Landscape proposal (Aspect Designs, November 2023) which is found to be consistent with applicable controls and provisions and includes two replacement <i>Banksia integrifolia</i> as well as an additional two trees including a <i>Leptospermum laevigatum</i> and a <i>Backhousia myrtifolia</i>. Additionally, native shrubs and groundcovers are consistent with the vegetation present in the area. The development is designed, sited and will be managed to avoid any significant adverse environmental impact. The proposal is therefore supported.
NECC (Coast and Catchments)	<i>Supported, subject to conditions.</i>

	<u>Officer comments</u> Proposed Development Demolition of an existing dwelling and construction of a four-storey dwelling and swimming pool/spa This application was assessed in consideration of: • Supplied plans and reports; • Coastal Management Act 2016 • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.10, 2.11 & 2.12) • Relevant LEP and DCP clauses State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the SEPP apply for this DA.
	Comment On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by aSquare dated June 2024 the DA satisfies the requirements under clauses 2.10, 2.11 and 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. Pittwater LEP 2014 and Pittwater 21 DCP The subject site is also shown to be affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014. As such, the Geotechnical Risk Management Policy for Pittwater (Appendix 5, Pittwater 21 DCP) and the relevant B3.4 Coastline (Bluff) Hazard controls in P21 DCP will apply to new development of the site. Coastline Bluff Hazard Management A Geotechnical Report by Crozier Geotechnical Consultants dated June 2024 assessing coastline(bluff)/ coastal cliff or slope instability has been submitted with the DA. An impact assessment of the long-term coastal processes on the coastline (bluff)/ coastal cliff or slope instability, prepared by Horton Coastal Engineering dated 19 June 2024 has been appended with the Geotechnical Report. The report concluded the following: - The geotechnical engineer should consider these estimated rates in conjunction with an understanding of the particular nature of the cliff materials east of the site, their resistance to erosion, and potential failure planes related to geotechnical issues such as the joint spacing.

	- Coastal inundation is not a significant risk for the proposed development over a planning period of well over 100 years. Given this, and given that the geotechnical engineer has found that the development is at an acceptably low risk of damage from erosion/recession over a 100 year design life, the proposed development satisfies the requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 (Clauses 2.10 to 2.13), the Coastal Management Act 2016, Clause 7.5 of Pittwater Local Environmental Plan 2014, and Chapter B.4 of the Pittwater 21 DCP for the matters considered herein. As such, it is considered that the application does comply, subject to conditions, with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP. The proposal is therefore supported.
Traffic Engineer	<i>Supported, subject to conditions.</i> <u>Officer comments</u> Proposal Description: Demolition and Construction of a dwelling house with a swimming pool, including associated site works at 12-14 Rock Bath Road, Palm Beach. The Traffic team has reviewed the following documents: - Plans (master Set) - Revision A, designed by Sofairdesgn, dated May 2024 - The Statement of Environmental Effects prepared by Asquare Planning, dated June 2024 (reference number AP1803) It is noted that the proposed development is a revision of DA2023/0342 which was previously approved by Northern Beaches Council in December 2023. The only changes in the plans lodged for the new DA relate to the existing walls on the common boundary with No.8-10 which are now to be retained rather than demolished. It is noted that a CTMP has been provided. However, a more detailed CTMP addressing all the concerns raised within DA conditions will be required at CC stage. No traffic report has been provided. The existing double garage which can accommodate two cars has been retained. Although the traffic team still has concerns that the scale of the proposed development with 7 bedrooms and 9 bathrooms is such that generated parking demands are likely to exceed the required 2 spaces, the proposed two off-street car parking spaces meets the DCP requirement therefore there is no legislative basis to require additional parking. <u>Conclusion</u> Given the above the development is not opposed by the traffic team and can be supported subject to conditions. The proposal is therefore supported.
NECC (Riparian Lands and Creeks)	<i>Supported, subject to conditions.</i> <u>Officer comments</u>

	This application was assessed in consideration of: • Supplied plans and reports; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy The proposal must not significantly impact on the biophysical, hydrological or ecological integrity of the coastal environment, or the quantity and quality of surface and ground water flows that it receives. Appropriate sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established. The proposal is therefore supported.
Parks, reserves, beaches, foreshore	<i>Supported, no conditions required.</i> <u>Officer comments</u> The development site adjoins coastal bluff cliff face that is located downslope of the property. The proposed built footprint does not encroach into the Foreshore Building Line, in consideration of Pittwater Local Environmental Plan 2014, clause 7.8 – Limited Development in Foreshore Area. The area below the proposed footprint is maintained as cliff face and associated existing native vegetation. The development is not detrimental to the landscape character of the adjoining coastal bluff cliff face, and as such Parks, Reserves and Foreshores raise no concerns with the development proposal. The proposal is therefore supported.

Internal Referral Body	Comments
Road Reserve	Development engineering to review and provide conditions requiring application for Civil Works on the road reserve. Conditions of S138 approval to include standard conditions. The proposal is therefore supported.
NECC (Development Engineering)	<i>Supported, subject to conditions.</i> The proposal is for demolition works and construction of a new dwelling. The existing garage and vehicular crossing are to be retained. The proposal includes the reconstruction of the pedestrian access bridge from Rock Bath Road. No objections to approval subject to conditions as recommended.

External Referral Body	Comments
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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.
Aboriginal Heritage Office	<i>Supported, subject to conditions.</i> Reference is made to the proposed development at the above area and Aboriginal heritage. No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs) SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1374742S_03 dated 19 April 2024). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	72	72
Materials	N/A	-100

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 30 metres of a structure supporting an overhead electricity transmission line and/or within 5.0 metres 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.
- 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 proposal has been reviewed by Council's Coastal, Biodiversity and Riparian Lands Officers, who are all in support of the proposed works, subject to recommended conditions to ensure acceptable protection of the environmental factors of the site and surrounds. The Aboriginal Heritage Officer notes that there are no Aboriginal heritage issues for the proposed development.

However, a recommended condition has been included to ensure Aboriginal Heritage Protection, if any findings are to be discovered.

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 platform for members of the public, including persons with a disability,
 - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - iv) Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment

The proposal is unlikely to create unacceptable impacts to the foreshore or waterway areas. The design presents a form of development that will complement the surrounds by providing deep soil landscaped areas; and modulated faced and stepped design whilst utilising dark/earthy colours and sandstone elements. The design incorporates acceptable levels of articulation (assists with the effects of light and shade), aiding in the enhancement of the residential character and foreshore scenic quality of the locality. Deep glazing overhangs assist with reducing reflectivity and in this location do serve as an important architectural feature. The relevant cultural and built environment heritage matters have been assessed by internal officers as being acceptable so as to satisfy the objective. Recommended conditions are included to ensure that the protection to the environmental environment is to occur, to mitigate any adverse impacts.

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 has been adequately designed, subject to recommended conditions to respond to the environmental constraints of the site. In addition, the proposal is accompanied by a Coastal Engineering Report, which was reviewed by Council's Coastal Engineer as being satisfactory. Therefore, it can be considered that the proposed development is not likely to result in an increased risk of coastal hazards within the locality.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment

Council's Coastal Officer has reviewed the proposal. It is considered that if any relevant provisions of any certified coastal management program that applies to the land has occurred.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	Dwelling House: 8.5m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.5 Coastal risk planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

The C4 - Environmental Living objectives are addressed below:

To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.

Comment

The dwelling house and pool is deemed to satisfy the stated objective given that:

- The dwelling sits comfortably within its foreshore setting and will be surrounded by landscaped elements.
- The extent of excavation is considered to be within the acceptable range for a site that has varying levels and where the excavation and corresponding built form steps down along the site to the north.
- Glazing is protected by roof elements to reduce the dominance of glazed elements from other vantage points.
- Materials used are of dark/earthy colours and finishes including sandstone elements to complement the natural environment of Pittwater. Use of earthy materials and tones will aid in minimising the visual prominence and provide a design that is recessive when viewed from areas such as Palm Beach and the waterway.
- Stepped built form that is three (3) storeys for a limited area of the proposed footprint.
- Predominantly two (2) storey built form.
- Use of the current vehicle access and parking arrangement so as to minimise site disturbance
- Ability to position active private open space away from the common boundary with 10 Rock Bath Road which improves the amenity when compared to a more traditional arrangement of east facing balconies like that which exist at 10 Rock Bath Road.
- Limited impact on the ecological attributes of the site with relevant landscape and coastal officers supporting the application.
- Ability to provide an acceptable area between the proposed built form and the steep land to the east.
- Reduced overall built form when compared to two separate dwelling over two Torrens lots (consolidation condition applied).
- 8.5m compliant overall maximum height.
- Building envelope that principally complies with the envelop controls.
- Maintains adequate views to all surrounding properties.

The proposal has been reviewed by the relevant interdepartmental Officers. With regard to their respective assessments, the development is considered to be of low impact to the ecological, scientific or aesthetic values of the site and the surrounding Palm Beach locale.

To ensure that residential development does not have an adverse effect on those values.

Comment

The site is located within the coastal zone and therefore the *Coastal Management Act 2016* is applicable to the proposed development. The subject site is also shown to be affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map and on Hazard Zone 1 (H1) on the Geotechnical Hazard Map in *Pittwater LEP 2014*. As such, the proposal was accompanied by both a Geotechnical Assessment Report and Coastal Engineering Report, which was reviewed by Council's Coastal and Development Engineering Teams. These teams have included recommended conditions to ensure that the development incorporates the recommendations made within these reports.

The objective requires that a proposal must not significantly impact on the biophysical, hydrological or ecological integrity of the coastal environment, or the quantity and quality of surface and ground water flows that it receives. Council's Riparian Officer has included relevant conditions including sediment and erosion controls which must

be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.

Part of the site is considered to be within an area of extremely high ranking for potential sites of Aboriginal significance. The Aboriginal Heritage Office has conducted a site inspection and considers that there are no Aboriginal heritage issues for the proposed development. A condition has been recommended to ensure Aboriginal Heritage Protection, if any findings are to be discovered.

Based on the above and as set out in this report the proposal will not cause detrimental impacts on the *ecological, scientific or aesthetic values of the site or the locality*.

To provide for residential development of a low density and scale integrated with the landform and landscape.

Comment

The proposal is considered to be of a low density and scale low density across two (2) allotments, which is generally compliant with the built form controls with the exception of the front setback, side and minor building envelope setback controls which are justified in the circumstances. The side setback departures are largely existing given that the proposed additional built form complies with the setback controls. The proposal exhibits compliance with the building height standard and is accompanied by a comprehensive Landscape Plan, which provides acceptable levels of vegetation which has been reviewed by both Council's Landscape and Biodiversity Teams, who have included relevant landscaping conditions. The built form is only partly 3 storeys and is principally 2 storeys noting that the adjoining development at 10 Rock Bath Road is 3 storeys.

To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

Comment

Councils Riparian, Biodiversity and Landscape Officers have reviewed the proposal and support the development subject to recommended conditions of consent to ensure that the impacts to the riparian and native wildlife corridors are also minimised. The documentation demonstrates that the proposal retains and enhances riparian and foreshore vegetation and wildlife corridors and achieves the objective.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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

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

Comment

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality. Council's Development Engineer and Riparian Lands Officers have reviewed the proposal and are in support, subject to recommended conditions.

(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. The extent of excavation is acceptable and is demonstrated on architectural plan DA22.

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

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

Comment

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas. Council's Riparian Lands Officer has reviewed the proposal and are in support, subject to recommended conditions.

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

Comment

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

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

Comment

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

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

7.5 Coastal risk planning

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 the development:

- (a) ***is not likely to cause detrimental increases in coastal risks to other development or properties, and***
- (b) ***is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and***
- (c) ***incorporates appropriate measures to manage risk to life from coastal risks, and***
- (d) ***is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and***
- (e) ***provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and***
- (f) ***has regard to the impacts of sea level rise, and***
- (g) ***will have an acceptable level of risk to both property and life, in relation to all identifiable coastline hazards.***

Comment

The subject site is shown to be affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014. The application was accompanied by a Coastal Engineering Report prepared by Horton Coastal Engineering Pty Ltd. This report and the proposed development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to recommended conditions to ensure that the development is not likely to cause detrimental increases in coastal risks to other development or properties, nor alter coastal processes and the impacts of coastal hazards to the detriment of the environment. It is noted that no works are located seaward of the MHWL and is therefore unlikely to result in adverse impacts to the sea level rise.

The submitted Geotechnical Report prepared by Crozier Geotechnical Consultants concluded that the risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to the neighbouring properties or structures provided the recommendations of this report are followed. Conditions are recommended to adhere to the recommendations advised in the report are included to ensure appropriate measures to manage risk to life from coastal risks. As noted elsewhere in this report the applicant submitted an additional letter from Crozier Geotechnical confirming there is no change to the April plans when compared to the May 2024 plans and the report stands. A condition of consent requires the report to be updated for completeness prior to the issue of a Construction Certificate.

In addition, signed Forms - Geotechnical Risk Management for Pittwater Form No. 1 and No. 1A have been included. These forms are essential to verify that the author of a Geotechnical Report is a Geotechnical Engineer or Engineering Geologist (in this instance a Geotechnical Geologist) as defined by the "Geotechnical Risk Management Policy for Pittwater". Where a coastal bluff area is included, then it is verified that the author of the coastal component is a Coastal Engineer (this is the case).

Council's Coastal Engineer considers that the application complies, subject to conditions, with the requirements of the coastal relevant geotechnical clauses of the Pittwater LEP 2014 and Pittwater 21 DCP, as well as those contained in SEPP R&H.

7.6 Biodiversity protection

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

(a) whether the development is likely to have:

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

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

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

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

Comment

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval, subject to recommended conditions. The Biodiversity Officer states the following:

"The proposal would take place in a heavily disturbed site and would require the removal of all vegetation on site. An Ecological Impact Assessment (Land Eco Consulting, May 2024) has been prepared and submitted with the application. The report establishes that parts of the subject site are located within the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity Values Map (BV Map) when in fact the trigger for the subject land would be the area clearing threshold. The subject site is not currently mapped in the BV Map.

*The assessment concludes that no significant impacts would take place and that the proposal does not trigger entry into the Biodiversity Offsets Scheme. No objections are raised in relation to this conclusion. However, high priority weeds have been found on site and conditions will be recommended to ensure their removal and ensure that active management is in place. Furthermore, the proposal has been submitted with a Landscape proposal (Aspect Designs, November 2023) which is found to be consistent with applicable controls and provisions and includes two replacement *Banksia integrifolia* as well as an additional two trees including a *Leptospermum laevigatum* and a *Backhousia myrtifolia*. Additionally, native shrubs and groundcovers are consistent with the vegetation present in the area.*

The development is designed, sited and will be managed to avoid any significant adverse environmental impact."

Therefore, it is considered that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. The development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land. Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

As above, the development has been assessed by Council's Biodiversity Team, who raised no objections to approval, subject to recommended conditions. It can therefore be that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development. It is also noted that other Natural Environment Teams such as Riparian Lands and Coast and Catchments have provided conditions to ensure detrimental impacts are mitigated in an acceptable manner.

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

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

- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or***
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment

As above, the development has been assessed by Council's Biodiversity Team, who raised no objections to approval, subject to conditions. The Landscape Plan submitted with the application is found to be compliant with Clause PDCP B4.4 and includes at least 80.0% native vegetation, as noted within the Biodiversity Referral comment. In addition, a Flora and Fauna assessment report was submitted with the application. It can be considered that the development has been designed, sited and will be managed to avoid any significant adverse environmental impact.

7.7 Geotechnical hazards

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

- (a) site layout, including access,***
(b) the development's design and construction methods,
(c) the amount of cut and fill that will be required for the development,
(d) waste water management, stormwater and drainage across the land,
(e) the geotechnical constraints of the site,
(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

The subject site is located in a Coastline Bluff/Cliff Instability Hazard and Hazard H1 (Geotechnical Hazard). The proposed development is accompanied by a Geotechnical Report prepared by Crozier Geotechnical Consultants and a Coastal Engineering Report prepared by Horton Coastal Engineering Pty Ltd. These reports have been reviewed by Council's relevant engineers (Development and Coastal Engineers), who are in support subject to conditions. It is also acknowledged that the this application compared with the previous DA provided a greater setback from the cliff's edge and reduced the extent of excavation when compared to the original design.

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

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

Comment

The proposal's Stormwater Management Plans and Geotechnical Assessment has been reviewed by Council's Development Engineer, which is in support, subject to conditions to ensure the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land.

- (b) the consent authority is satisfied that:***
(i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or
(ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to
minimise that risk or impact, or
(iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.

Comment

The submitted Geotechnical Report prepared by Crozier Geotechnical Consultants concluded that the risks associated with the proposed development can be maintained within 'Acceptable' levels with negligible impact to the neighbouring properties or structures provided the recommendations of this report are followed. Conditions are recommended to adhere to the recommendations advised in the report are included to ensure appropriate measures to manage risk to life from coastal risks. It can be considered that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development. As stated, Crozier Geotechnical Consultants confirmed that the report stands notwithstanding the fact that the report references April 2024 plans as opposed to May 2024 plans. A condition is imposed to update the report prior to issue of a Construction Certificate.

Pittwater 21 Development Control PlanBuilt Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m South-western Boundary	Level 2: 2.3m – 5.5m Level 1: 2.3m - 2.5m – 8.8m Ground Floor: 2.3m Lower Ground Floor: Nil - 2.3m Garage: 0.0m Pedestrian Bridge: Nil	64.6 % 64.6 – 61.5% 64.6% 64.6% - 100.0% 100.0%	No No – As Existing
Rear Building Line	Foreshore Building Line Applies (FSBL) North-eastern Boundary	All Proposed Works: Outside of FSBL	-	Yes
Side Building Line	2.5m South-eastern Boundary	Level 2: 2.99m - 4.46m Level 1: 2.5m - 2.9m Ground Floor: 2.6m - 6.8m Lower Ground Floor: 2.6m Garage: Nil	- 100.0%	Yes No - As Existing
	1.0m North-western Boundary	Level 1: 3.09m - 3.340m Ground Floor: 3.09m - 3.340m Lower Ground Floor: 3.09m - 3.340m Spa: 1.6m	-	Yes
Building Envelope	3.5m South-eastern Envelope	Proposed Works: Partly outside envelope (Level 2)	≈ 11.4%	No
	3.5m North-western Envelope	Proposed Works: Partly outside envelope (Swimming pool catch basin)	≈ 17.1%	No
Landscaped Area	60.0% (697.98m ²)	67.65% (787.06m ²)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.4 Coastline (Bluff) Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	No	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B3.4 Coastline (Bluff) Hazard

The subject site is affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014. As such, the Geotechnical Risk Management Policy for Pittwater (Appendix 5, Pittwater 21 DCP) and the relevant B3.4 Coastline (Bluff) Hazard controls in P21 DCP will apply to new development of the site.

The proposal has been accompanied by the following reports:

- Coastal Engineering Report prepared by Horton Coastal Engineering Pty Ltd, dated 19 June 2024; and
- Geotechnical Report prepared by Crozier Geotechnical Consultants Issue 3 dated 13 June 2024 (including relevant Forms 1 and 1A)

The proposal and the above-mentioned reports were reviewed by Council's Coastal Engineer and Development Engineer, who considers that the application complies, subject to recommended conditions, with the requirements of the coastal relevant geotechnical clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.

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

Council's Road Assets and Development Engineers have reviewed the proposal in relation to the replacement pedestrian footbridge. Council's Development Engineer has included the recommended conditions as instructed by the Road Assets Team. These include the following:

- An application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993; and
- Submission of certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) noting that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans.

B6.7 Transport and Traffic Management

A condition has been recommended requiring the applicant to submit a Construction Traffic Management Plan (CTMP) and report, which shall be prepared by a Transport for NSW accredited person and submitted to, and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

This is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

B8.6 Construction and Demolition - Traffic Management Plan

A condition has been recommended requiring the applicant to submit a Construction Traffic Management Plan (CTMP) and report, which shall be prepared by a Transport for NSW accredited person and submitted to, and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

This is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

C1.3 View Sharing

Merit Consideration

One submissions was received from 10 Rock Bath Road, Palm Beach regarding view loss:

A site inspection was undertaken on the 11th November 2024 at No. 10 Rock Bath Road and the subject site and the photos taken from the inspection have been used to inform this assessment along with two visual impact assessments as previously referenced in this report. The photos collected from the site inspection generally show the extent of the entire view as opposed to the visual impact assessment reports which tend to focus on the impact of the proposal from the most affected windows at each level. The assessment under C1.2 and Planning Principle *Tenacity v Warringah* requires the determining authority to have regard to all of the views available to the dwelling including the most affected windows/balconies plus other parameters such as whether the existing view is across a side boundary (see discussion below).

The assessment has the benefit of two visual impact assessment reports which are very similar in visual content and impact. The reports are useful in determining the extent of the impact through a 35mm and 50mm camera lens. For the purposes of the view loss assessment, the more conservative Urbaine Report using the 50mm camera lens has been relied upon. It is understood that the extent of difference is that Urbaine analysis use a 50mm camera lens which reduces the extent of the panoramic view compared to a 35mm camera lens making the proposed development appear to have greater impact when compared to a 50mm camera lens. Using either report we find that the proposal is acceptable in its current form and provides acceptable view sharing having applied Clause C1.3 of PDCP criteria and the planning principles in *Tenacity Consulting v Warringah Council* (also referenced in the PDCP). There is no impact on iconic views as a result of the subject proposal and views across a side boundary of North Palm Beach, Pittwater, Ku-ring-gai Chase and the headland are maintained to an acceptable level.

The erection of height poles was not considered necessary as a satisfactory amount of information is available to determine the extent of impact. Detailed surveys are available and as such the existing building can be used for reference points. As stated the view analysis provides sufficient information to determine the likely impacts of the proposal.

The development is considered against the underlying Outcomes of the Control under Clause 1.3 of the PDCP as follows:

A reasonable sharing of views amongst dwellings.

Comment

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

1. Nature of the views affected

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

Comment to Principle 1

The nature of the views affected will be discussed below.

No. 10 Rock Bath Road: The views of concern obtained by this property are achieved in a north/north-east direction which includes land water interfaces and whole views. The views to Palm Beach to the north are over the side boundary and views to the Pacific Ocean are over the rear (eastern) boundary.

The view consists of Palm Beach and North Palm Beach (land and water interface), district views, ocean views, Barrenjoey Headland and Lighthouse (iconic view) and a distant/partial view of Pittwater (Station/Barrenjoey Beach side) and Ku-ring-gai Chase National Park. Additional views towards the east include expansive Pacific Ocean views and distant views of the Central Coast. It is noted that the view to Palm Beach and North Palm Beach (land and water interface), district views, ocean views, Barrenjoey Headland is over the side (common) boundary. Views of the Pacific Ocean are over the rear boundary.

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

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

Comment to Principle 2

The location of the obtained views will be discussed below.

No. 10 Rock Bath Road: The views in a north and north east/east direction mentioned above are obtained from the upper level living spaces across the side boundary which includes the kitchen, living area and informal living (primary) and associated external connected balcony and from the lower level living space and associated decking and the basement level home office. The views are obtained primarily from a standing position, however, some of the views are also obtainable from a sitting position. These areas also obtain views of the ocean and distant view of the Central Coast. The swimming pool on the lower level obtains its principle views of the Pacific ocean across the rear eastern boundary.



Plate 1: Standing view over side boundary to the north/north east at the upper level lounge area of 10 Rock Bath Road



Plate 2: Standing view over side boundary to the north/north east from the kitchen area at the upper level of 10 Rock Bath Road



Plate 3: Standing view over side boundary to the north/north east from the formal dining area at the upper level of 10 Rock Bath Road



Plate 4: Standing view over the rear boundary to the east from the formal dining area of 10 Rock Bath Road



Plate 5: Standing view over side boundary to the north from the formal dining area balcony at the upper level of 10 Rock Bath Road



Plate 6: Standing view over side boundary to the north/north east from the area between formal and informal dining areas at the upper level of 10 Rock Bath Road



Plate 7: Standing view over side and rear boundary to the north/north east from the informal dining area at the upper level of 10 Rock Bath Road



Plate 8: Standing view over side boundary to the north/north east from the bedroom at the lower level of 10 Rock Bath Road



Plate 9: Standing view over rear boundary to the north east/east from the bedroom at the lower level of 10 Rock Bath Road



Plate 10: Standing view over side boundary to the north from the bedroom/pool area decking at the lower level of 10 Rock Bath Road



Plate 11: Standing view over side boundary (part rear) to the north east/east from the pool decking outside the bedroom at the lower level of 10 Rock Bath Road



Plate 12: Standing view over rear boundary to the east from the lower ground living area of 10 Rock Bath Road



Plate 13: Standing view to the north from the lower ground living area/external decking of 10 Rock Bath Road



Plate 14: Standing view to the north-east from the lower ground decking area in front of subfloor areas of 10 Rock Bath Road

3. Extent of impact

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

Comment to Principle 3

The extent of impact will be discussed below adopting the qualitative methodology having regard to the views from the whole of the property. The Tenacity view loss qualitatively scale is adopted for the purpose of this assessment that being negligible, minor, moderate, severe or devastating.

No. 10 Rock Bath Road: As a result of the proposal the views toward the southern end of Palm Beach (land and water interface) and the district views atop the headland of this area will be lost from living areas looking north across the side boundary with a portion of the southern part of the distant/partial view of Pittwater (Station/Barrenjoey Beach side) and Ku-ring-gai Chase National Park impacted to varying degrees from all levels listed above (upper level, lower level and basement level) and associated balconies.

The views of Barrenjoey Headland and Lighthouse which is considered an iconic view, North Palm Beach, the expansive ocean views and distant views of the Central Coast shall remain unaffected. At least half of the view of Pittwater is retained. Overall the view loss is considered to be moderate from the living, informal living and kitchen.

The assessment has reviewed the Urbaine Report and Veew report and includes useful extracts below. Not all the content of these reports has been reproduced below because these reports form part of the DA bundle of documents and are available to through Council's DA tracking service on its website. Figure 1 below is useful in that it shows the overlay which allows the view lost to be visible rather than trying to compare two images. The image is however cropped to certain extent because it is through a 50mm camera lens and the actual view would be greater due to

peripheral views (refer to Plates 1 – 7 taken at the site inspection which show a broader view standing in the affected rooms such as the living, kitchen and dining areas.

Generally the 'visual quality' assessment scale adopted in the Urbaine Report is accepted, however there is a difference in the 'visual impact' scale of the development. The self developed Urbaine ranking system of visual impact from 1 – 10 (see Figure 8 of the Urbaine Report) shows a 'severe' degree of impact when considered against the criteria of the tenacity planning principle. The degree of visual impact is not assessed as being severe, despite the Urbaine and objectors claims.

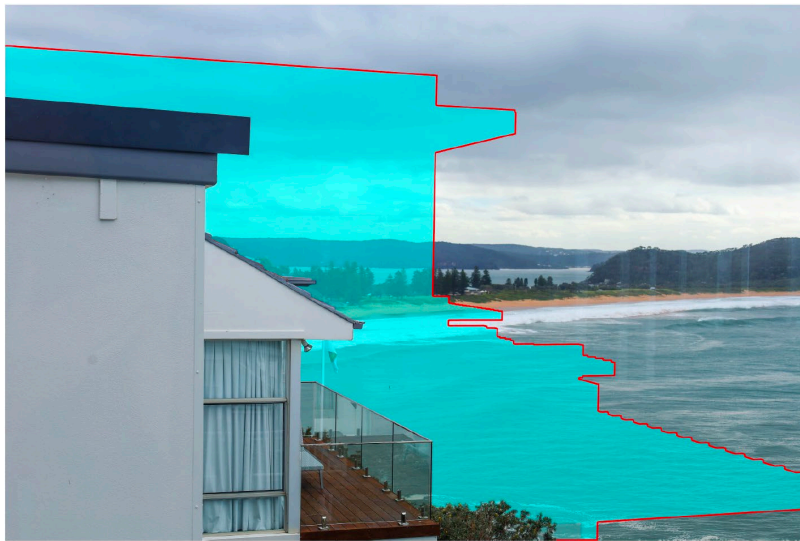


Figure A: Extract of Urbaine Report - static, private viewpoint from north eastern window of the main living room of no.10, Rock Bath Road, facing north-northwest, across the subject site

In reaching a recommendation there is no obligation to adopt the visual impact ranking convention proffered by Urbaine in Figure 8 of their report. The visual impact value in Figure 1 is ranked by Urbaine as high (12/15) however, the view impact is deemed to be moderate because it retains the majority of the water, land/sand interface, vegetation and Pittwater plus the iconic headland and lighthouse view. As stated there is disagreement with some of the inputs in Figure 8. It would appear that Urbaine do not apply weighting to other views available from the same rooms nor do they apply appropriate weighting to the fact that views are across a side boundary. In any event a position is arrived at where the view impact is deemed to be acceptable because it is not severe but moderate and is across a side boundary. We note this proposal maintains all of the iconic views and the associated headland plus other important components of the view such as the Pacific Ocean, North Palm Beach, Pittwater and the headland/lighthouse. Further to the above and as depicted in Plates 3 , 4, 6 and 7 the living areas have other unobstructed water views to the east of the Pacific Ocean.

Figure B below depicts the view from the main living and dining room looking north across the side boundary to Palm Beach, Palm Beach north and Pittwater. We agree with the view impact assessment scale ranking of 10/15 by Urbaine for this particular view and note it is across a side boundary. We note that a view would also be available from the east facing windows of the most northern part of Palm Beach North and the iconic headland/lighthouse.



Figure B: This is a static, private viewpoint from main living /dining room of no.10, Rock Bath Road, facing northwest, across the subject site, at nos.12-14, Rock Bath Road. The view is approximately 4.5m to the southeast of the glazing line to the north.

Figure C below shows the view to the north from the external balcony off the upper level living/dining area across the side boundary. We agree with the Urbaine scale ranking of 9/15. The view impact is on the lower end of moderate and less than the impact from the internal living areas. The view is across a side boundary and other views are available directly to the north east and east. The north east view retains the iconic view as well as North Palm Beach and Pittwater land and water interfaces. The allocation of a severe ranking by Urbaine is not accepted. The view impact is ranked as a low - moderate and is view across a side boundary.



Figure C: This is a static view across a side boundary, private viewpoint from living/dining room balcony of No.10, Rock Bath Road, approximately 3.3m south of its northern balustrading, facing northwest, across the subject site.

Figure D below shows the view centrally in the living room. Adopting the Urbaine ranking system the visual impact assessment scale is more like 9/15 as opposed to 11/15. The view is across a side boundary and like the view from

all other positions it retains significant majority of the water, sand/land interface, vegetation and Pittwater plus the headland and the iconic lighthouse view. We do not agree with the severe - devastating classification by Urbaine and rank the impact as moderate. Additional views to the east remain available from this position.



Figure D: This is a static, private viewpoint from the main living room of no.10, Rock Bath Road, facing north-northeast, across the side boundary. This is from the centre of the living room area.

Figure E below shows the view towards the southern elevation of the proposed dwelling from the bedroom. Visible elements include the water land/vegetation interface of Palm Beach, from the property at Governor Phillip Park and Palm Beach Golf Course, to the north, with its bounding Norfolk Pine and Barrenjoey Headland/lighthouse. The visual impact assessment is classed as 11/15 as opposed to a ranking of 13/15 by Urbaine. Overall, the extent of impact is on the higher end of moderate but not devastating as ranked by Urbaine. Overall, a significant portion of the Pacific Ocean view is retained; at least half of Pittwater; and all of North Palm Beach noting that lower northern side of Palm Beach and more than 50% of the sky is retained. The fact that the view is from a bedroom and across a side boundary reduces the overall Tenacity ranking of low to moderate.



Figure E: Static private viewpoint across the side boundary from a ground floor bedroom of no.10, Rock Bath Road, facing north- northwest, across the subject site.

Figure F below depicts the impact of the proposal from the ground floor bedroom balcony which is similar to the view from the bedroom. The view impact assessment is deemed to be 10/15 which is consistent with the Urbaine Report which describes the view where No.16, Rock Bath Road can be seen beyond this, to the northwest. Beyond this, Cabbage Tree Boat Harbour and the ocean is seen, from the Ocean Road car park, to the north and the properties along Ocean Road and further, to the central ocean / beach interface of Palm Beach, with its bounding Norfolk Pine trees and Palm Beach Golf Course, to the west of this. To the south, the upper ridgeline of the peninsula is observed, rising in elevation to Sunrise Reserve, its highpoint. Further west, the view of the northern portion of Broken Bay and the entrance to the Hawkesbury River are visible, with the various headlands and water interfaces of Patonga to Middle Head. The ranking given to visual impact assessment is 10/15 and the overall view is across a side boundary impacting mostly on Palm beach land and water interface and built form. A height compliant roof would probably impact Palm Beach to a certain extent. Overall, the view impact is moderate as opposed to the severe ranking applied by Urbaine.



Figure F: Static view across a side boundary, private viewpoint from ground floor bedroom balcony of no.10, Rock Bath Road, facing northwest, across the subject site.

Figure G below shows the view from the northern balcony perimeter of the ground floor. As described by Urbaine the view looks towards the southern elevation of the neighbouring property at the approximate level of the existing eastern facing balcony on the ground floor. Beyond this, the ocean is seen and further, the ocean / beach interface of Palm Beach, from the northern tip of Ocean Road, with Governor Phillip Park and Palm Beach Golf Course, to the north and the bounding Norfolk Pine trees to the west. The beach view continues to a point where the land rises towards Barrenjoey Headland. Further west, the expanse of the northern portion of Broken Bay and the entrance to Hawksbury River are seen, with the various headlands, ridgelines and water interfaces of Patonga, Middle Head and an area of Pearl Beach beyond this.

The view impact assessment from this position is found to be 11/15 as opposed to the ranking of 13/15 by Urbaine and is moderate to high but noting that this image does not show peripheral views (refer to Plates 8, 9, 10, 11 and 12 for the broader view). A view of the headland/lighthouse would be available standing at this position. It achieves a moderate ranking because the view includes water and land/sand interface, meaningful elements of Pittwater, headland, most of the Pacific Ocean and more than half of the sky view.



Figure G: Static view across side boundary, private viewpoint from the northern balcony perimeter of the ground floor

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4

When considering reasonableness we note the following contributing factors:

- The development in question complies with the relevant 8.5m height control;
- The proposal complies with the rear setback where the rear setback to a certain extent determines the extent of view loss;
- The departure to the front building envelope control does not result in additional impact due to the fact the non compliance facilitates a dwelling being set closer to the street therefore limiting the extent of the view impact. A development that complied with the front setback would result in greater building volume pushed towards the eastern boundary potentially blocking more of the view;
- The non compliance with the side setback controls does not cause significant levels of additional impact. The existing garage side setback which is the non compliant component does not affect the extent of view loss. The upper level bedroom and ground floor living areas located in the south east corner comply with side setback controls and the breach is directly attributable to the existing garage structure;
- Consideration of the existing uninterrupted views depicted in Plates 1 - 14 should be taken into consideration in a Tenacity assessment. Whilst the land/water interface of Palm Beach is ranked higher in a visual quality sense we accept that the Pacific Ocean view forms part of a seamless water/land panorama visible from each level of 10 Rock Bath Road. Plates 1 - 7 demonstrate that the primary and informal living spaces at the ground level of 10 Rock Bath Road have extensive views to the Pacific Ocean through multiple windows as do each of the lower levels. It is unreasonable to maintain views across a side boundary in accordance with Tenacity principles;
- The side setback or front setback variations do not make any significant difference to the view loss when considered over the entire floor plate and having regard to all of the views available not just the views to the

north critiqued in the Urbaine Report. The front setback variation reduces the projection of the built form to the east lessening the view impact;

- The height complies with the PLEP Building Height Standard of 8.5 metres of the Pittwater LEP 2014;
- Rear setback and Foreshore Building line requirements have been achieved and are compliant;
- A more skill full design is not warranted because this design offers greater side setbacks at the upper level which improves the view from the internal living and kitchen areas of 10 Rock Bath Road. Additionally the dwelling siting has to deal with a narrow building footprint due to the fact that the site drops significantly at the fence line which is well within the property boundary;
- The proposal is generally compliant with the relevant built form controls of the Pittwater 21 DCP, with the exception of the front building line, the existing garage structure and two isolated portions of the dwelling that encroach outside of the side building envelope. The non-compliance in relation to the front setback of the dwelling and existing garage structure do not affect views to Palm Beach; and
- The building envelope encroachment to the Level 2 Master-bedroom will have a very minor, if any, impact on the bushland hilltop of the ridge above Palm Beach (see figure C above). The envelope breach as a result of the swimming pool will have no material effect to view loss, as this breach will not be viewed from No. 10 Rock Bath Road. No significant change to the view loss outcome is likely occur if the non-conforming elements were brought into compliance. In this regard the proposal is found to be acceptable on merit.

Having regard to the above the proposed dwelling house and pool can be considered reasonable in the circumstances of this case which demonstrates an acceptable of view sharing, particularly considering the affected views are being obtained over a side boundary.

Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.

Comment

The proposal will not significantly impact views from the public domain.

Canopy trees take priority over views.

Comment

No canopy trees are proposed for removal, ensuring vegetation has priority over views.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

C1.5 Visual Privacy

Merit Consideration

Clause C1.5 Visual Privacy stipulates that private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9.0 metres, by building layout, landscaping, screening devices or greater spatial separation. In addition, elevated decks/balconies and pools should incorporate privacy screens where necessary and should be located at the front or rear of the building.

No. 10 Rock Bath Road, Palm Beach

The visual privacy impacts in relation to the above-mentioned property will be addressed below.

Living Room on Level 1: The living room windows (W1-09) are located 2.6 metres – 2.90 metres from the adjoining boundary of No. 10 Rock Bath Road, within close proximity to their swimming pool area on lower level, rear balcony on upper level and northern facing windows. W1-09 partly consists of a highlight window and narrow strip window at the rear of the living room. The windows proposed afford 10 Rock Bath Road with sufficient privacy to pools and decks and other living areas. As stated on the plans the sill height of the window is 1.55m which is sufficient to provide privacy from the highlight style window.

Study Room on Level 1: The study room window (W1-10) is located 2.5 metres from the adjoining boundary of No. 10 Rock Bath Road and is a large open style window. The plans show (see in Red on plan DA03) the existing wall to be retained therefore visual privacy to both properties will be achieved from the study window.

Dining/Kitchen Level 1: The dining room window (W1-06) and Kitchen Window (W1-03) are located in excess of 9.0 metres from the adjoining boundary of No. 10 Rock Bath Road, and is therefore, considered to provide acceptable spatial separation and sufficient visual privacy.

Garage Level 2: The garage window (W2-09) is orientated toward the east however, is located in close proximity to the adjoining boundary of No. 10 Rock Bath Road. As above, the retention of the south-eastern wall on the boundary will assist in the protection of visual privacy and windows in the wall are existing and use of the area for parking is maintained.

D12.1 Character as viewed from a public place

Description of Non-compliance

Clause D12.1 Character as viewed from a public place stipulates the following requirements:

- Walls without articulation shall not have a length greater than 8.0 metres to any street frontage.
- Parking structures should be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser.

The proposal includes wall lengths greater than 8.0 metres. The design adopts overhanging roof forms with inset glazing to increase the effects of light and shade. The bedroom level particularly is broken into a series of bays and the living and kitchen level presents 3 distinct wall planes of glazing and solid masonry elements to create the rhythm of the bays. The existing garage is located forward of the primary building, however, is less than 50.00% of the lot frontage. The proposed dwelling incorporates a combination of materials and levels of articulation to break up the built form.

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.***

Comment

The proposal will provide a dwelling house that is low-density across two (2) allotments, situated within a landscape setting similar to that of surrounding development. The proposal will step down the gradual slope of the land to the north, and will provide a dwelling house that is compliant with the building height standard of 8.5 metres. The dwelling is 3 storeys like the dwelling at 10 Rock Bath for ¼ of its floor plate then steps down to a 2 storey form. The design utilises façade modulation and roof design variations which incorporates shading

elements. Building colours and materials will harmonise with the natural environment. The extent of site excavation has been demonstrated on architectural plan DA 22 and is determined to be acceptable in this instance. Native vegetation, including canopy trees (subject to conditions), will be integrated with the development.

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

Comment

The development site consists of two (2) allotments therefore the overall built form is reflective of the site conditions noting that the elongated form is a product of the site levels which drop aggressively to the east (i.e. this reduces the available lot width to establish a building platform). Despite this, the proposal provides for acceptable spatial separation between adjoining properties. The design provides for a compliant building height standard (8.5 metres - RL 47.52), with the proposed height being less than the existing building height (RL 48.25) and the adjoining properties on the high side towards the south-east, No. 10 Rock Bath Road (RL 49.37) and No. 8 Rock Bath Road (RL 47.60). The proposed dwelling provides acceptable spatial characteristics to complement the existing residential foreshore environment.

- To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.

Comment

The proposal will be situated below mature tree canopy height, and will consist of a compliant landscaped open space area. The proposal is accompanied by a Landscape Plan prepared by a suitably qualified person, as mentioned above and has been reviewed by Council's Landscape and Biodiversity Officers. This includes new plantings (native) within the front setback area to complement surrounding vegetation. In addition, the proposal will incorporate natural materials such as sandstone and dark/earthy coloured finishes to harmonise with the natural environment of Pittwater. The design step down the south – north slope towards the north and provides acceptable levels and articulation.

- The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation.

Comment

Part of the landscaped area is the natural area below the dwelling which will not be altered. The proposal provides compliant landscaped open space and native vegetation, including a green roof which will assist in softening the built form.

- **High quality buildings designed and built for the natural context and any natural hazards.**

Comment

The proposal presents acceptable levels of excavation and bulk and scale given the topography and site constraints. Relevant reports for biodiversity, coastal and geotechnical aspects have been submitted and reviewed by the required Council Officers. No objections have been raised, subject to conditions.

- **Buildings do not dominate the streetscape and are at 'human scale'. Within residential areas, buildings give the appearance of being two-storey maximum.**

Comment

When viewed from the street, the development will appear as a one and 2 storey building and will be sited lower than the south- eastern adjoining property No. 10 Rock Bath Road. The extent of the dwelling will not be overly exposed from the street due to the location of the site, sloped topography towards the north and the curve in the roadway.

- **To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.**

Comment

The proposed development will be sited lower than that of the existing dwelling and will not unacceptably disrupt local views. It is noted that the dwelling expands two (2) allotments and would demonstrate building bulk similar to that of a dwelling on each lot.

- **To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures, being a secondary component.**

Comment

The parking structure is located within the front setback and will remain as existing therefore the garage will not further impact the streetscape or disrupt the bushland vista of Pittwater. The proposal as a whole incorporates landscaped features and a green roof that will aid in incorporating landscaping with built form. Again the extent of the excavation required to facilitate the lower ground floor has been established and deemed to be acceptable.

- **To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land.**

Comment

The proposal will not disrupt the use or enjoyment of the public domain or waterways. The proposal will utilise materials and colours that are sympathetic to the Pittwater environment including acceptable native vegetation types (subject to recommended conditions) that is considered to reasonably complement the landscape and natural character of the surrounding area. As started elsewhere glazing lines are recessed and roof overhangs provide shade to the glazing which reduces the dominance of the glazing when viewed from all surrounding vantage points and public spaces.

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

D12.5 Front building lineDescription of Non-compliance

Clause D12.5 Front building line stipulates that all built structures other than driveways, fences and retaining walls are not permitted within the front building setback, and required to be setback 6.5 metres.

The proposal exhibits the following front setbacks:

- Dwelling house: 2.3 metres - 2.5 metres, with a maximum variation of 64.6%. Garage: 0.1 metre, with a maximum variation of 98.5% (as existing).
- Pedestrian bridge: Nil, with a maximum variation of 100.0%.
- North-western access stairs (lower ground floor): Nil, with a maximum variation of 100.0%.

Where the outcomes of this clause are achieved, a variation to the required numerical requirements may be permitted, subject to the below circumstances:

- established building lines.
- Degree of cut and fill.
- Retention of trees and vegetation.
- Where it is difficult to achieve acceptable levels for building for narrow or irregular shaped blocks;
- Where the topographic features of the site need to be preserved; Where the depth of a property is less than 20 metres.

The proposal has adopted a front setback similar to that of the existing dwelling house, and immediate adjoining properties. It is noted that the site, among many others within the vicinity, is constrained due to being located atop the cliff's edge with the eastern portions of the site sloping aggressively to the rock platform and ocean below. This limits the depth of the site making it more difficult than normal to locate a workable building platform. In this regard the floorplates have been designed in an elongated manner to limit the width of the dwelling to an acceptable level. The subject site includes a built upon depth of approximately 12.0 metres - 20.0 metres, measuring from the front building line to the top of the cliff's edge. The proposed setback of the dwelling from front boundary to the cliff's edge to the rear strikes the necessary balance. In addition, it is acknowledged that the site is irregular in shape, and consists of topographical features (rock outcrops/cliff edge).

In considering the setback variation Council is not compelled to strictly apply the DCP provisions and under S4.15 (3A)(b) are to apply the DCP provisions in a flexible manner. This is one occasion where the controls can be applied in a flexible manner.

Merit Consideration

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

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

Comment

The proposal will provide a dwelling house that is of low-density across two (2) allotments, situated within a landscape setting similar to that of surrounding development. The front setback is consistent with development within the immediate vicinity, due to the constraint of the cliff's edge to the east, limiting area for the building platform. The proposal will step down with the gradual slope of the land to the north, and will provide a dwelling house that is compliant with the building height standard of 8.5 metres. The design utilises recessed glazing lines, façade modulation, variation of the roof design which incorporates roof shading elements with building colours

and materials which will harmonise with the natural environment. Site disturbance and excavation is within expected limits for this type of residential dwelling positioned across two allotments.

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

Comment

It is not considered that the front setback non-compliance will result in unacceptable view loss from the public domain or surrounding properties. Refer to 'Clause C1.3 View Sharing' for further detail.

- ***The amenity of residential development adjoining a main road is maintained.***

Comment

Although a regular usage Road, Rock Bath Road/Whale Beach Road is not a main road, therefore this outcome does not strictly apply.

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

Comment

The proposal is accompanied by a Landscape Plan prepared by a suitably qualified person. These plans have been reviewed by both Council's Landscape and Biodiversity Officer's who are in support, subject to recommended conditions.

- ***Vehicle maneuvering in a forward direction is facilitated.***

Comment

The existing garage is to be maintained that will not disrupt the existing parking arrangements on the site and in effect rationalizes parking for the second lot therefore limiting the overall parking requirements. This parking structure does not explicitly allow for vehicle maneuvering in a forward direction, however, was supported in a previous approval (DA2018/1749). Council's Development Engineer has reviewed the proposal and is in support subject to conditions.

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

Comment

The proposal preserves/enhances any rural/bushland character that existing with the locality by providing a compliant landscaped area and limiting excavation and topographical change.

- ***To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.***

Comment

The proposal will be situated below mature tree canopy height, and will consist of a compliant landscaped open space area. The proposal is accompanied by a Landscape Plan prepared by a suitably qualified person, as mentioned above and has been reviewed by Council's Landscape and Biodiversity Officers. This includes new plantings (native) within the front setback area to complement surrounding vegetation. In addition, the proposal will incorporate natural materials such as sandstone and dark/earthy coloured finishes to harmonise with the natural environment of Pittwater. The design has also been amended to step down the gradual slope towards the north, and provides acceptable levels of modulation and articulation.

- ***To encourage attractive street frontages and improve pedestrian amenity.***

Comment

For the reasons discussed in this section, these being reasonable levels of articulation, natural/dark coloured materials and the incorporation of native vegetation the proposal is considered to enhance the streetscape and provide visual interest in an acceptable manner that is consistent with the objectives. The subject site includes an existing pedestrian bridge located partly on the road reserve, which will be replaced for a pedestrian bridge with a lower elevation and lesser visual dominance. Council's Road's Assets Team have reviewed the proposal and are in support, subject to conditions.

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

Comment

Whilst it is acknowledged that the dwelling house is of a large size, it is to be recognised that the property consists of two (2) allotments. Despite this, the proposal presents as a predominately two storey residence and provides for relatively compliant spatial separation between adjoining properties, side boundary envelope (with exception of an existing garage structure) and landscaped open space. In addition, the dwelling presents a compliant building height standard (8.5 metres - RL 47.52), with the proposed height being less than the existing building height (RL 48.25) and the adjoining properties on the high side towards the south-east, No. 10 Rock Bath Road (RL 49.37) and No. 8 Rock Bath Road (RL 47.60). The proposed dwelling and pool provides acceptable spatial characteristics to complement the existing foreshore setting.

Having regard to the above assessment, it is concluded

element) is considered to be similar to that of surrounding parking development and is unlikely to cause an unreasonable aesthetic impact to the existing streetscape character or compromise the amenity of 10 Rock Bath Road.

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

Comment

The garage is existing and will consist of minor amendments to reduce it's existing floor plate. The parking structure is not considered to be of excessive bulk and scale and has an acceptable visual fit within this particular streetscape. The bulk and scale of the garage structure is appropriate for the locality. The bulk and scale attributed to the lift and master bedroom is considered to be appropriate given that the extent of the third level is limited to the bedroom lift and ensuite. The built form steps down towards the north and provides an appropriate response with regard to bulk and scale.

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

Comment

The existing garage will not contribute to additional view loss (as the structure is existing). As demonstrated in the view assessment the garage is set to the west. The new master bedroom and ensuite plus the living areas below cause the view loss and not the existing garage.

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

Comment

As stated above, the existing garage is not considered to negatively impact on any current view sharing of the adjoining properties.

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

Comment

For an overall privacy discussion, refer to 'Clause C1.5 Visual Privacy', elsewhere in this report. Having regard to the assessment the proposal satisfies the objective. Condition 15(a) includes a requirement for the north facing window to have screening. The impacts upon 10 Rock Bath road has been assessed and found to be acceptable in the circumstances of the case and is addressed elsewhere in this report.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape.***

Comment

The proposal overall complies with the landscaped open space requirements, and does not propose to remove any significant canopy trees. The existing garage will remain the same when viewed from the street with exception to an inclusion of a flush panel garage door to provide visual interest. The proposal overall consists of various levels of articulation, a combination of materials and new vegetation plantings including several green roofs, aiding in an attractive street frontage. The view from the street will include the new master bedroom however the building is 2 storeys across most of its footprint and therefore maintains an attractive streetscape.

- ***Flexibility in the siting of buildings and access.***

Comment

The retention of the existing garage will not impact the flexibility of the site or the site's access.

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

Comment

As above, the proposal complies with the landscaped open space requirements and includes a Landscape Plan. Relevant landscaping conditions have also been recommended by Council's Landscape and Biodiversity Team.

- ***To ensure a landscaped buffer between commercial and residential zones is established.***

Comment

The subject site is located in and is surrounded immediately by either environmental protection or residential zones, this outcome does not apply.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

D12.8 Building envelopeDescription of Non-compliance

Clause D12.8 Building Envelope requires development to be sited within a 3.5 metres building envelope to ensure the bulk and scale of the built form is minimised.

The proposed development encroaches the side building envelope on the south-eastern and north-western envelope, with a variation of approximately 11.4% and 17.1%, respectively (See figures below).

Despite the site constraints the majority of the new building (excluding the existing garage) is generally within the required side building envelope. The non-conforming elements being the ensuite corner of master-bedroom of Level 2 and the swimming pool catch basin for the infinity edge, will not contribute to the perceived scale of the building. In the case of the breach with the master bedroom ensuite, it that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

D12.6 Side and rear building lineDescription of Non-compliance

Clause D12.6 Side and Rear Building Line prescribes a minimum side setback of 2.5 metres to one side and 1.0 metres to the other. For this assessment, the 2.5 metres side building line is applied to the south east and 1.0 metres side building line applied to the north-west.

The proposal complies with the above numerical requirements with the exception of the existing garage. The existing garage consists of a south-eastern wall along the adjoining boundary with a nil setback. The proposal included part of the garage wall to remain as specified on the plans.

There is no work proposed to the wall along the property boundary as shown in Red on architectural ground floor plan DA04 and again in red on architectural Level 1 plan DA03 and Level 2 plan DA04.

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.***

Comment

The development as a whole will achieve a compliant building height (8.5 metres) that will be sited below existing tree canopy. Additionally, the retention of the existing garage (non-conforming is noted that the section of the topmost floor which breaches the building envelope is well set back from the floor below and that it is behind a green roof which tempers the visual massing of the building. The departure does not unduly exacerbate the bulk or scale and does not contribute to any measurable adverse impacts on the streetscape or residential amenity.

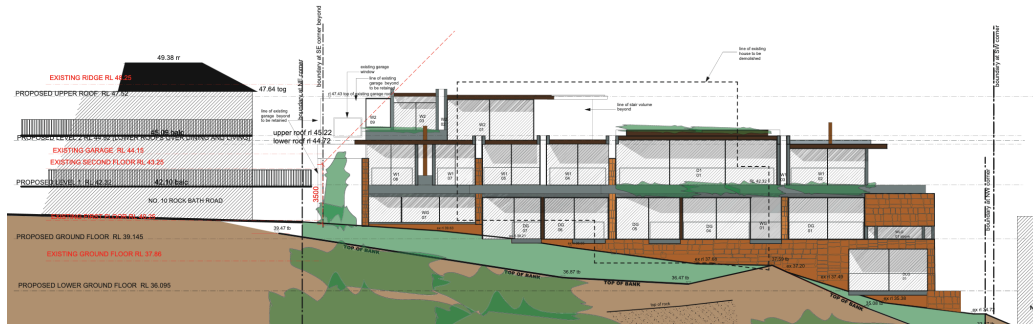


Figure H: South-eastern side building envelope. Three storey element only represent about ¼ of the overall building length. Built form predominately reads as a two storey dwelling. Interface to the north is 2 storeys to complement 16 Rock Bath Road Palm Beach.

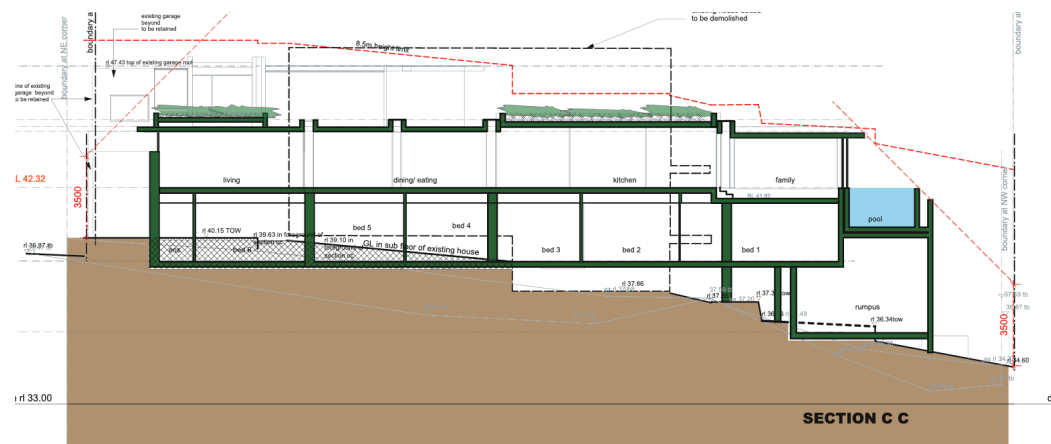


Figure I: Section CC general compliance with envelope and sections except for what appears to be 150mm of wall for the balance water for the pool. Existing garage outside of the envelope.

Merit Consideration

With regards to the consideration for a variation, the development is considered against the underlying Outcomes of the Clause as follows:

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

Comment

Three storey element only represent about ¼ of the overall building length. Built form predominately reads as a two storey dwelling. Interface to the north is 2 storeys to complement 16 Rock Bath Road Palm Beach.

The proposal will provide a dwelling house that is of low-density across two (2) allotments, situated within a landscape setting similar to that of surrounding development. The proposal will step down the gradual slope of the land to the north, and will provide a dwelling house that is compliant with the building height standard of 8.5 metres. The design utilises façade modulation, inset glazing and variation of the roof design which incorporates shading elements with building colours and materials which will harmonise with the natural environment.

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

Comment

The non-conforming envelop elements are not significant in nature and arise primarily from the slope in topography and previous excavation. These areas will not be dominate within the streetscape and will not contribute to the perception of scale. The building height is compliant with the dwelling to be situated below the height of surrounding canopy trees.

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

Comment

The dwelling offers compatible spatial separation between adjoining properties and landscaped open space. It is considered that the dwelling house provides acceptable spatial characteristics to complement the existing urban environment.

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

Comment

The proposal as a whole has been designed to provide acceptable articulation and gradually steps down the slope of the land towards the north. The dwelling demonstrates compliance with building height and side setbacks providing sufficient spatial separation, as mentioned above.

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

Comment

The non-conforming elements do not unacceptably impact views, refer to 'Clause C1.3 View Sharing' for further detail and discussion.

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

Comment

A reasonable level of privacy, amenity and solar access is provided within the development site and maintained to adjoining properties. Privacy will be discussed in further detail under 'Clause C1.5 Visual Privacy' elsewhere within this report.

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

Comment

The proposal complies with the landscaped open space requirements and includes a Landscape Plan. Relevant landscaping conditions have also been recommended by Council's Landscape and Biodiversity Team, which will assist in visually softening the built form.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$87,232 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$8,723,205.

CONCLUSION

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

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

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

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

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

PLANNING CONCLUSION

This proposal, for the demolition and construction of a dwelling house including a swimming pool has been referred to the Northern Beaches Development Determination Panel (DDP) as the site has established history and a current live Court Appeal to the previous consent issued by Council.

The development application was notified for fourteen (14) days, as stated within Council's Community Participation Plan, with the objections received being addressed under the 'Submissions' section of the report. A

set of amended documents were received during the assessment process to address concerns (as discussed within 'Site History') elsewhere in this report. The additional information resulted in the proposal being re-notified and formed the basis of this assessment.

Overall, the development is a high quality design that performs well against the objectives of the relevant controls and will not result in unacceptable impacts on adjoining or nearby properties, or the natural environment. The proposal maintains acceptable view sharing and allows for the reasonable redevelopment of a site which combines two lots as well as neighbours views and amenity.

It is considered that the proposed development satisfies the relevant objectives and that all processes and assessments have been satisfactorily addressed. Accordingly, the application is referred to the DDP with a recommendation for **approval**, subject to 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 the Northern Beaches Development Determination Panel (NBDDP), on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2024/0891 for Demolition works and construction of a dwelling house including swimming pool on land at Lot 289 DP 16362, 12 - 14 Rock Bath Road, PALM BEACH, Lot 290 DP 16362, 12 - 14 Rock Bath Road, PALM BEACH, 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
DA01	A	Roof Plan	Sofair Design	May 2024
DA02	A	Level 2 - Floor Plan	Sofair Design	May 2024
DA03	A	Level 1 - Floor Plan	Sofair Design	May 2024
DA04	A	Ground Floor - Floor Plan	Sofair Design	May 2024
DA05	A	Lower Gr Floor - Floor Plan	Sofair Design	May 2024
DA06	A	Sections - Section A-A + Section B-B	Sofair Design	May 2024
DA07	A	Sections - Section C-C + Section D-D	Sofair Design	May 2024
DA08	A	Sections - Section E-E	Sofair Design	May 2024
DA09	A	Sections - Section F-F	Sofair Design	May 2024
DA10	A	Sections - Section G-G	Sofair Design	May 2024
DA11	A	Sections - Section H-H	Sofair Design	May 2024
DA12	A	Sections - Section I-I	Sofair Design	May 2024
DA13	A	Sections - Section J-J	Sofair Design	May 2024

DA14	A	Sections - Section K-K	Sofair Design	May 2024
DA15	A	Elevation - NE Elevation	Sofair Design	May 2024
DA16	A	Elevation - NW Elevation	Sofair Design	May 2024
DA17	A	Elevation - South East Elevation	Sofair Design	May 2024
DA18	A	Elevation - South West Elevation	Sofair Design	May 2024
DA21	A	Pool and Spa Details	Sofair Design	May 2024
DA22	A	Excavation Volume Analysis	Sofair Design	May 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Arboricultural Impact Assessment and Tree Management Plan (Ref. 8591)	-	Redgum Horticultural	7 May 2024
Coastal Engineering Advice on 12-14 Rock Bath Road Palm Beach	-	Horton Coastal Engineering	19 June 2024
Ecological Impact Assessment Report	Final 1.0	Land Eco Consulting	30 May 2024
Waste Management Plan	-	-	-
Waste Management Plan	-	-	Undated
BASIX Certificate (No. 1374742S_03)	-	House Energy Certified	19 April 2024
NatHERS Certificate (No. HR-9VBND-01)	-	House Energy Certified	2 November 2023
Geotechnical Investigation Report (No. 2022-250)	-	Crozier Geotechnical Consultants	13 June 2024
No. L/01, Landscape Plan Lower Ground Floor	-	Aspect Designs	1 November 2023
No. L/02, Landscape Plan Ground Floor	-	Aspect Designs	1 November 2023
No. L/03, Level 1	-	Aspect Designs	1 November 2023
No. L/04, Level 2	-	Aspect Designs	1 November 2023
No. L/05, Landscape Details	-	Aspect Designs	1 November 2023

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail. In the event of any inconsistency with 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	16 July 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. Surrender of development consent

The following Development Consent is to be surrendered to Council, by submitting a completed notice pursuant to Section 68 of the Environmental Planning and Assessment Regulation 2021 prior to the issue of any Construction Certification or prior to the commencement of any works (whichever occurs first):

Development Consent No. DA2023/0342

Reason: To ensure that there is certainty as to the consent applying to the subject land.

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 Pittwater Local Environmental Plan 2014, 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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understory 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.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$66,464.64 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 \$6,646,464.00.

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.

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

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

Crossing / Kerb & Gutter / Footpath Works

As security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, pedestrian footbridges, any footpath works and removal of any redundant driveways required as part of this consent a bond of \$30,000.

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

10. On Slab Landscape Works

Details shall be submitted to the Principal Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Principal Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections.

The following soil depths are required to support landscaping:

- i) 300mm for groundcovers, perennials, grasses and lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

11. On-Site Stormwater Disposal Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater disposal in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by James Taylor & Associates, job number 6458, drawing number SW1 to SW8, dated 30/4/2024. 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.

Detailed drainage plans, including engineering certification, 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.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Crozier Geotechnical Consultants dated 13 June 2024 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. 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.

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

Reason: Compliance with this consent.

14. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of the double garage and door width are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

15. Erosion and Sediment Control Plan

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

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

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

Reason: To protect the receiving environment.

16. Water Quality Management

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

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

Reason: Protection of the receiving environment.

17. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period

- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP,
 - No materials or plant are to be located or parked in the private road/driveway, community title road or right of way
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
 - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken. Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure Include
- a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site The proposed
- method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties ◦ The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

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

18. Amendments to the approved plans

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

- a) **Internal Stairwell:** The stairwell window to the northern end of the dwelling (WG-06) shall consist of an external fixed privacy screen for the full height of the windows. The privacy screen shall be of fixed opaque panels or angled louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- b) **Garage Window reference in Southern Elevation:** Plan to be updated to remove the notations stating "existing garage window opening" as there are no windows in the southern elevation of the garage and plans are to be updated accordingly.

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.

19. Boundary Identification Survey

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

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

Details demonstrating compliance are to be submitted to the 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. Submission Roads Act Application for Civil Works in the Public Road

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

The application is to include Civil Engineering plans for the design of elevated pedestrian access which is to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Structural Engineer. The design must include the following information:

- 1. Structural details for the reconstruction of the pedestrian access .
- 2. Handrails are to be provided.
- 3. Structural Engineer's certification of the design of pedestrian access and handrails.
- 4. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.

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

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

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

21. Pre-Commencement Dilapidation Report

The applicant must prepare and submit a dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

22. Coastal Bluff Engineering Assessment Implementation

The advice and recommendations contained in the approved Coastal Engineering Assessment report prepared by Horton Coastal Engineering, dated 19 June 2024, must be addressed as necessary through the Geotechnical Risk Management Report prepared in support of the development application and must be incorporated as required into construction plans and structural specifications for the development.

Reason: To ensure potential hazards associated with development on a Coastal Bluff are minimised.

23. Coastal Bluff Engineering Assessment Implementation

All development or activities must be designed and constructed such that they will not increase the level of risk from coastal processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect coastal processes; they will not be adversely affected by coastal processes.

Reason: To ensure potential hazards associated with development on a Coastal Bluff are minimised

24. 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.

25. External Finishes to Roof

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

Details demonstrating compliance are to be submitted to the 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.

26. 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.

27. Consolidation of lots

Prior to issue of any Construction Certificate, the Applicant must consolidate the existing lots 289 and 290 DP 16362 which will form the development site into a single lot.

Evidence of lot consolidation, in the form of a plan registered with NSW Land Registry Services, must be submitted to the Certifier prior to issue of any Construction Certificate.

Reason: To ensure that the legal property description is consistent with the proposed site layout and that continuous structures will not be placed across separate lots.

28. Engineer's Certification of Plans

A structural design of the development shall be prepared, and each plan/sheet is to be signed by a registered professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional.

29. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the adjoining coastal cliff and the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining

walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

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

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

Reason: To provide public and private safety

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

30. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the below mentioned 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. 10 Rock Bath Road, Palm Beach; and** ◦ **No. 16 Rock Bath Road, Palm Beach.**

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.

31. 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 and receiving waters from the effects of sedimentation and erosion from the site.

32. Tree Removal Within the Property

This consent approves the removal of existing prescribed trees on the subject site as identified in the Arboricultural Impact Assessment, approved Plans, or as listed: Tree 2 within the property. A qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works

33. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones are monitored and installed correctly.

34. Demolition Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

DURING BUILDING WORK

35. Protection of Rock and Sites of Significance

- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

36. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site not indicated for removal on the approved plans 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,
 - 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 and to AS4970-2009 Protection of trees on development sites.

Reason: Tree and vegetation protection.

37. Condition of Trees

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works.

In this regard all protected trees shall not exhibit:

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

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause. Reason:

Protection of trees.

38. 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.

39. 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.

40. 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.

41. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: To protect the receiving environment.

42. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

43. 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.

44. 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.

45. 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.

46. 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.

47. 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.

48. Traffic Control During Road Works

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

Reason: Public Safety.

49. Stockpiling materials

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All waste material and debris must be removed off site and disposed of according to applicable regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris and contaminants enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

50. Geotechnical Issues

All conditions outlined in the Geotechnical Investigation Report prepared by Crozier Geotechnical Consultants June 2024 are to be complied with and adhered to throughout development and incorporated into construction plans and specifications as necessary. Evidence demonstrating compliance must be submitted to the Certifier for approval prior to the commencement of any works.

Reason: To ensure excavation, foundations and retaining works are undertaken in an appropriate manner and structurally sound.

51. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

52. Not to impede access to No. 16 and No. 18 Rock Bath Road, Palm Beach

Construction vehicles and construction materials are not to be stored or placed in such a manner so as to impede access to the properties that use and or rely upon the unformed part of Rock Bath Road to the north west of the subject site (No. 16 and No. 18 Rock Bath Road, Palm Beach) throughout the entirety of the demolition and construction phase. Notwithstanding this, the applicant must provide the occupiers of No. 16 and No. 18 Rock Bath Road, Palm Beach who contact details of the contractor in the event that access is impeded contrary to this condition.

No construction or demolition access, materials, excavated materials or movement of workers, vehicles or machinery shall occur on the unformed part of Rock Bath Road that services No. 16 and no. 18 Rock Bath Road, Palm Beach.

Reason: To ensure access is available to all property owners who use the unformed part of the road for access during the demolition and construction phase.

53. Compliance with Ecologist's Recommendations – During Construction

All impact mitigation measures specified in the approved Flora and Fauna Assessment Report/Biodiversity Development Assessment Report are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

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

54. Construction Vibration

Vibrations associated with excavation and construction works are limited to a tolerance of 3mm/s PPV (peak particle velocity) at the property boundaries and at the sea cliff adjacent to the subject property. Vibration monitoring equipment is to be installed by a registered Geotechnical Engineer throughout the site and along the boundaries to verify that vibration is within the limits of the maximum tolerance.

The vibration monitoring equipment must include a light/alarm, so the site foreman and equipment operator are alerted to the fact that vibration limits have been exceeded. Where the vibration tolerances have been exceeded, works shall cease until a change in construction / excavation methodology are implemented to ensure compliance. It also must log and record vibrations throughout the excavation and construction works so that compliance may be verified. Any monitoring devices are to be installed at the footing level of any adjacent structures.

Reason: To restrict vibration impacts.

55. Implementation of Demolition Traffic Management Plan

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

56. Ongoing Management

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**57. Landscape Completion**

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

- i) landscape works are to be contained within the legal property boundaries,
- ii) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established,
- iii) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plans,
- iv) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
- v) 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,
- vi) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019,
- vii) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- viii) new planting is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants,

b) Prior to the issue of an Occupation Certificate, details (from a qualified horticulturalist landscape architect or landscape designer) 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.

58. Replacement of Canopy Trees

At least 2 locally native *Banksia integrifolia* (Non cultivar or hybrid species) are to be planted on the site to replace protected trees approved for removal.

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

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

Reason: To establish appropriate native landscaping.

59. 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.

60. Priority Weed Removal and Management

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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 weeds.

61. Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval

The Applicant shall submit a certification by a suitably qualified Structural Engineer, that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Details shall be submitted to Council for acceptance and the written acceptance shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

62. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

63. 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.

64. 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.

65. 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), 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 the **Level Spreader** and ancillary structures 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.

66. Certification of Off Street Parking Works

The Applicant shall submit a certificate from a suitably qualified person 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 the Occupation Certificate.

Reason: Compliance with this consent.

67. Post-Construction Dilapidation Report

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

68. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

69. House / Building Number

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

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

Reason: Proper identification of buildings.

70. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

- (a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992;
 - (ii) Swimming Pools Amendment Act 2009;
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools
- (b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.
- (c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.
- (d) A warning sign stating 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL' has been installed.
- (e) Signage showing resuscitation methods and emergency contact
- (f) All signage shall be located in a prominent position within the pool area.
- (g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life.

71. Fencing for Wildlife Passage

Any new permanent fencing (with the exception of swimming pool fencing) is to be made passable to native fauna through the provision of access gaps or raised fencing to provide appropriate ground clearance. Any access gaps are to be a minimum of 150mm wide x 100mm high at ground level and spaced at a minimum of 6m intervals.

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

Reason: To preserve wildlife corridors.

72. Native Landscaping

Any new landscaping is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the relevant section of the Native Planting Guide available on Council's website.

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

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

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

73. 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 Plans 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.

74. Maintenance of Stormwater Treatment Measures

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

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

Reason: To protect the receiving environment.

75. 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. The Crozier Geotechnical report dated 13th June is to be updated to reference the May 2024 plans prior to issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

76. 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.

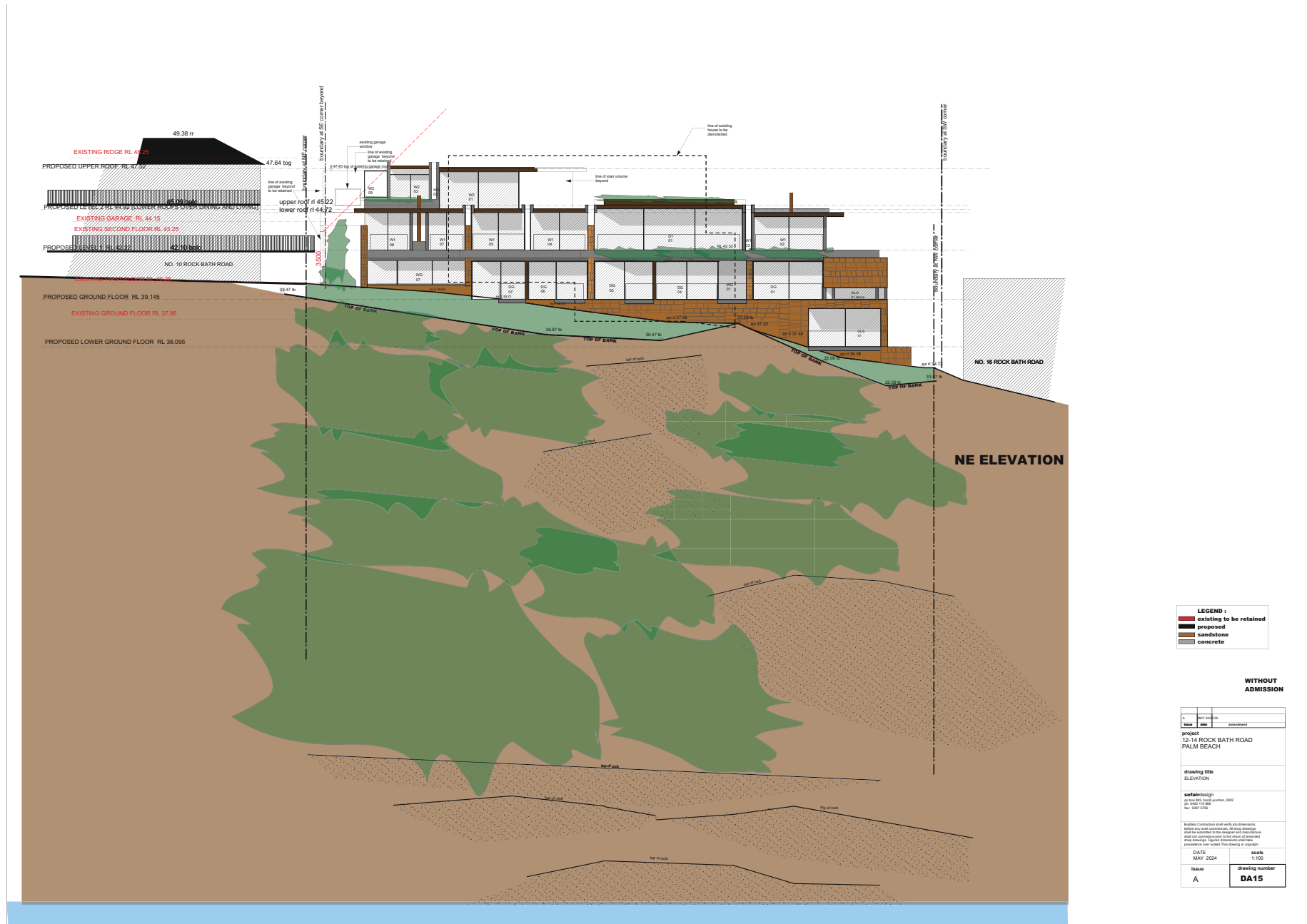
77. Control of Domestic Dog/cats

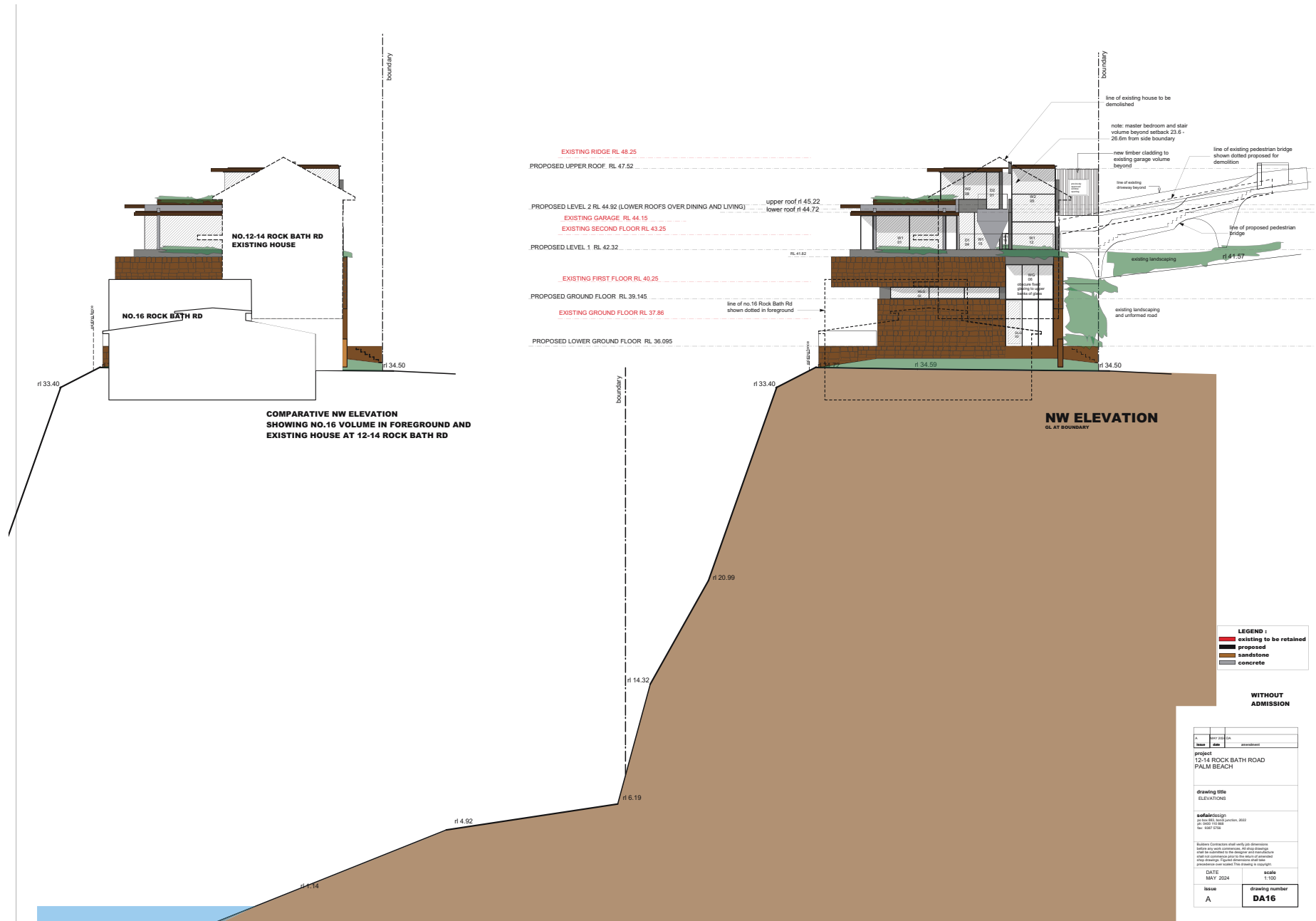
Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

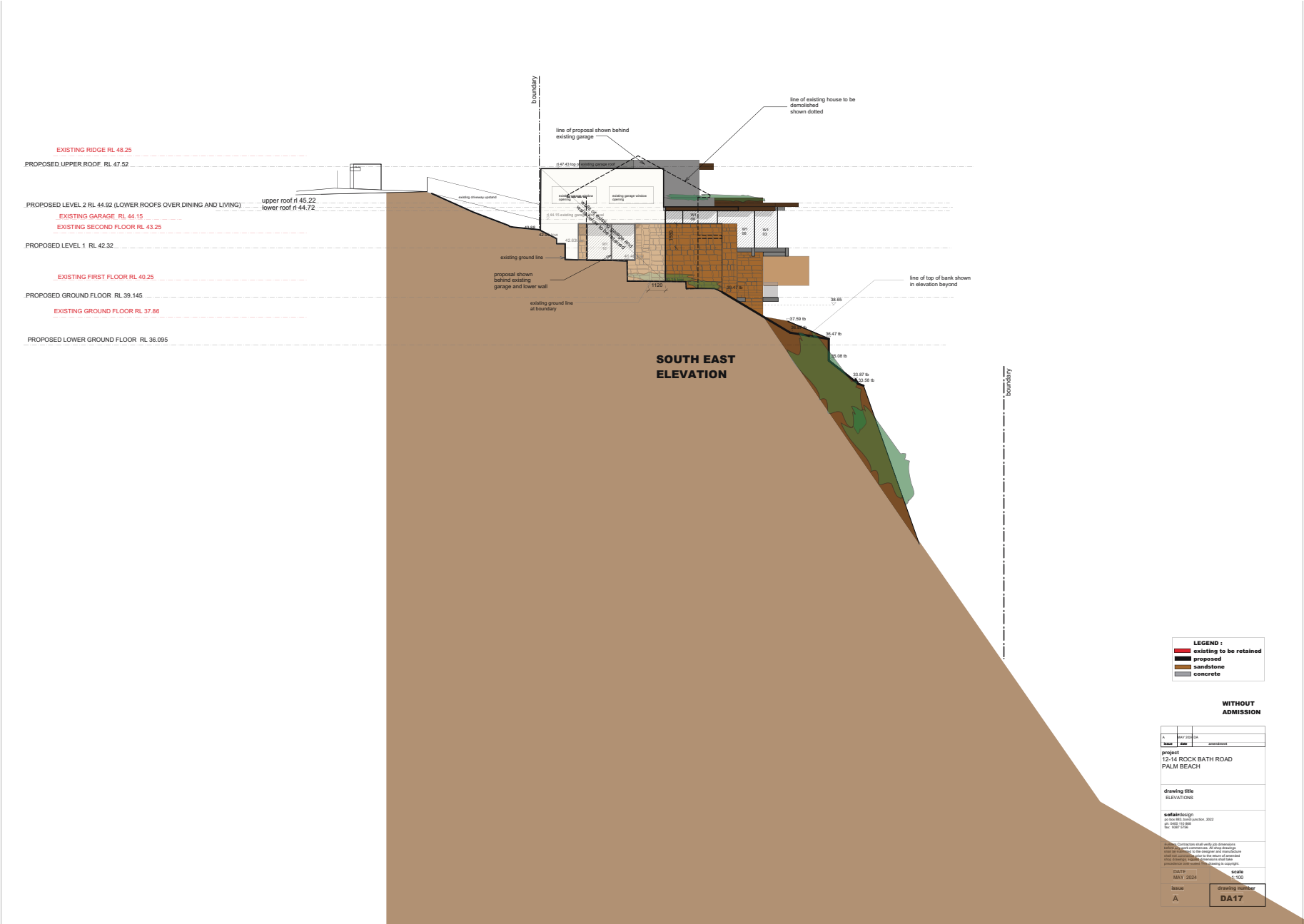
Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

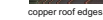
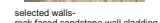
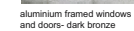
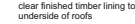
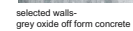
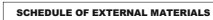
Reason: To protect native wildlife and habitat.











**WITHOUT
ADMISSION**

A	May 2017	GA
Issue	date	amendment
project 12-14 ROCK BATH ROAD PALM BEACH		
drawing title ELEVATION		
sofairedesign 1101 NW 85th Street, London, 2020 Tel: (888) 710 888 Fax: (888) 710 878		
Builder/Contractor shall verify all dimensions before any work commences. All shop drawings shall be provided to the designer and manufacturer shall not commence prior to the return of annotated shop drawings. Final dimensions shall take precedence over scaled. This drawing is copyright.		
DATE	scale	
MAY 2014	1"=10'	
Issue	drawing number	
A	DA18	

**ITEM 3.3 DA2024/1295 - 7 CRANE LODGE PLACE PALM BEACH -
ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE
INCLUDING SECONDARY DWELLING**

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 DA2024/1295 for Alterations and additions to a dwelling house including secondary dwelling on land at Lot 12 DP 31294, 7 Crane Lodge Place PALM BEACH, subject to the conditions set out in the Assessment Report.

Reporting manager	Adam Richardson
TRIM file ref	2025/235021
Attachments	1 Assessment Report 2 Site Plan and Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1295
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 12 DP 31294, 7 Crane Lodge Place PALM BEACH NSW 2108
Proposed Development:	Alterations and additions to a dwelling house including secondary dwelling
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Alexei Mazin

Application Lodged:	09/10/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	16/10/2024 to 30/10/2024
Advertised:	Not Advertised
Submissions Received:	9
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 836,000.00
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The development application seeks consent for alterations and additions to the existing dwelling and a secondary dwelling on the subject site. The application is referred to the Development Determination Panel (DDP) due to the application receiving five (5) or more objections during the notification period. The objections primarily focus on concerns related to environmental and built form impacts caused by the development. The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for fourteen (14) days. A total of seven (7) submissions were received in objection to the application.

Under the Northern Beaches Community Participation Plan (NBCPP), formal re-notification was not required, as it was considered that the amended plans resulted in a lesser of environmental impacts. However, to ensure transparency and community engagement, the objectors who made submissions to the original application were informally notified of the amended plans and given an opportunity to

comment on the amendments to the development.

As a consequence, a further four (4) additional submissions were received. These further submissions primarily focus on concerns related to environmental impacts caused by the development, streetscape, bulk and scale of the development, geotechnical matters, parking, views, privacy and maintenance of access along the Right of Carriageway.

The development proposes variations to Clause A4.12 Palm Beach Locality, Clause B6.3 Off-Street Vehicle Parking Requirements, Clause C1.14 Separately Accessible Structures, Clause D12.5 Front building line, Clause D12.6 Side and rear building line, Clause 12.8 Building envelope and D12.10 Landscape Area - Environmentally Sensitive Land. These variations are considered on the report however on balance, they are considered to be acceptable.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that proposal is an acceptable development for the subject site for the reasons outlined in this report. This report concludes with a recommendation that the DDP approve the development application, subject to the recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for alterations and additions, with secondary dwelling, to an existing dwelling on the subject site.

The proposed works include:

Level 0

- Demolition of existing, external entry stairs and construction of new enclosed, secure entry stairwell with lift
- Construction of new home office
- Removal of existing shed and concrete driveway in front and re-landscaping of this area along with the introduction of native species to other parts of the site
- Minor alteration/addition to existing garage and storeroom with new parking/turning platform adjacent

Level 1

- Construction of new self-contained secondary dwelling
- Construction of new studio
- Construction of new secure entry stairwell with lift allowing for equal access

Level 2

- Replacing existing southern deck with new family room and small deck, entry hall and store
- Construction of new secure entry stairwell with lift
- Construction of new study to north of living room

Level 3

- Construction of north-facing alteration/addition containing sunroom, dressing room and two ensuites
- Alteration to existing bathroom and extension to existing bedroom

Roof

- Replace deteriorated existing roof sheeting with new additional sections of roof to match

Application History

23 September 2024 - Development Application (DA) acknowledgement sent to the applicant.

24 September 2024 - Request for Additional Information sent to the applicant requesting a new BASIX Certification (as current BASIX Certificate lodged with the DA was more than 3 months old at the date of lodgement of the application).

30 September 2024 - New BASIX Certificate lodged by the applicant.

9 October 2024 - Notification letters sent to adjoining and surrounding properties.

17 October 2024 - Notification sign confirmation submitted by the applicant.

22 October 2024 - Site inspection of the subject site (7 Crane Lodge Place) undertaken by Council Planner.

25 October - 1 November 2024 - Council receives seven (7) unique submissions.

6 December 2024 - Request for Further Information sent to the applicant with the following issues:-

- Owners Consent – Landscaping on Right-Of-Carriageway;
- Right-of-carriageway – dimensions / location of works proposed adjacent;
- Elevations – Insufficient Information;
- Landscaped Open Space;
- Front Building Line;
- Local Character / Garage Width Control;
- Undercroft Area;
- Building Envelope;
- Visual and Acoustic Privacy;
- Building Colours and Materials; and
- Secondary Dwelling

6 December 2025 - Site inspection of the adjoining site to the west (6 Crane Lodge Place)

23 January 2025 - Amended Plans including and amended BASIX Certificate

- Displaying right-of-carriageway
- Removed proposed permeable gridded parking and turning platform beside right-of-way
- Home office and painting studio separate by staircase from primary and secondary dwellings
- Painting studio reduced in overall length with proposed deck on the southern elevation
- Reconfiguration of stairs and lift
- Store room (western elevation) reduced in size to allow for staircase to entry hall

5 March 2025 - Amended Plans

- Minor internal changes to the painting studio and external changes to the stairs.

31 March 2025 - Request of the applicant for owners consent from 8 Crane Lodge Place (Lot 13) for proposed alterations to garage extend into that property. The applicant amended the description of the development so as to exclude any works to the garage from the application, avoiding the need for owners from 8 Crane Lodge Place.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living
 Pittwater Local Environmental Plan 2014 - 5.4 Controls relating to miscellaneous permissible uses
 Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - C1.3 View Sharing
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
 Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures
 Pittwater 21 Development Control Plan - D12.3 Building colours and materials
 Pittwater 21 Development Control Plan - D12.5 Front building line
 Pittwater 21 Development Control Plan - D12.6 Side and rear building line
 Pittwater 21 Development Control Plan - D12.8 Building envelope
 Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 12 DP 31294 , 7 Crane Lodge Place PALM BEACH NSW 2108
Detailed Site Description:	Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by multi storey dwellings with associated outbuildings and structures with landscaped gardens. The subject site consists of a single allotment located on the northern side of Crane Lodge Place. The site is irregular in shape, featuring a frontage of 12.495m plus a radial distance of 9.635m along Crane Lodge Place. The site

	extends to a depth of 54.355m along the eastern boundary and 40.47m along the western boundary, with a total surveyed area of 958m². The site is situated within the C4 Environmental Living zone and accommodates a two-storey dwelling constructed from brick, timber framing, weatherboard, and steel roofing. This dwelling is positioned to the north of the right-of-way, while a separate double garage and storeroom, constructed of timber framing, weatherboard, and steel roofing, are located to the south. Properties along this section of Crane Lodge Place do not have direct street access. Instead, a right-of-way provides access to and from their respective sites. The site itself is steeply sloped, descending from the rear northern boundary to the front southern boundary at a gradient of approximately 49%. The site features dense vegetation along the eastern and western edges, with a few trees located to the south of the house. Additionally, a significant portion of native vegetation and mature trees exists to the north of the dwelling. Adjoining and Surrounding Development The surrounding area is characterised by multi-storey dwellings with associated outbuildings and landscaped gardens. These dwellings are designed to integrate with the steep terrain and natural vegetation, contributing to the area's established residential character.
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Map:



SITE HISTORY

BA0604/95 - second shower area additions to the dwelling approved 3 July 1995

N0119/11 - Alterations and additions approved 19 May 2011

DA2024/0874 - Alterations and additions to a dwelling house including secondary dwelling
 9 July 2024 - Request for further information (cost summary report and boundary identification survey).
 19 July 2024 - DA was withdrawn by the applicant.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning	None applicable.

Section 4.15 Matters for Consideration	Comments
agreement	
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 owners consent as landscaping was proposed on the right-of-carriageway, dimensions and location of works proposed adjacent to the right-of-carriageway, amended plans (elevations), landscape open space, front building line, local character/garage width control, undercroft area, building envelope, visual and acoustic privacy, building colours and materials, secondary dwelling and updated BASIX Certificate. On 31 March 2025 a further request to the applicant for owners consent from 8 Crane Lodge Place for proposed works to the garage (due to the encroachment of the existing garage) or statement from the applicant stating to remove any proposed works to the garage. <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 Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Matters for Consideration	Comments
accordance with the EPA Act or EPA Regs	
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 16/10/2024 to 30/10/2024 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 9 submission/s from:

Name:	Address:
Mr Alan Spencer Bertram	29 Crane Lodge Place PALM BEACH NSW 2108
Mr Hamid Truman	7A Crane Lodge Place PALM BEACH NSW 2108
Mr Gary John Burns	25A Crane Lodge Place PALM BEACH NSW 2108
Withheld	PALM BEACH NSW 2108
Withheld	PALM BEACH NSW 2108
Ms Rachel Mary Lewis Mr Gareth John Lewis	8 Crane Lodge Place PALM BEACH NSW 2108
Mr Garry Wilhelm Pammer	Po Box 780 AVALON BEACH NSW 2107
Withheld	PALM BEACH NSW 2108
Ms Jane Frances McMullen	9 Crane Lodge Place PALM BEACH NSW 2108

The following issues were raised in the submissions:

- ***Bulk and Scale, Overdevelopment, Site Appropriateness, Streetscape, and Precedent***

Comment: Several submissions raised concerns that the proposed development constitutes overdevelopment, may set a dangerous precedent, and is inappropriate for the site in terms of bulk and scale under Clause D12.8 Building Envelope. Concerns were also expressed regarding the development's consistency with the streetscape.

The proposal has been assessed against the relevant provisions of the PLEP 2014 and P21 DCP. The assessment concludes that the amended proposal complies with these requirements (subject to conditions). Where variations to the P21 DCP built form controls exist, they have

been evaluated on merit and found to be acceptable, subject to recommended conditions.

The development has undergone substantial amendments from the originally submitted architectural plans, particularly regarding the:

- o Home office
- o Painting studio
- o Secondary dwelling at the front of the site

These amendments have significantly reduced boundary envelope breaches:

- On the western elevation, the maximum breach height has been reduced from 3.4m to 1.5m, incorporating a stepped-down design that improves integration with the site's topography (see Figures 1 & 2).
- On the eastern elevation, the maximum envelope breach height has been reduced from 3.8m to 2.5m (see Figures 3 & 4).

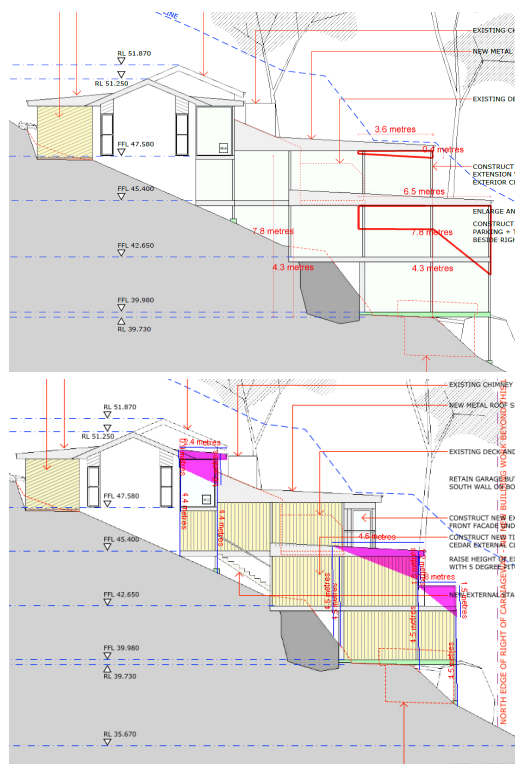


Figure 1 - Original proposal

Figure 2 - Amended Proposal

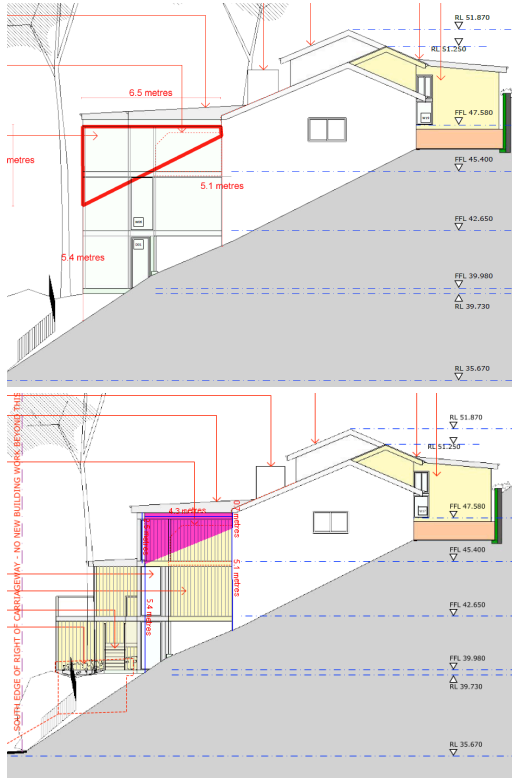


Figure 3 - Original proposal

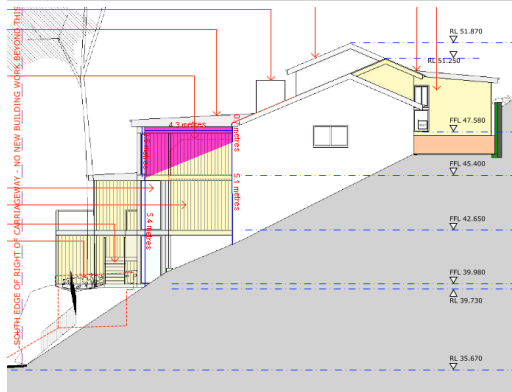


Figure 4 - Amended Proposal

The Level 2 deck includes a proposed solid wall, which is required under the National Construction Code (NCC). This is due to the secondary dwelling being located on Level 1, necessitating a building classification change from Class 1 to Class 2.

While the proposal includes variations to the P21 DCP, the development is considered acceptable as detailed throughout this report. Specifically, variations Clause D12.5 – Front Building Line, Clause D12.6 – Side and Rear Building Line and Clause D12.8 – Building Envelope have been assessed and found to be consistent with the objectives of these controls.

- ***Painting studio and home office***

Comment: Several submissions raised concerns regarding the painting studio and home office, particularly the amended design of the painting studio, which includes a bathroom at the northern end and a small deck at the southern end.

An assessment under Clause C1.14 – Separately Accessible Structures of the P21 DCP confirms that such structures may be permitted for use as a studio, home office, or similar purposes, provided that:

"i) it is are ancillary to a dwelling; and

ii) it is not designed for separate habitation and do not contain any cooking facilities."

Both the painting studio and home office comply with these requirements as they are ancillary to the dwelling, not designed for separate habitation, and do not contain cooking facilities. To reinforce this, a specific condition will be imposed to ensure that neither space is approved for separate occupancy, and built-in cooking facilities will not be permitted.

Concerns were also raised by the owners of 6 Crane Lodge Place regarding potential privacy impacts from the proposed deck off the painting studio. Given its proximity to neighboring properties, it is recommended that the deck be removed and replaced with a roof design that integrates with the existing building, incorporating a Juliet balcony instead. Installing a privacy screen along the western edge of the balcony would add unnecessary bulk and further contribute to building envelope non-compliance, which is not supported on this occasion.

- **Privacy**

Comment: As stated above, the proposed balcony off the painting studio will be removed as a condition of approval to maintain a reasonable level of amenity for both the occupants of the subject site and the adjoining property to the west (6 Crane Lodge Place).

Additionally, to preserve privacy and residential amenity, the following window treatments will be required by recommended condition:

- The full-sized ensuite window (W12) adjacent to Bedroom 1, which faces directly west, must be frosted and/or obscured to protect the privacy of 6 and 7 Crane Lodge Place.
- The bathroom window (W07), which faces north, must also be frosted and/or obscured to ensure privacy for both adjoining properties.

These recommended conditions will ensure that the proposed development minimises privacy impacts while maintaining an appropriate level of amenity for neighbouring residents.

- **Noise for lift**

Comment: One submission raised concerns regarding potential noise transmission from the proposed lift. The lift is centrally positioned at the front of the development and is located more than 8m from any side boundary.

To ensure a reasonable acoustic amenity for adjoining and surrounding dwellings, a condition will be recommended as part of the approval to mitigate potential noise impacts.

- **Parking**

Comment: An issue was raised regarding the number of parking spaces for the proposed development, which includes an existing principal dwelling and a proposed secondary dwelling. A detailed assessment has been carried out under Clause B6.3 – Off-Street Vehicle Parking Requirements of the P21DCP.

Due to the site's steep terrain, the limited space available for compliant parking, and the constraints imposed by the right-of-way, future opportunities for additional parking are significantly restricted. Notwithstanding, Chapter 3, Part 1, Clause 53(b) of the Housing State Environmental Planning Plan (Housing) 2021 (Housing SEPP) stipulates the following:

"The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out".

The development does not reduce the amount of car parking currently provided on the site. Therefore, while the proposal is technically numerically non-compliant with the requirements of this control (Clause B6.3 – Off-Street Vehicle Parking Requirements of the P21DCP), the Housing SEPP prevails over the P21DCP.

- ***Maintenance of access along Right of Carriageway and pedestrian safety***

Comment: Submissions have received regarding potential obstruction and damage of the Right of Carriageway (ROC) during construction and pedestrian safety. Should the application be approved, a condition is recommended to require the preparation of a Construction Traffic Management Report, to ensure that the ROC is not unreasonably obstructed during construction and ensure pedestrian safety for owners and visitors.

- ***No formal re-notification of amended plans***

Comment: An issue was raised regarding the formal re-notification of the recent amended plans. Under the Northern Beaches Community Participation Plan (NBCPP), formal re-notification was not required, as it was considered that the amended plans resulted in a lessening of environmental impacts. However, to ensure transparency and community engagement, all objectors to the original development were notified of the plans.

During this re-notification period, Council received four (4) additional submissions including one (1) submission prior to the re-notification period, all of which have been formally assessed and considered in the determination of the development application.

- ***Inadequate consideration for existing trees and site conditions***

Comment: Several concerns were raised regarding the removal of two *Corymbia maculata* (spotted gum) trees, identified as Trees 2 and 5 in the Arboricultural Impact Assessment (AIA), and the potential impact on Tree 4 (also *Corymbia maculata*).

Trees 2 and 5 are wholly located within the proposed development footprint and have been recommended for removal by the applicant's arborist. To compensate for their loss, replacement plantings will be selected and located within the subject site, as recommended in both the AIA and the conditions set by Council's Senior Landscape Architect.

Tree 4, located at the front of the property, will be affected by the proposed new lift, stairwell, and timber-framed extension. To minimise impacts, tree-sensitive construction techniques have been incorporated into the design and recommended within the AIA. Additionally, Council's Senior Landscape Architect has proposed specific conditions to ensure its protection.

- ***A geo-physical land report is to be completed and future and past landslips***

Comment: A geotechnical report was lodged with the development application, prepared by a

Registered Professional Geoscientist from White Geotechnical Group, dated 12 June 2024. The report includes recommendations, methodology, and required inspections at critical stages of construction phases of the proposed development.

While it is noted that past landslips may have occurred on adjoining and surrounding properties, the current development application has been supported by appropriate geotechnical documentation. Council's Development Engineer has reviewed the geotechnical report, plans, and supporting documentation and has imposed specific conditions to minimise potential landslip risks in the future, should the development be approved.

- ***Excessive stormwater runoff from the site and proposed development***

Comment: Concerns were raised regarding excessive stormwater runoff from the site and the proposed development.

A review of the Geotechnical Report provides specific recommendations for managing surface water, including:

- Capturing uphill flows and directing them to the street via a controlled drainage system.
- Oversized drains, pits, and associated plumbing, designed to handle extreme and prolonged rainfall events.
- Prioritising drainage construction as the first stage of development to enhance slope stability, reduce erosion, and improve overall site conditions.

In addition, stormwater management plans prepared by a civil engineer, were submitted and reviewed by Council's Development Engineer. Conditions have been imposed to ensure adequate stormwater drainage is implemented as part of the development.

- ***Proposed alterations and additions to the garage***

Comment: An issue was raised regarding the proposed alterations and additions to the garage, including increases in width, length, and height.

It is noted that the existing garage currently encroaches over the southern front boundary. As a result, a variation to Clause D12.5 (Front Building Line) of P21DCP is supported in this instance. Reviewing the deposited plan (DP31294) is noted that the existing garage on subject site on Lot 12 (7 Crane Lodge Place) encroaches on to Lot 13 (8 Crane Lodge Place) see plan below:-

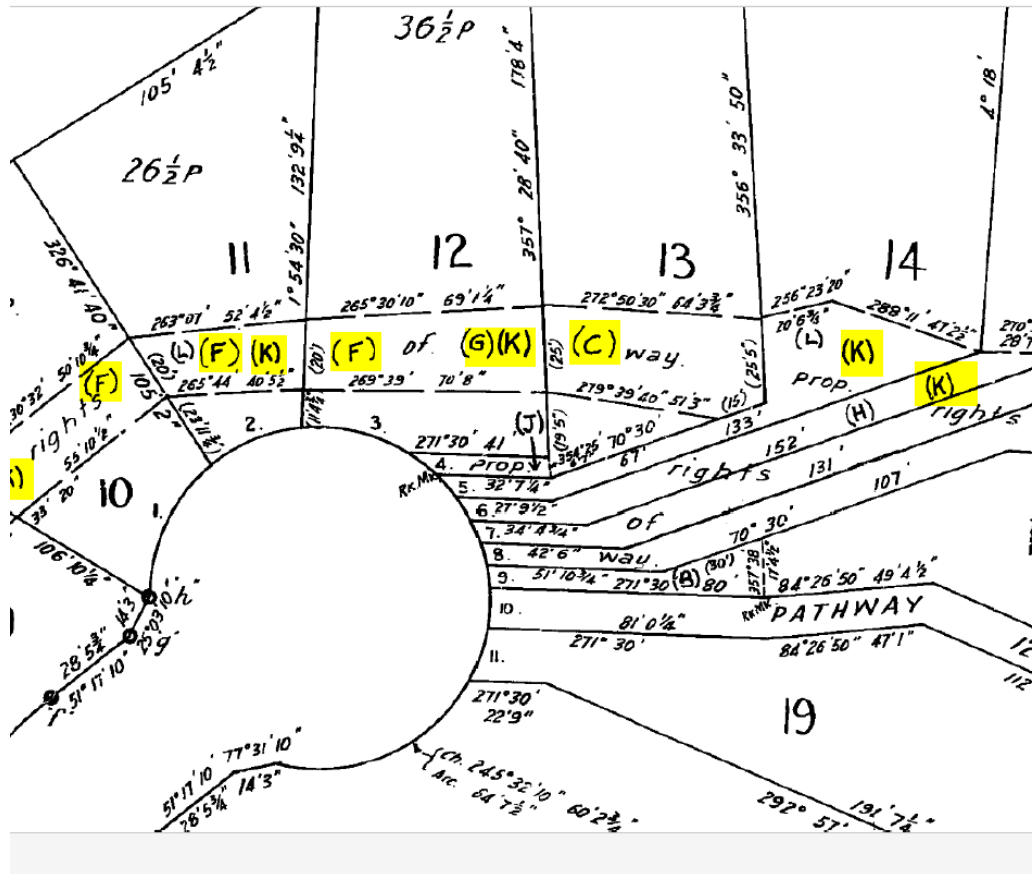


Figure 5: DP31294 (area (J) access handle for Lot 13 is where the encroachment occurs.

Based on the information above Council cannot approve any alterations and additions to the garage without owner(s) consent from Lot 13 (8 Crane Lodge Place). Council received an email on 1 April 2025 from the owners of 7 Crane Lodge Place removing the garage from this development application. A condition will be included to ensure this outcome.

- **Views**

Comment: Issues were raised by 6 and 9 Crane Lodge Place regarding potential view impacts. In accordance with Clause C1.3 View Sharing of the P21 DCP, a detailed assessment, including site inspections from affected properties, has been undertaken.

Applying the Tenacity Principles, it has been determined that:

- View loss from the main living areas (lounge and kitchen) of 6 Crane Lodge Place is negligible.
- View loss from the master bedroom of 6 Crane Lodge Place is minor.
- View loss from 9 Crane Lodge Place is negligible.

One submission referenced the fourth step of *Tenacity Consulting v Warringah Council (2004) NSWLEC 140*, which states:

"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."

Variations to specific built form controls of the P21 DCP have been addressed in this assessment. As the view loss has been assessed as minor, the proposal is considered to satisfy the fourth step of the Tenacity Principle.

- **Alternative design solutions**

Comment: One submission suggested three (3) alternative design solutions relocating the painting studio as follows:-

*"1. Alternative Location 1: Painting Studio pulled back further to the north (lesser breach of envelope control, fully compliant with height control)
2. Alternative Location 2: Painting Studio located above the northern addition (fully compliant with height and envelope controls)
3. Alternative Location 3: Painting Studio located above the garage (fully compliant with height and envelope controls)"*

While these alternatives have been noted, Council is required to assess the amended plans as submitted and cannot recommend or impose conditions requiring the relocation of specific elements such as the painting studio.

- **Trespassing on 9 Crane Lodge Place for Site Access**

Comment: A concern was raised regarding alleged trespassing by construction workers and vehicles accessing the construction site at 7 Crane Lodge Place.

A review of the deposited plan (DP31294) confirms that the ROC permits vehicular and pedestrian access for all lots 9–19. Notably, Lot 12 (7 Crane Lodge Place) is one of the lots that benefits from these rights under the ROC. As such, the use of the ROC for access to the site is in accordance with legal entitlements.

- **Impacts on services for 9 Crane Lodge Place (Garage excavation works)**

Comment: The existing garage at 7 Crane Lodge Place encroaches over the southern front boundary onto Lot 13 (8 Crane Lodge Place). Without the owner's consent from 8 Crane Lodge Place, Council cannot grant approval for the proposed garage works.

As a result, there will be no impacts on services for 9 Crane Lodge Place related to the proposed garage excavation works.

- **Existing boundary encroachments on 8 Crane Lodge Place by 7 Crane Lodge Place**

Comment: Concerns were raised regarding the front stairs at the southeastern corner, as well as the courtyard and wall at the rear of the house on the eastern side boundary at 7 Crane Lodge Place, which encroach onto 8 Crane Lodge Place. Additionally, the existing garage on the southern front boundary for 7 Crane Lodge Place also encroaches onto land owned by 8 Crane Lodge Place.

- **Airbnb**

Comment: Multiple submissions raised concerns regarding the potential rental of the secondary dwelling, home office, and painting studio via Airbnb.

A condition will be included in the approval to prohibit the habitation of the home office and painting studio as separate dwellings. However, the secondary dwelling may be rented out for short-term accommodation, and any such use would be subject to compliance with the Code of Conduct for the Short-Term Rental Accommodation Industry.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application subject to inclusion of the attached conditions of approval and consideration of the notes below. <u>Note:</u> 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	Council's Landscape Referral is assessed against the Pittwater Local Environment Plan (PLEP) clause C4 zone Environmental Living, and the following Pittwater 21 Development Control Plan (PDCP) controls (but not limited to): B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; and D12 Palm Beach Locality. The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment with ecological, scientific or aesthetic values, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone. An Arboricultural Impact Assessment (AIA) and a Landscape Plan are submitted for consideration of Landscape Referral.

Internal Referral Body	Comments
	The AIA report includes proposed removal of two existing Spotted Gums identified as trees 2 and 5 that, and should the proposal be approved, these trees will require removal as no design alternative is available. It is noted that there are seven existing Spotted Gums identified as trees 3, 4, 8, 9, 10 (co-owned), 11 and 12 within the property that are assessed in the AIA for preservation and protection. Existing tree 4 will require Project Arborist supervision to satisfy the recommendations of the AIA report and conditions shall be imposed. All trees and vegetation within neighbouring properties shall be retained. Landscape Referral raise no concerns with the proposed recommendations of the AIA report. The property is located within the Department of Planning, Industry and Environment's (DPIE) Biodiversity Values Map (BVM) under the Biodiversity Conservation Act, and any tree removal within the BVM may trigger the Biodiversity Offsets Scheme (BOS) and may require a Biodiversity Development Assessment Report (BDAR). Landscape Referral consider the two proposed tree removal species are located outside of the BVM, and this specific matter is deferred to Council's Bushland & Biodiversity Referral team. The Landscape Plan provides planting enhancement as illustrated and no concerns are raised, subject to conditions that shall include replacement Spotted Gum Forest planting typical of the association. Additionally it is noted that outside of the proposed building envelope, existing rock outcrops are to be retained, and conditions shall be imposed.
NECC (Bushland and Biodiversity)	The proposal has been assessed against the following biodiversity-related provisions: • NSW Biodiversity Conservation Act 2016 (BC Act) • NSW Biodiversity Conservation Regulation 2017 • Pittwater LEP Clause 7.6 - Biodiversity Protection • Pittwater DCP Clause B4.7 - Pittwater Spotted Gum Forest Endangered Ecological Community Portions of vegetation within the subject site have been identified on the NSW Department of Climate Change, Energy, the Environment and Water's (DCCEEW) Biodiversity Values Map (BV Map). Any impacts to native vegetation within the BV Map area will trigger entry into the NSW Biodiversity Offsets Scheme (BOS) and require a Biodiversity Development Assessment Report (BDAR) to be submitted in support of the application. The proposal will require removal of two Spotted Gums (Trees 2 and 5) which are located outside of the BV Map area. As such, the proposal as submitted does not trigger entry into the BOS, and a BDAR is therefore not required. However, should the works result in impacts to vegetation within the BV Map area (including significant

Internal Referral Body	Comments
	Trees 4, 8, 9, 11, 12 and 13), an additional consent application will be required and must be accompanied by a BDAR, prepared by an ecologist accredited in application of the NSW Biodiversity Assessment Method. The two trees proposed for removal are currently in close proximity to existing approved buildings, and as such may already meet the thresholds for the proximity exemption under PDCP B4.22. Should the development be approved, an additional condition is recommended so that trees to be retained under this consent cannot be removed under the PDCP B4.22 proximity exemption in future. The proposed new landscaping is generally consistent with the requirements of PDCP B4.7, and conditions recommended by the Landscape referrals body will assist in retaining significant trees on site.
NECC (Development Engineering)	05/11/2024: Development Application is for alterations and additions to the existing house including addition of secondary dwelling. Access Site is accessed by Right of Way(ROW), no changes to ROW are proposed. Internal driveway leading garage is proposed to be upgraded and to be designed in accordance with Australian Standards and is conditioned accordingly. Stormwater Stormwater will be connected to existed approved system. Geotechnical Site is mapped as Geotechnical Hazard H1. Geotech Report by White Geotechnical Group, Ref: J4584A, Dated 12th June, 2024 with Form 1 and 1A is provided. For Planner: Please impose a condition to keep ROW clear all the times during construction 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.

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. A1751219_03 dated 21 January 2025).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

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:	10m*	8.5m (Dwelling)	-	Yes
		6.2m (Garage)	-	Yes

* Clause 4.3 Height of Buildings Clause (2D) development may exceed a height of 8.5 metres, but not be more than 10.0 metres subject that the portion is minor, the objectives of this clause are achieved and the building footprint is situated on a slope that is in excess of 16.7 degrees (30%) - subject slope site is over 26.1 degrees (49%).

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
Part 7 Additional local provisions	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment**Zone C4 Environmental Living**

The proposed development involves partial demolition of the existing dwelling house and associated structures and construction of alterations and additions to the existing dwelling including alterations and additions to the existing garage and storage building at the front of the subject site, and associated drainage works. Dwelling houses are permissible with consent in the C4 Environmental Living zone. The proposal is considered against the objectives of the zone as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment: The area of the site that is subject to the development has been subject to previous disturbance by previous development. The dense vegetation to the rear of site is to be retained, which will soften the visual impacts of the development when viewed from below. Furthermore,

the proposed development will be appropriately sited and scaled, such that the works will not unreasonably detract from the visual qualities of the locality. Overall, the development is considered to have an acceptable impact upon the ecological, scientific or aesthetic values of the area.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment: As demonstrated above, the proposed development does not have an adverse effect on the ecological, scientific or aesthetic values listed above.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment: The proposed development will require removal of some vegetation and this will be replaced with appropriate landscaping on the site. Furthermore, the building height steps down with the slope of the land, which visually reduces the built form and sensitively responds to the natural topography. The proposal also does not change the existing low density residential land use and the scale of the development is commensurate with nearby residential development within the locality. Overall, the proposal meets this objective.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment: The proposed landscaping and the retention of vegetation in the rear portion of the site will enhance the existing wildlife corridor that traverses the property.

Conclusion

As demonstrated above, the proposed development satisfies the objectives of the C4 Environmental Living zone.

5.4 Controls relating to miscellaneous permissible uses

In accordance with Clause 5.4(9a), the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed 60m².

The proposed secondary dwelling has a internal floor space of 41.4m² and demonstrates compliance with this clause.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
Front building line	6.5m	Nil (garage)	100%	No
		11.4m (dwelling - home office)	-	Yes

		17.2m (secondary dwelling & primary dwelling)	-	Yes
Rear building line	6.5m	6.8m - 12.2m	-	Yes
Side building line	2.5m (east)	0.5m - 0.917m (garage)	63.3% - 80%	No
		1.6m - 6.8m (dwelling)	36%	No
	1m (west)	0.93 - 1m (dwelling)	7%	No
Building envelope	3.5m (east)	Garage: Breach of 2.9m (length) x 1.2m (height)	34.3%	No
		Level 2: Breach of 4.3m (length) x 0.7m - 2.5m (height)	20% - 71.4%	No
	3.5m (west)	Level 1: Breach of 1.8m (length) x 1.5m (height)	42.9%	No
		Level 1: Breach of 4.6m (length) x 1.2m (height)	34.3%	No
		Level 3: Breach of 2.4m (length) x 0.9m - 1.6m (height)	25.7% - 45.7%	No
Landscaped area	60%	451.2m ² (47.1%)*	21.5%	No

* Includes 6% allowable variation

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	No	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.12 Palm Beach Locality

The development is generally consistent with the desired character statement of the Palm Beach Locality with exception of the dwelling being three (3) storeys.

Specifically, the locality statement provides that the *"locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys (2) in any one place in a landscaped setting, integrated with the landform and landscape"*.

The proposed development is not strictly in compliance with the requirements of this clause, in that it includes three (3) storeys, where this control allows for two (2) storeys. The proposed development is acceptable on merit and do not erode the visual character of the locality as it is intended. The proposed built form of the development is set below the tree canopy and is softened by landscaping. The proposal is supported by a suitable landscape plan in this regard, demonstrating a good mix of vegetation types and sizes, from shrubbery to canopy trees and other species in between. The proposal is also supported by a geotechnical report prepared by a suitably qualified professional, demonstrating the proposal is designed to be safe from hazards (in accordance with recommendations and imposed conditions). Overall, the dwelling appropriately responds to the topography of the site, while minimising excavation. Given these factors, the proposal demonstrates a suitable balance between maintaining landform and allowing for acceptable development and is acceptable on merit with respect to the desired character of the subject site and surrounding land.

In this regard, the built form will sit comfortably with surrounding two (2) and three (3) storey residential developments. Further, proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Palm Beach locality.

B6.3 Off-Street Vehicle Parking Requirements

This control requires three (3) off-street car parking spaces to be provided on the site, two (2) for the principal dwelling house and one (1) for the secondary dwelling. The site currently provides off-street car parking for two (2) vehicles via the double garage.

The proposed development includes two (2) off-street car parking spaces, thereby non-compliant with this control.

Notwithstanding, Chapter 3, Part 1, Clause 53(b) of the Housing SEPP stipulates the following:

"The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out".

The development does not reduce the amount of car parking currently provided on the site. Therefore, while the proposal is technically numerically non-compliant with the requirements of this control, the Housing SEPP prevails over the P21DCP. In this instance, consideration of this control for this assessment is not required.

C1.3 View Sharing

Merit consideration

Submissions from 6 and 9 Crane Lodge Place relating to view loss were received during the recent re-notification of the amended plans.

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

- *A reasonable sharing of views amongst dwellings.*

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:

6 Crane Lodge Place: Distant water views with heavily vegetation obscuring views from the master bedroom.

9 Crane Lodge Place: Very filter views of Pittwater through heavy vegetation. It is noted that Council's Planner attempted to gain access to the dwelling to assess the potential view loss, however was directed by the owner to assess the view from the front deck and side of the dwelling (externally).

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:

6 Crane Lodge Place: Views are obtained over the eastern side boundary and front southern boundary from a standing position.

9 Crane Lodge Place: Views are obtained over the western side boundary.

3. Extent of impact

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

Comment to Principle 3:

6 Crane Lodge Place: The view been assessed is from the master bedroom and not from the living room and/or kitchen. Additionally, the view loss is over a side boundary and views are distant water views of the ocean with heavy vegetation within the foreground. Additionally, an assessment was taken from the balcony adjacent to the living with views looking to the south (ocean) and to the west (Pittwater) with view loss assessed as minor.



Photo 1 - View from master bedroom at 6 Crane Lodge Place



Photo 2 - View from balcony adjacent to the living area looking south to the ocean



Photo 3 - View looking to the west over to Pittwater

9 Crane Lodge Place: As stated previously the view assessment was only from the front deck and side of the dwelling over the western side boundary. The view is highly vegetated towards Pittwater and the view loss is assessed as negligible.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

6 Crane Lodge Place: The proposed painting room is compliant with the height of buildings, however is non-compliant with the building envelope control. It is noted that the view has been assessed as minor given a number factors (bedroom, view over the side boundary and distant views of the ocean obscured by heavy vegetation within the foreground).

Given all factor it is considered that the proposed development is reasonable (subject to conditions).

9 Crane Lodge Place: The proposed alterations and additions to the garage is compliant with the height of buildings, however is non-compliant with the building envelope control. Given the limited assessment available the views were assessed as negligible.

It is considered that the proposed alterations and additions to the garage are reasonable, in the context of submissions.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Comment: Views and vistas from Crane Lodge Place and surrounding public places will be maintained ensuring compliance with this merit objective.

- *Canopy trees take priority over views.*

Comment: It is noted that two (2) trees will be removed as part of this proposed development and a review by Council's Landscape Officer has supported the proposal subject to conditions (including replacement plantings on site). It is considered a number of canopy trees will be maintained on the site ensuring compliance is demonstrated with this merit objective.

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.

C1.5 Visual Privacy

The proposed balcony off the painting studio will be removed as a condition of approval to ensure reasonable amenity for both the occupants of the subject site and the adjoining property to the west (6 Crane Lodge Place).

Additionally, the full-sized ensuite window (W12) adjacent to Bedroom 1, which faces directly west, will be required to have frosted and/or obscured glazing to maintain privacy and amenity for both 6 and 7 Crane Lodge Place. Similarly, the bathroom window (W07), which faces north, will also be conditioned to have frosted and/or obscured glazing to ensure privacy for both properties.

Given the above it is considered that the proposal development will satisfy this clause (subject conditions).

C1.6 Acoustic Privacy

Conditions for the use of the lift have been imposed to ensure consistency with this control.

C1.14 Separately Accessible Structures**Description of non-compliance**

The proposed development includes a detached "home office" on level 0 and "painting studio" on level 1 outbuilding located within the front portion of the site and adjacent to the western side boundary. The painting studio includes bathroom facilities.

This control states that separately accessible structures may be permitted for use as a studio, home office, workshop area, rumpus room and the like, provided that:

- it is ancillary to a dwelling;
- it is not designed for separate habitation and does not contain any cooking facilities.

The control allows for a variation to be considered for the addition of bathroom/toilet facilities where the purpose of the structure or its distance from the nearest bathroom facilities dictates the inclusion of such facilities. Due to the distance from the dwelling, the bathroom/toilet facilities are supported.

Development consent is not sought for the use of this structure as a separate occupancy / dwelling. The subject site also proposes alterations and additions to the existing dwelling house and a secondary dwelling located on level 1. It is noted that if the subject site were to have 3 or more dwellings (whether attached or detached), this would redefine the use of the site as multi dwelling housing under the PLEP 2014. This land use is prohibited in the C4 Environmental Living Zone.

Considering the above, and the requirements of this control, a condition of consent is included in the recommendations of this report clarifying that no approval is granted or implied under this Development Consent for the use of the area labeled painting studio and home office on the approved plans for the purpose of a separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area of the existing primary dwelling and the proposed secondary dwelling.

Merit Consideration

Further consideration of the non-compliance will be given in accordance with the outcome of the control, as below.

- *Separately accessible structures that provide a recreational or office function for residents.*

Comment: It is considered that the inclusion of bathroom facilities within the painting studio is reasonable given its overall size, intended use and degree of separation from the dwelling house.

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.

D12.3 Building colours and materials

The proposed external cladding is western red cedar which initially presents with a warm, reddish-brown hue, which naturally ages to a silvery-grey color over time when left untreated. Conditions will be included to ensure colours and materials selected comply with this clause.

D12.5 Front building line

(Description of non-compliance)

The proposed garage is located nil setback from the front boundary, presenting a variation of 100% (6.5m).

Reviewing the survey submitted with the development application it is noted that the existing garage hangs over the southern front boundary and these proposed works will rectify this encroachment.

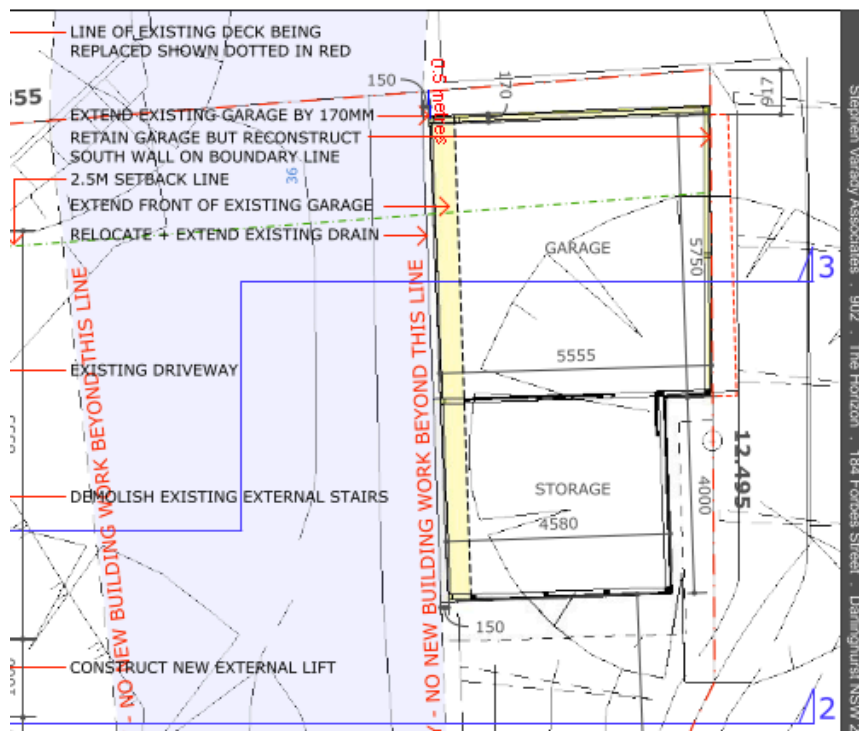


Figure 6 - Proposed modified garage

Under Clause D12.5 Front building line of Pittwater 21 Development Control Plan the following variation applies:

"Where carparking is to be provided on steeply sloping sites, reduced or nil setbacks for carparking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable."

It is considered the subject site, is a steeply sloping site, and as such the reduced setback for carparking structures is acceptable. In this instance, the dwelling house on site, is located behind the 6.5m front building line.

An assessment against the outcomes of the control has been undertaken, and it is considered the

variation meets the outcomes of the control as detailed below.

Merit consideration

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

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

Comment: The proposed development is consistent with the desired future character of the Palm Beach Locality.

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

Comment: The proposal demonstrates compliance with the height of buildings development standard, and as such continues to preserve views and vistas to and from public and private places.

- ***The amenity of residential development adjoining a main road is maintained.***

Comment: The proposal does not adjoin a main road, therefore this outcome is not relevant.

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

Comment: The proposal retains a number of native trees on site and the two native trees which be suitable conditioned to be replaced with new native trees that will assist to visually reduce the built form.

- ***Vehicle manoeuvring in a forward direction is facilitated.***

Comment: The modified garage and existing access to the ROC will allow for vehicular maneuvering in a forward direction ensuring compliance with merit objective.

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

Comment: The proposal retains the rural and bushland character of the Palm Beach locality, particularly with the retention of the rock outcrop located at the front and rear of the site

- ***To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.***

Comment: The proposal will enhance the existing streetscape through the extensive plantings proposed, as well as the materials and finishes selected. It is considered that the scale and density is in keeping with the height of the natural environment.

- ***To encourage attractive street frontages and improve pedestrian amenity.***

Comment:

The proposal encourages an attractive street frontage that will improve pedestrian amenity to access the frontage of the site.

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

Comment: The proposal responds to and sensitively reinforces consistency with the spatial characteristics of the existing urban environment. The proposed garage location is generally consistent with existing parking facilities along right-of-way off Crane Lodge Place that are located within the front and side setbacks area. Therefore, the proposal is supportable in this instance as the proposal is compatible with the streetscape.

Based on the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of P21DCP and the objectives outlined in Section 1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment supports the proposal in this particular circumstance.

D12.6 Side and rear building line

Detailed description of non-compliance

Pursuant to Section D12.6 of the Pittwater 21 Development Control Plan, the minimum side building line for built structures is 2.5m to at least one side and 1m for the other side.

For this site, the 2.5m requirement is taken to be for the eastern boundary and the 1m requirement is taken to be for the western boundary. The existing dwelling has a side setback of 0.93m from the western side boundary and the proposed extensions of level 3 (north western corner of the dwelling) proposes to maintain this existing side setback of 0.93m, which is variation of 7%. It noted all new works on the western elevation maintain a 1m side setback or greater demonstrating compliance with this control.

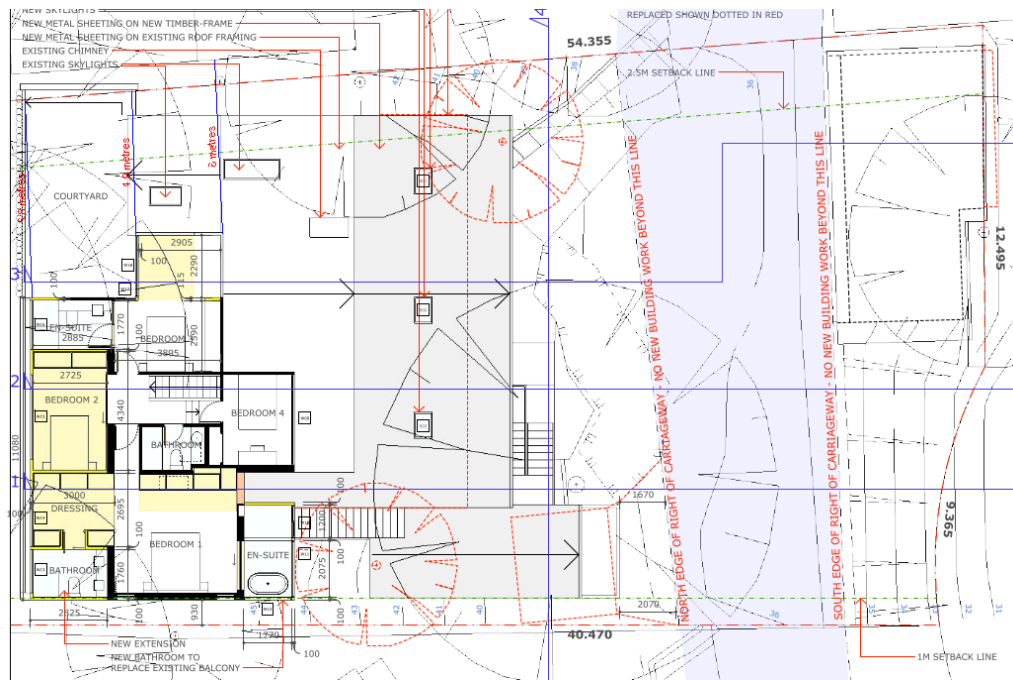


Figure 7: Proposed Level 3 Floor Plan

The existing dwelling has an existing side setback of 0.9m and the existing garage has side setback of 0.735m from the eastern side boundary. The proposed new side setback to the garage will be 0.5m - 0.917m (a variation of 63.3% - 80%) and the proposed additions (both levels 1 and 2) to the dwelling will be sited 1.6m - 1.9m (a variation of 24% - 36%) from the eastern side boundary.

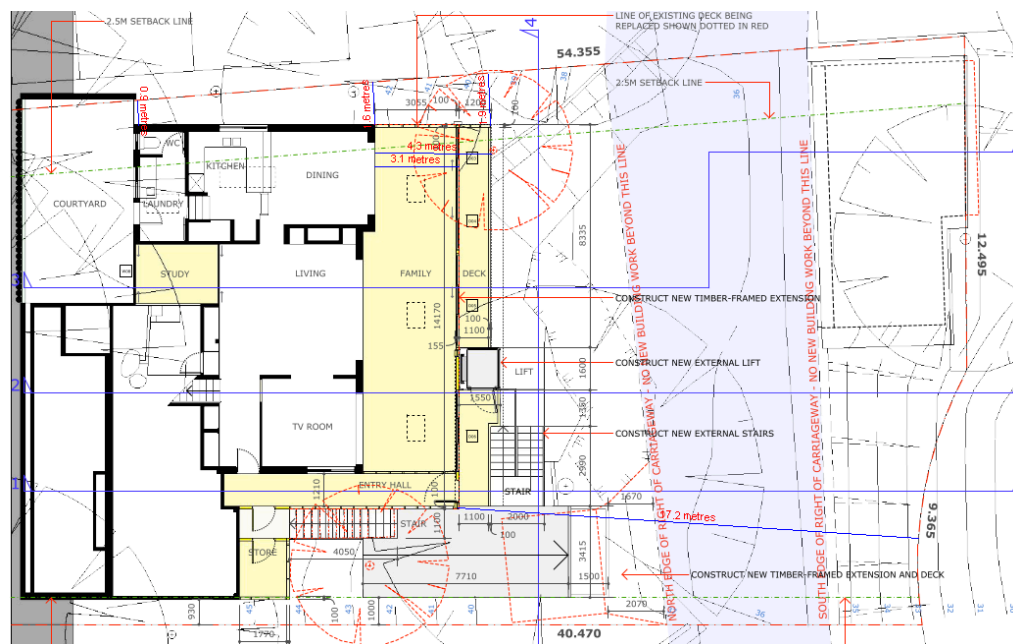


Figure 8: Proposed Level 2 Floor Plan

[illegible]

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

Comment: The proposed development is consistent with the desired future character of the Palm Beach locality as the dwelling maintains a low-density residential character in a landscaped setting that is integrated with the landform and landscape.

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

Comment: The parking structure is neither excessive in size nor height and, therefore, does not present an unreasonable level of bulk or scale.

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

Comment: The steepness of the site and the position of dwellings at a much higher elevation than the proposed development ensures views and vistas to and from public and private places are preserved.

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

Comment: The siting of the alterations and additions to the buildings maintains reasonable view sharing to adjoining dwellings/properties. The proposal also maintains significant vegetation and the building has been designed to step down to follow the slope of the land and therefore sits within the existing landscape, responding sensitively to the landform and natural environment.

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

Comment: The proposed development is appropriately designed so as to provide a reasonable level of privacy (subject to conditions), amenity and solar access for the subject site and adjacent sites.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape.***

Comment: The proposal maintains significant vegetation and an ample amount of landscaped area across the site. The building has been designed to step down to follow the slope of the land and therefore sits within the existing landscape, responding sensitively to the landform and natural environment.

- ***Flexibility in the siting of buildings and access.***

Comment: Flexibility has been afforded in the siting of the additions to the dwelling given the densely vegetated surrounds and no direct interface with the neighbouring property.

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

Comment: The proposal maintains a number of native trees which visually reduces the built form.

- **To ensure a landscaped buffer between commercial and residential zones is established.**

Comment:

The site is not located adjacent to any commercial zones and therefore this objective is not applicable.

Based on the above assessment, it is concluded that the proposed development aligns with the relevant objectives of the P21DCP and Section 1.3 of the Environmental Planning and Assessment Act 1979. Therefore, this assessment supports the proposal in this particular circumstance.

D12.8 Building envelope

The proposed development is non-compliant with the building envelope control on both the western and eastern elevations. Where the building footprint is situated on a slope over 16.7 degrees (30%), variation to this control will be considered on a merits basis. The proposed development is situated on land with a slope of approximately 26.1 degrees (49%). As such, the non-compliance arises due to the steep topography of the land. The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

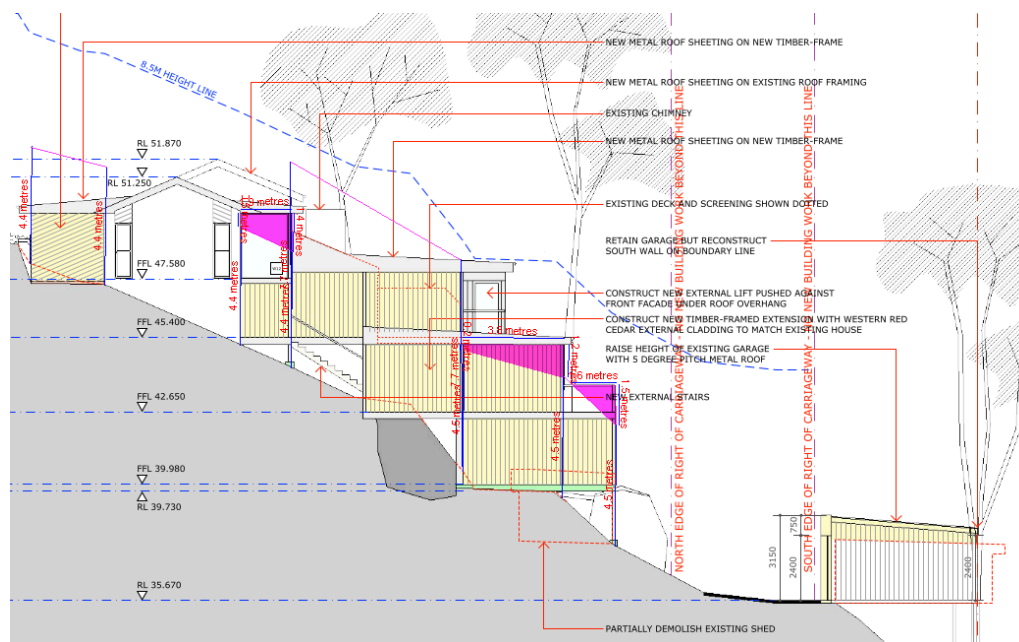


Figure 11 - Western elevation (pink indicates side boundary breaches)

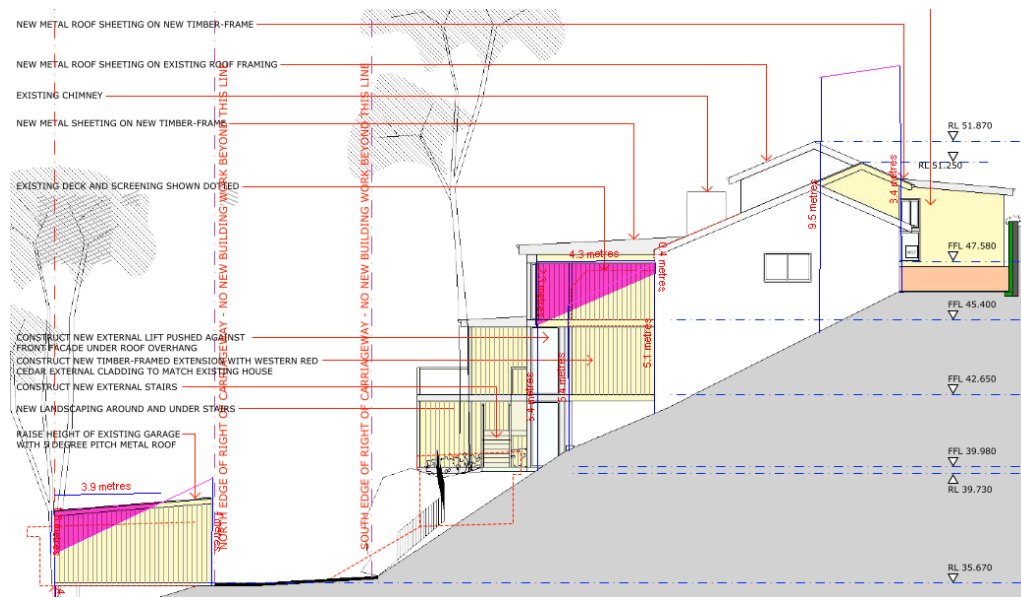


Figure 12 - Eastern elevation (pink indicates side boundary breaches)

- To achieve the desired future character of the Locality. (S)**
Comment: The proposed development is consistent with the desired future character of the locality for the reasons detailed in the section of this report relating to Clause A4.12 Palm Beach Locality of the P21 DCP.
- To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.**
Comment: The proposed development steps down the slope of the land, away from the rear northern boundary down to the southern front boundary (street level). The proposal includes adequate vegetation in order to screen the built form of the proposed development. The proposed development is generally set below the height of the trees on site and in the locality.
- To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.**
Comment: The proposed development requires moderate earthworks due to the steep topography of the land. The proposal is acceptable in relation to Clause 4.3 Height of Buildings of the Pittwater LEP 2014. Finally, the proposal includes comparable setbacks, and bulk and scale to existing developments in the locality. As such, the proposal provides an adequate response and relationship to the spatial characteristics of the existing natural environment.
- The bulk and scale of the built form is minimised. (En, S)**
Comment: The proposed resultant dwelling is of comparable building bulk and scale to existing developments in the locality. The proposed development provides generally compliant front and rear boundary setbacks to the dwelling. The proposal provides similar areas of landscaping areas as the existing site, indicating that the proposed dwelling does not include

too large a building footprint for the site. The proposed development steps with the topography of the land, and the proposed height is acceptable for the reasons detailed throughout this report. The proposal includes generous modulation and articulation to reduce the visual impact of the built form. Finally, the proposal includes adequate vegetation in order to screen the built form of the proposed development. As such, the proposal demonstrates acceptable bulk and scale.

- ***Equitable preservation of views and vistas to and/or from public/private places. (S)***
Comment: The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties. (En, S)***
Comment: The proposed development is appropriately designed so as to provide a reasonable level of privacy, amenity and solar access for the subject site and adjacent sites.

- ***Vegetation is retained and enhanced to visually reduce the built form. (En)***
Comment: The amended plans demonstrate adequate retention and provision of vegetation in order to visually reduce the built form.

Based on the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of P21DCP and the objectives outlined in Section 1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment supports the proposal in this particular circumstance.

D12.10 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance

The control requires a landscaped area of 60% (574.8m²).

The proposal involves a landscaped area of 41.1% (393.7m²).

The variations provision of the control allows for impervious areas less than 1m wide and up to 6% (57.5m²) of the site area to be counted as impervious landscape treatment, provided the outcomes of the control are achieved and such areas are used for outdoor recreational purposes only.

Upon application of the variations the proposal provides a landscaped area of 47.1% (451.2m²), representing a 21.5% (123.6m²) variation to the control. It is noted that the existing right-of-carriageway (minus natural features and other man-made structures) occupies 14.3% (137.2m²) of the subject site.

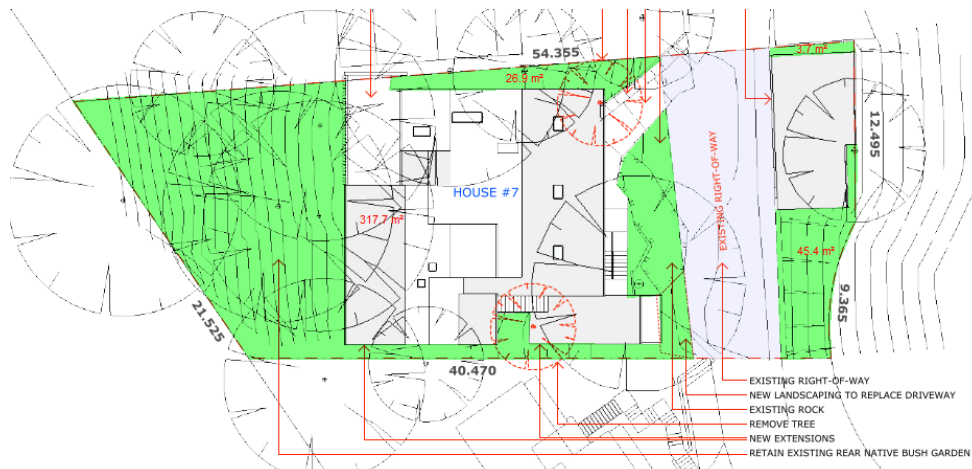


Figure 13 - Proposed Site Plan & Landscape Open Space Calculations

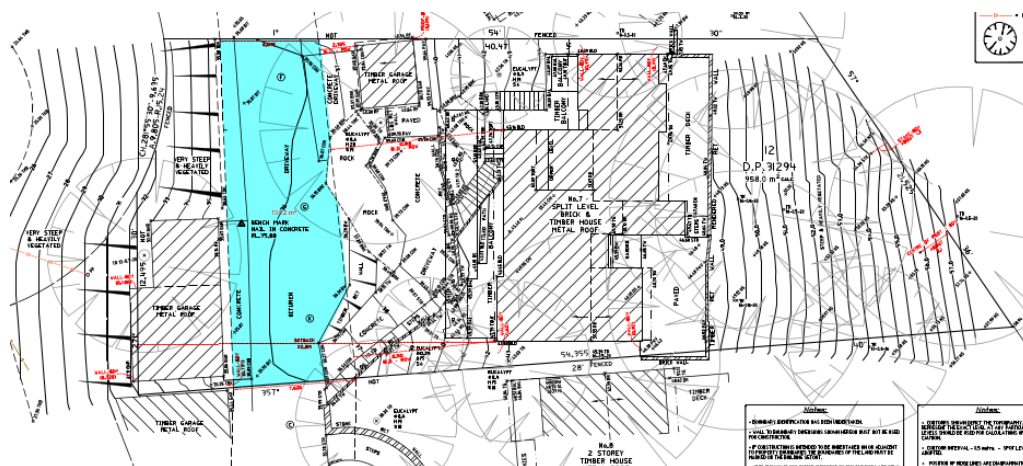


Figure 14 - Survey & Calculations of Right-of-Way

Merit Consideration

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

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

Comment:

The proposed development is consistent with the desired future character of the Palm Beach locality.

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

Comment:

As discussed throughout this report the proposal has been appropriately designed to maintain

a built form compatible within the locality.

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

Comment:

The proposed development ensures adequate light, solar access and privacy (via conditioning) is obtained between dwellings. The proposal complies with the requirements of the C1.4 - Solar Access 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.

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

Comment:

The proposed will require the removal of two (2) existing Spotted Gums identified as trees 2 and 5 within the Arboricultural Impact Assessment (AIA) submitted within this application, these trees will require removal as no design alternative is available. It is noted that there are seven (7) existing Spotted Gums identified as trees 3, 4, 8, 9, 10 (co-owned), trees 11 and 12 within the property that are assessed in the AIA for preservation and protection. Existing tree 4 will require Project Arborist supervision to satisfy the recommendations of the AIA report and conditions shall be imposed.

Given the above it is considered that the existing vegetation overall will not be significantly impacted by this development (subject to conditions). The built form will continue to be sufficiently screened and visually reduced as a result.

- *Conservation of natural vegetation and biodiversity.*

Comment:

As stated above it is considered that the existing vegetation overall will not be significantly impacted by this development and the conservation of natural vegetation and biodiversity will therefore be achieved (subject to conditions).

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

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objections to the proposed stormwater system, subject to conditions included in the recommendation of this report.

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

Comment:

The bushland character of the area will be maintained as existing vegetation overall will not be significantly impacted by this development (subject to conditions).

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

Comment:

Sufficient permeable surfacing is provided on-site which will enable the infiltration of water to the water table, whilst minimising run-off and assisting with stormwater management.

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

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 \$8,360 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$836,000.

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;
- 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

This proposal, for alterations and additions, with secondary dwelling, to an existing dwelling has been referred to the Development Determination Panel (DDP) due to the receipt of five (5) or more objections. The concerns raised in the objections have been addressed within the submission section of this report. The critical assessment issues include variations to Clause A4.12 Palm Beach Locality, Clause B6.3 Off-Street Vehicle Parking Requirements, Clause C1.14 Separately Accessible Structures, Clause D12.5 Front building line, Clause D12.6 Side and rear building line, Clause 12.8 Building envelope and D12.10 Landscape Area - Environmentally Sensitive Land. These matters are discussed in detail within this report.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2024/1295 for Alterations and additions to a dwelling house including secondary dwelling on land at Lot 12 DP 31294, 7 Crane Lodge Place, PALM BEACH, 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
03	C	Site Plan	Stephen Varady Associates	7 January 202

04	C	Plan - Proposed Ground Floor	Stephen Varady Associates	7 January 202
05	D	Plan - Proposed First Floor	Stephen Varady Associates	18 February 2
06	D	Plan - Proposed Second Floor	Stephen Varady Associates	18 February 2
07	D	Plan - Proposed Third Floor	Stephen Varady Associates	18 February 2
08	D	Plan - Proposed Roof	Stephen Varady Associates	18 February 2
10	C	Elevation - West - Proposed	Stephen Varady Associates	7 January 202
11	C	Section 1 - Proposed	Stephen Varady Associates	7 January 202
12	C	Section 2 - Proposed	Stephen Varady Associates	7 January 202
13	C	Section 3 - Proposed	Stephen Varady Associates	7 January 202
14	C	Elevation - East - Proposed	Stephen Varady Associates	7 January 202
16	D	Elevation - South - Proposed	Stephen Varady Associates	18 February 2
18	B	Elevation - North - Proposed	Stephen Varady Associates	18 December 2024
29	B	Materials + Finishes Schedule	Stephen Varady Associates	18 December 2024
32	D	Elevation - South + garage	Stephen Varady Associates	18 February 2

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document/Submitted
Waste Management	1	-	20 September 2024
Arboricultural Impact Assessment	1	Bellevue Tree Consultants	June 2024
Geotechnical Investigation	1	White Geotechnical Group	12 June 2024
BASIX Certificate (A1751219_03)	3	Damian O'Toole Town Planning	21 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	Received
Ausgrid	Ausgrid Referral Response	25 October 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 Separate Occupancy Within Home Office and Painting Studio

No approval is granted or implied under this Development Consent for the use of the area labeled home office and painting studio on the approved plans for the purpose of a separate occupancy.

Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area of the existing primary dwelling and proposed secondary dwelling.

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

4. 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.

5. 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

6. Policy Controls**Northern Beaches Section 7.12 Contributions Plan 2024**

A monetary contribution of \$8,360.00 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 \$836,000.00.

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.

7. Security Bond

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

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**8. Change of Building Class/Building Upgrade**

The existing building that is proposed to be converted to a secondary dwelling will result in a change of classification to a Class 2 building and will be required to be upgraded to comply with Parts C, D, E & F (specifically sound transmission ratings) of the National Construction Code (BCA).

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. National Construction Code (BCA) Report (Class 2-9)

A 'National Construction Code (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Registered Certifier* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to-satisfy provisions of Sections C, D, E and F of the National Construction Code (BCA). The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

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

The 'National Construction Code (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifier with the Construction Certificate application.

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

10. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil or Hydraulic Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with Council's policy 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.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group, Ref: J4584A, Dated 12th June, 2024 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

12. **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.

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

Reason: Compliance with this consent.

13. **Amendments to the approved plans**

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

(i) The proposed deck off the painting studio must be removed. A Juliette balcony may be installed with a balustrade that complies with the National Construction Code (NCC). The deck area is to be replaced with either a flat roof or a roof with a slope not exceeding 1%, sloping down from the painting studio to the southern end of the building.

(ii) Despite any reference of the amended plans, the proposed alterations and additions to the garage do not form part of the application and there is no approval granted or implied for these works.

(iii) The ensuite window (W12) adjacent to the bedroom 1 is to be treated and/or fitted with obscured/frosted glazing.

(iv) The bathroom window (W07) in the painting studio is to be treated and/or fitted with obscured/frosted glazing.

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.

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**

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.

External cladding are to be painted/finished in a dark and earthy tones.

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. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via <https://www.northernbeaches.nsw.gov.au/council/forms>. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.

- Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on
 - the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets
 - (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
 - The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
 - Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
 - Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
 - Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
 - The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided

to adjoining property owners prior to the implementation of any temporary traffic control measure.

- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

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

18. **Construction Methodology Plan**

A Construction Methodology Plan is to be prepared to detail/demonstrate the following:

- The storage of waste and materials within the site, in a manner that does not conflict with the Right of Carriageway,
- Where trades people are to park, and
- How materials are to be transported from the public roadway to the dwelling.

The Construction Methodology Plan is to be presented to the certifying authority prior to the issuance of the construction certificate.

Reason: To ensure that the construction of the proposed development does not impact upon the terms of the Right of Carriageway or access to adjoining dwellings

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. **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 AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise any excavation and construction works to satisfy the recommendations of the Arboricultural Impact Assessment, and in particular:

- a) section 6.3.1, 6.3.5 and 6.3.6
- b) section 7 (all parts),
- c) appendix G.2 Tree Protection Plan, requiring tree protective fencing, trunk & bran protection, and ground protection.

All tree protection measures specified 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. The Project Arborist shall provide certification to the 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.

20. **Tree Removal Within the Property**

This consent approves the removal of existing prescribed trees on the subject site as identified in the Arboricultural Impact Assessment, approved Plans, or as listed below:

- a) trees 2 and 5,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

21. **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.

Property / Properties: 6 & 8 Crane Lodge Place, Palm Beach

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.

22. **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

23. **Protection of Rock and Sites of Significance**

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works. Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council (MLALC) are to be contacted.

Reason: Preservation of significant environmental features.

24. **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,
- 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 and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

25. 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.

26. **Pre-clearance Survey - Certified by Project Ecologist**

Any habitat for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by a suitably qualified ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the ecologist and/or a licensed wildlife carer to a suitable location.

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

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the consulting ecologist and provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To protect native wildlife.

27. **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.

28. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

29. **Road Reserve**

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

Reason: Public safety.

30. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];

- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

31. **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.

32. **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.

33. **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.

34. 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.

35. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP) required by this consent. All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council's Traffic Engineer for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council staff on request.

Reason: To ensure the developer/builder adheres to the Construction Traffic Management Plan.

36. Implementation of Construction Methodology Plan

The development is to be undertaken in accordance with the Construction Methodology Plan required by this consent.

Reason: To ensure that the construction of the proposed development does not impact upon the terms of the Right of Carriageway or access to adjoining dwellings.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

37. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

38. Required Tree Planting

a) two (2) locally native trees, typical of the Spotted Gum Forest association shall be planted within the property to achieve at least 8.5 metres height at maturity, and in accordance with the following:

i) tree planting shall be a minimum pre-ordered planting size of 45-75 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 and other trees or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,

ii) 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,

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

Reason: To maintain environmental amenity.

39. 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) planting shall be installed as indicated on the approved Landscape Plan, unless otherwise imposed by conditions,

c) mass planting shall be installed at minimum 1metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

Prior to the issue of an Occupation Certificate, details 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.

40. 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, 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.

41. **Protection of Habitat Features**

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

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

Reason: To protect wildlife habitat.

42. **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.

43. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

44. **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.

45. **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.

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

The Applicant shall submit a certificate from a suitably qualified person 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 the Occupation Certificate.

Reason: Compliance with this consent.

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

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

48. **No impact to native vegetation within Biodiversity Values Map**

Any impacts to any native vegetation within the area mapped as Biodiversity Values Map will require an application for development consent which must be accompanied by a BAM-compliant Biodiversity Development Assessment Report, unless otherwise approved under an existing development consent, Council permit, Local Land Services Native Vegetation Panel permit, or Threatened Species License.

Compliance with this condition is to be confirmed in writing and provided to the Certifier prior to issue of any Occupation Certificate.

Reason: To prevent unlawful impacts to the Threatened Ecological Community and Biodiversity Values Map area on the site.

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

49. **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.

50. **Passenger Lift Noise**

Noise produced by the passenger lift shall not exceed 60dB(A), when measured one metre from any adjoining premises.

Reason: To ensure that the development does not impact on the acoustic privacy of

surrounding residential properties.

51. **Removal of exemption under B4.22 of Pittwater 21 Development Control Plan**

The following tree removal exemption, as set out in Pittwater DCP B4.22, is to be extinguished for the site for the life of the development:

- "Council's authority is not required for removal of a tree where the base of trunk at ground level is located within two metres of an existing approved building".

Approval in the form of a Council tree permit, development consent or threatened species license will be required for the removal of any prescribed native trees within 2m of any approved buildings.

Reason: To protect retained trees within 2m of the approved buildings.

