AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

Notice is hereby given that the Northern Beaches Planning Panel will be held via Teleconference on

WEDNESDAY 3 JUNE 2026

Beginning at 12:00 PM for the purpose of considering and determining matters included in this agenda.

Peter Robinson
Executive Manager Development Assessment

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 3 June 2026

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ACKNOWLEDGEMENT OF COUNTRY

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

1.0 APOLOGIES & DECLARATIONS OF INTEREST

Nil

2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF THE NORTHERN BEACHES LOCAL PLANNING PANEL MEETING HELD ON 20 MAY 2026

RECOMMENDATION

The Panel notes that the minutes of the Northern Beaches Local Planning Panel Meeting held on 20 May 2026 were adopted by the Chairperson and have been posted on Council's website.

4.0 PUBLIC MEETING ITEMS

ITEM 4.1 DA2025/1304 - 43,45 & 49 WARRIEWOOD ROAD, WARRIEWOOD - CONSTRUCTION OF DWELLING HOUSES ON PROPOSED LOTS 1-11

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the landowner is the council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1304 for Construction of dwelling houses on proposed lots 1-11 at Lot 1 DP 349085, 49 Warriewood Road, Lot 2 DP 972209, 43 Warriewood Road & Lot 2 DP 349085, 45 Warriewood Road WARRIEWOOD - Construction of dwelling houses on proposed lots 1-11 subject to the conditions set out in the Assessment Report.

Reporting manager	**Adam Richardson**
TRIM file ref	2026/297088
Attachments	⇩1 Assessment Report ⇩2 Site Plans & Elevations

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1304

Responsible Officer:	Andrew Martin – External Town Planning Consultant
Land to be developed (Address):	Lot 1 DP 349085, 49 Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 972209, 43 Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 349085, 45 Warriewood Road WARRIEWOOD NSW 2102
Proposed Development:	Construction of dwelling houses on proposed lots 1-11
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	Northern Beaches Local Planning Panel (NBLPP)
Land and Environment Court Action:	Note: LEC original subdivision approval DA2021/2600 (Warriewood Developers Pty Ltd v Northern Beaches Council LEC No: 2023/96634)
Applicant:	Warriewood Developers Pty Ltd

Application Lodged:	18 September 2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential – Eleven (11) new detached dwellings
Notified:	20 October 2025 to 17 November 2025
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	$ 3,900,335.00

EXECUTIVE SUMMARY

This development application seeks consent for the construction of eleven (11) dwelling houses on Lots 1-11 approved under the subdivision proposed as part of DA2021/2600 by the NSW Land and Environment Court at the properties known as No. 43-49 Warriewood Road, Warriewood. Each of the new dwellings are two (2) storeys comprising of four (4) - five (5) bedrooms, open plan living areas and one (1) or two (2) car garages.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to a conflict of interest. Council is the current landowner of No. 43 Warriewood Road (Lot 2 DP 972209) which is approximately 2.0 metres wide by 290.0 metres long, which is used for drainage and forms part of the larger land holding being developed. The ownership of this land is in the process of being transferred from Council to the Applicant following the inclusion as part of the previous consent.

The development application was notified upon lodgment for a period of twenty-eight (28) days in accordance with the Conflict of Interest Management Strategy. A total of two (2) submissions have been received objecting to the proposed development.

The concerns raised in the recorded objections are addressed under the 'submissions' section of this report. The primary concerns raised were in relation to non-compliance with front setbacks; front fencing and landscape character.

The site was inspected, and all original reports and plans submitted with the application were reviewed. Key issues were identified in the original assessment pertaining to landscape outcomes, setbacks, lot sizes and concerns raised by neighbouring objectors.

A request for additional information dated 19 February 2026 outlining the following matters was sent to the Applicant:

- Landscape Plans – The location of underground rainwater tanks on Lots 1, 2, 3, 4, 5, 9, 10 and 11 were not supported on the basis of limiting tree establishment and growth in setback areas required to support deep soil zones.
- Front fencing / walls – to be removed or suitable justification for non-compliances with D16.12 of the PDCP.
- Trees in front setback zones – to be updated on Lots 1, 3 and 6 to 11 inclusive to incorporate medium sized trees.
- Front setbacks – Several front setbacks to the front wall of dwellings are inconsistent with the 5.5m setback controls and require further town planning justification or amendment. Plans to be amended to clearly show the departures to the controls.
- Upper level side setbacks – Several upper level side walls are non-compliant with the required 1.5m setback controls for Lots of between 9-16m wide.
- Subdivision Lot Size – A number of very minor discrepancies to the approved lot sizes under DA2021/2600 are shown on the new plans of subdivision / architectural plans. These discrepancies need to be confirmed and justified.

The Applicant provided responses to the Request for Additional Information on 17 March 2026 by way of a cover letter, amended SEE and architectural and landscape plans. The response included updates to the landscaping plans; location of rainwater tanks; updated plan information with regard to upper level facades justifying setback departures; and surveyors letter (which had been submitted) dealing with the lot size discrepancies.

Based on the Applicant’s response to the Request for Further Information (herein the RFI) is considered to be acceptable based on the following:

- Satisfies the objectives of the R3 Medium Density Residential zone
- Satisfies the objectives of the Pittwater Local Environmental Plan 2014 (PLEP)
- 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.
- Ensures acceptable residential amenity to the neighbouring properties along Bubalo Street to the east and Pheasant Place to the west.
- Conforms to the relevant requirements and development standards under the Pittwater Local Environmental Plan 2014 such as the 10.5m maximum height
- The proposed dwellings demonstrate general compliance with the built form controls under the Pittwater 21 Development Control Plan such that the dwellings have an appropriate one and two storey presentation to the street in keeping with low scale residential development. Where minor variations are proposed to front and upper level side setbacks these have been suitably justified through façade treatments, privacy screening or incorporation of additional fenestration treatments.
- The development application is accompanied by the required technical reports and plans.

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 reasons outlined in this report.

This report concludes with a recommendation that the NBLPP grant **approval** to the development application, subject to a Deferred Commencement Condition relating to the works in the public domain, including the recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

This application seeks development consent for the construction of eleven (11) dwelling house on Lots 1-11 as approved under DA202/2600. The works are noted in detail below:

- Construction of eleven (11) detached dwelling houses, all comprising of two (2) storeys.
- Each of the homes will comprise a diverse set of construction materials and finishes including brickwork, render and sandstone blockwork or concrete cladding, metal roofing, timber awnings and pergolas, perforated metal screening and metal garage door finishes.
- Ground Level: Open plan living, dining and kitchens with laundries, WC, alfrescos and garaging with internal storage.
- Level 1: Master bedroom with ensuite, main bathroom, three (3) to four (4) additional bedrooms, dedicated studies and upper-level lounge rooms.
- Roof Level: Sheet metal roofing

Garaging will comprise a mixture of single and double space garages accessible from Warriewood Road or the extension of Lorikeet Grove.

All dwellings include associated landscaping across the front, rear and side setback areas, new driveways, 5kL rainwater tanks and in-lot drainage infrastructure. The dwelling construction also includes construction of new retaining walls and boundary fencing. Front fencing / walls between 1-1.55 metres in height have been proposed to deal with level differences between the road verge and the finished surface level of the front yards which have been filled to address flooding constraints.

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. Orientation and consideration of the views over side, front and rear boundaries has been undertaken;
- 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 and a request for Additional Information dated 19 February 2026 was forwarded to the Applicant. Responses from the Applicant has since been received and considered in the finalisation of Council's assessment.
- 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 R3 Medium Density Residential, Pittwater Local Environmental Plan 2014
- Clause 4.3(2) Height of Buildings PLEP 2014
- Clause 5.21 Flood Planning PLEP 2014
- Clause 6.1 Warriewood Valley Release Area PLEP 2014
- Clause 7.1 Acid Sulfate Soils PLEP 2014
- Clause 7.2 Earthworks PLEP 2014
- Clause 7.6 Biodiversity protection PLEP 2014
- Clause 7.10 Essential services 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 1 DP 349085, 49 Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 972209, 43 Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 349085, 45 Warriewood Road WARRIEWOOD NSW 2102
Detailed Site Description:	The subject site consists of three (3) allotments located on the western side of Warriewood Road and the eastern side of the proposed extension of Lorikeet Grove at the rear. The subject site is legally identified as Lots 1 and 2 in DP 349085 and Lot 2 in DP 972209, 43-49 Warriewood Road, Warriewood. The site is irregular in shape with a frontage of 80.305 metres with a depth of 140.7 metres. The site has a surveyed area of 22,187m². The site is located within the R3 Medium Density Residential zone under the provisions of *the Pittwater Local Environmental Plan 2014* and accommodates a vacant block undergoing construction. The site topography slopes downward from the northern corner at Warriewood Road through to the rear by approximately 9.2m across its depth. The site comprises remnant vegetation in the form of trees across the rear. The subject portion of the site comprising proposed Lots 1-11 is largely clear of any remnant vegetation and the existing dwellings and sheds have been removed. **Detailed Description of Adjoining/Surrounding Development**

The site is located within the Warriewood Valley Release Area. Surrounding development consists of a mixture of attached and detached housing interspersed by residential flat developments. Narrabeen Creek adjoins the rear boundary.



Map 1: Area within the larger site comprising the area of proposed Lots 1-11 outlined in red



Map 2: Development sites outlined in red known as 43-49 Warriewood Road, Warriewood

SITE HISTORY

5

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

CC0051/98
Construction certificate for other development
(submitted 17/08/1998)

N0081/98
Development application for a shed (submitted 17/08/1998)

PP0003/13
Planning Proposal to increase residential densities (submitted 13/06/2013)

PP0001/14
Planning Proposal to amend Pittwater LEP 2014 consistent with the recommendations of the Warriewood Valley Strategic Review (submitted 15/02/2015)

DA2020/1517
Subdivision of 3 lots into 13 to include 1 super lot, 11 Torrens Title residential lots and 1 lot containing the creekline corridor, civil works & the construction of 2 residential flat buildings with 34 apartments and basement parking and pool (Submitted: 04/12/2020)

DA2021/2600
Subdivision of land, creek line works and the construction of two (2) residential flat buildings (Submitted: 14/01/2022)

Current Application History

The development application was notified for a period of twenty eight (28) days, in accordance with Council's Community Participation Plan (CPP) and the Conflict of Interest Management Strategy, with two (2) submissions received.

Key issues were identified in the original assessment pertaining to landscape outcomes, front setbacks, lot sizes and character concerns raised by neighbouring objectors.

Council advised the applicant of the issues in a RFI letter dated 19th February 2025 which included the following:

1. **Landscape Plans** – The location of underground rainwater tanks on Lots 1, 2, 3, 4, 5, 9, 10 and 11 were not supported on the basis of limiting tree establishment and growth in setback areas required to support deep soil zones. Front fencing / walls – to be removed or suitably justifying non-compliances with D16.12 of the PDCP. Trees in front setback zones – to be updated on Lots 1, 3 and 6 to 11 inclusive to incorporate medium sized trees.
2. **Biodiversity** - Internal referral to be completed once landscaping details are updated.
3. **Planning** – **Setbacks** – Several front setbacks to the front wall of dwellings are inconsistent with the 5.5m setback controls and require further justification or amendment. Additionally, several upper level side walls are non-compliant with the required 1.5m setback controls for Lots widths between 9 -16m. This is particularly problematic for non-compliant upper level setbacks adjoining established neighbouring properties due to potential impacts on privacy and amenity due to reduced visual separation.
4. **Subdivision Consistency** – A number of minor discrepancies to the approved lot sizes under DA2021/2600
5. are shown on the new plans of subdivision / architectural plans. These discrepancies need to be confirmed and justified.

6. **General** – The Applicant is encouraged to provide the upper-level side setback assessment as soon as possible so that this issue can be reviewed in more detail. Prompt feedback will be provided in relation to the upper-level setbacks in the event Council is not satisfied. At this stage the request is only for additional information and justification within a revised SEE in order to close out the side setback assessment.
7. **Objector's concerns** – The Applicant is encouraged to review submissions in relation to the application and consider any design solutions that may address relevant concerns.

The applicant submitted the following additional information in response to the RFI letter issued on the 17 March 2026:

- Updated landscape plans provided to relocate rainwater tanks from deep soil areas and provided enhanced tree planting to front and rear setback areas. Front fencing / wall treatments were further detailed and justified in providing for level changes between the street verge and filled front yards in responding to flooding constraints.
- Updated plan package that included a more detailed site analysis and context assessment supported by comprehensive responses dealing with setback variations, including:
  - Variations proposed to front setback zones for garages, articulation zones or dwelling walls for Lots 1, 2, 4, 5, 6, 8, 9, 10 and 11; and
  - Variations proposed to upper level side setbacks for Lots 1, 2, 4, 5, 6, 9, 10 and 11.
  - Clarification around very minor changes to subdivision lot sizes compared with the approved plans under DA2021/2600.

The amendments and submitted justification did not require re-notification in accordance with Council's current Community Participation Plan, as they did not result in a greater environmental impact.

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 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.

	Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested and refer to 'Site History' for further detail. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. All BCA compliance matters will be dealt with at the construction certificate stage. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a recommended condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of consent.

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 partially mapped as bush fire prone land. The original subdivision approval under DA2021/2600 was supported by a s100B bushfire assessment report that was ultimately reviewed and endorsed by the NSW Rural Fire Service (RFS).

A subsequent bushfire letter, dated 27 July 2025 prepared by CBAA has been provided with this application confirming that each of the dwellings will be designed and constructed to achieve the respective BAL 12.5 and BAL 19 requirements set out in the original s100B assessment.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was publicly exhibited from 20 October 2025 to 17 November 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 two (2) submissions.

Name:	Address:
Mr De Fonseka Sanath of 53 Lorikeet Grove, Warriewood	53 Lorikeet Grove, WARRIEWOOD NSW 2102
Mr Luke Hunter of 55 Lorikeet Grove, Warriewood	55 Lorikeet Grove, WARRIEWOOD NSW 2102

In response to the initial design proposal over the course of the first notification period two (2) submissions were received, which raised a number of concerns.

The submissions are addressed below:

Owner of 53 Lorikeet Grove, Warriewood

Front setbacks

The proposed front setbacks for this development application is 4.5m which is inconsistent with the 6.5m front setback condition applied to the established dwellings along Lorikeet Grove. During the application process for the existing dwellings Council was firm in the application of 6.5m front setback, citing the need to maintain an asset protection zone, vegetation buffer, consistent streetscape and to allow for a second car space on the driveway of each dwelling. Reducing the front setback will encourage more street parking, causing traffic congestion and public safety issues.

Public access to overland stormwater easement

The proposed overland easement is a 3.5m corridor between Warriewood Road and Lorikeet Grove with no pedestrian access permitted. The stamped plans under DA2021/2600 proposes to close the easement access with 1.8m fences at Warriewood Road and Lorikeet Grove. This detail is missing in the current application and public access to the overland easement needs to be restricted to maintain safety and security of the dwellings on either side of the easement.

Sandstone walls to front boundary

The sandstone walls proposed to the front of the dwellings on Lorikeet Grove are inconsistent with the open frontage characteristic of the existing dwellings and the local controls that encourage free flowing front landscape design.

Comment

The proposed fencing is deemed to be acceptable with regard to the overall streetscape presentation based on sandstone block walls as per the materials schedule. Block walls are specified and applicant will be bound by this requirement and not use stone cladding systems which tend to deteriorate over time.

The application is supported based on ability to maintain the residential character of the area. The reduced setbacks are acceptable and as shown on the revised plans the departures are minor with significant areas of the front façade behind the proposed building line (projections are shown in yellow for clarity). The front fencing is required to serve as a retaining type structure to assist with the site levels to avoid flooding and therefore serve a specific purpose rather than resulting from poor architectural design. The subdivision has been approved under the previous DA and the retaining walls are a consequence of that approval and the flood levels.

No issues raised by internal Departments regarding the objections raised to closure of the easement and this issue can be dealt with by way of consent conditions.

Owner of 55 Lorikeet Grove, Warriewood

Setbacks

The Development Application proposes front setbacks of 4.5 metres for the new dwellings on Lorikeet Grove. This is inconsistent with the established 6.5-metre front setbacks that apply to the existing adjacent detached dwellings and neighbouring properties on Lorikeet Grove that were included in the Conditions of Consent for the subdivision of 41 Warriewood Road and construction of detached dwellings on Bubalo Street and Lorikeet Grove.

In the Conditions of Consent for that subdivision which relate to 53-63 Lorikeet Grove, Council required a 6.5-metre front setback to create a consistent streetscape, provide adequate separation between dwellings and the street, and maintain a spacious, landscaped front setting that contributes to the character of the area. Allowing a reduction of the precedent setbacks on Lorikeet Grove from 6.5 metres to 4.5 metres for this development would:

• Disrupt the existing uniform streetscape rhythm and visual alignment established on Lorikeet Grove.

• Reduce opportunities for front landscaping and tree planting, which are key elements of the subdivision's design intent, community, and local character.

• Create a more enclosed and congested street appearance, inconsistent with the open, green frontage that defines the existing community.

• Potentially affect sightlines and street safety, particularly for pedestrians and vehicles at driveway crossovers.

Solid fencing proposed to front boundary

The application proposes solid sandstone walls to enclose the private landscaped space in front of each dwelling on Lorikeet Grove. This element is non-compliant with local development controls and inconsistent with the open frontage characteristic of neighbouring properties especially on Lorikeet Grove which maintain a visually open streetscape, foster neighbourly interaction, and promote a sense of community connectivity.

Allowing solid fencing and walls to property frontages on Lorikeet Grove in this context would:

• Give the development a private and gated appearance, contrary to the open character of the surrounding community.

• Visually fragment the streetscape and detract from the cohesive design language of the existing dwellings.

• Minimise opportunity for soft landscaping and native planting to soften the visual impact of the built form. • Limit passive surveillance from dwellings to the street, reducing safety and social interaction.

• Be inconsistent with Council's local controls that encourage open front setbacks. To ensure design consistency and integration with the existing community.

Comment

The proposed fencing is deemed to be acceptable with regard to the overall streetscape presentation based on sandstone block walls as per the materials schedule (also refer to special consent conditions regarding the type

of construction and materiality of fencing fronting Lorikeet Grove). Block walls are specified and applicant will be bound by this requirement and not use stone cladding systems which tend to deteriorate over time. The proposed sandstone block fencing is compatible with the overall character of the area. The front fencing is required to ensure there is no flooding impacts to residences and must be founded on concrete footings. The front fencing is required to serve as a retaining type structure to achieve site levels that avoid flooding impacts. Therefore the proposed fencing serves a specific purpose rather than resulting from poor architectural design.

The application is supported based on ability to maintain the residential character of the area. Front setbacks have suitable landscaping to offset any perceived negative visual impacts of the front fencing and the main façade building alignments. The reduced setbacks are acceptable and as shown on the revised plans the departures are minor with significant areas of the front façade well behind the proposed building line. The subdivision has been approved under the previous DA and the retaining walls are a consequence of that approval.

No issues raised by internal Departments regarding the objections raised to closure of the easement and this issue can be dealt with by way of consent conditions.

REFERRALS

Internal Referral Body	Comments
Waste Officer	***Referral completed, conditions recommended.*** Officer comments Individual dwellings will be provided with individual bins set for self-presentation to kerbside. Lots 1-5 will present on Lorikeet Grove. Lots 6-11 will present on Warriewood Rd. Service is provided by a 10.5m HRV left side arm collection vehicle requiring 4.5m operational height clearance. Until Lorikeet Grove is fully connected residents may be required to place their bins in a position where the side arm can access them as Pheasant Place is not accessible for waste vehicles. The proposal is therefore supported.
Traffic Engineer	***Referral completed, conditions recommended.*** Officer comments It is noted that no traffic report was provided for review as part of this assessment. The proposal involves the construction of individual dwellings on lots previously approved under a Torrens Title subdivision, as part of the Land and Environment Court–approved residential development (DA2021/2600). There are 11 individual dwellings in each lot, all of them are double-storey, some consist of 4 bedrooms and some consist of 5 bedrooms. A minimum of two car parking spaces is provided for each dwelling, either as a double garage or as a single garage with an additional tandem parking space in front of it. The provision of minimum 2 car parking spaces to each dwelling meets the Pittwater DCP requirements and this arrangement for car parking is acceptable to Council, provided the tandem space meets the minimum length requirements of AS2890.1 and the parked vehicle does not overhang onto the footpath or nature strip. It is noted that a CTMP has been provided however the CTMP is for the previously approved broader site. The CTMP can be viewed as indicative

	only and an updated CTMP will be required prior to the construction phase. The application is supported, subject to conditions.
NECC (Riparian Lands and Creeks)	***Referral completed, no conditions required.*** <u>Officer comments</u> The application has been assessed with reference to the following: • Supplied plans and supporting documentation • Warriewood valley water specification • Relevant provisions of the Local Environmental Plan (LEP) and Development Control Plan (DCP) • State Environmental Planning Policy (Resilience and Hazards) 2021 • Court approved development application DA2021/2600 LEC 2023/9663 The Environment and Resilience Catchment team has reviewed the proposal and confirms that the development application DA2025/1304 is supported for riparian matters. The proposal is therefore supported.
NECC (Water Management)	***Referral completed, conditions recommended.*** <u>Officer comments</u> The application has been assessed with reference to the following: • Supplied plans and supporting documentation • Warriewood valley water specification • Relevant provisions of the Local Environmental Plan (LEP) and Development Control Plan (DCP) • State Environmental Planning Policy (Resilience and Hazards) 2021 • Court approved development application DA2021/2600 LEC 2023/96634 The proposed stormwater management strategy is based on the court-approved Development Application DA2021/2600 LEC 2023/96634. The biofiltration media depth specified under DA2021/2600 (100–150 mm) is below best-practice standards. To optimise performance within the approved design, the following requirements must be implemented: • The biofiltration system must use sandy loam filter media with a saturated hydraulic conductivity of approximately 200 mm/hr.

	• The base must not be lined with a waterproof membrane and must not be over-compacted, in order to maintain infiltration capacity. • Vegetation must consist of hardy, deep-rooted native species suited to shallow media conditions. • A strict inspection and maintenance regime must be implemented to manage sediment build-up, vegetation health, and infiltration performance. The Environment and Resilience catchment team has reviewed the proposal and confirms that the development application DA2025/1304 is supported for water management issues. The proposal is therefore supported.
NECC (Development Engineering)	***Referral completed, conditions recommended.*** *Officer comments* The proposed development application for 11 dwellings is supported subject to conditions . The proposed vehicle crossings in Warriewood Road are in accordance with the parent Development application approval. The stormwater drainage connections of the proposed dwellings will require a section 68 local government act approval which will be a condition of this consent. The proposal is therefore supported.
NECC (Flooding)	***Referral completed, conditions recommended.*** Officer comments This proposal is for the construction of 11, two-storey dwellings, each with an enclosed garage. Earthworks approved under DA2021/2600 have resulted in the ground heights being raised to or above the FPL for each lot. Subject to the following conditions, the proposal generally complies with Section B3.11 of the Pittwater DCP and Clause 5.21 of the Pittwater LEP. The proposal is therefore supported.
NECC Environmental Health (Contaminated Lands)	***Referral completed, conditions recommended.*** Officer comments The proposal is accompanied by a Detailed Site Investigation (DSI) and Remediation Action Plan (RAP). It has been determined that comply with these reports will allow the site to be made suitable for the proposed development. Environmental Health supports the proposal with a recommendation of a number of conditions of consent.
NECC Environmental Health (Acid Sulfate)	***Referral completed, conditions recommended.*** Officer comments An acid suplhate soils report supplied with proposal has determined:

	"The six proposed development Lots (Lots 6 – 11) along the Warriewood Road site boundary are located in the lowest or Class 5 ASS risk area; *❑ The five proposed Lots (Lots 1 – 5) along the Lorikeet Grove site boundary are located in the second lowest or Class 4 ASS risk area, where acid sulphate soil conditions, if present, are typically present at least two metres below natural ground level; and* *❑ Construction on Lots 1 – 5 is proposed on filled ground, above natural grounds level. On this basis, while a prudent and precautionary approach (as detailed in the Management Plan presented in Part 4) is appropriate, the risk of encountering acid sulphate soil issues during the development appears to be relatively low."* An acid sulphate sold management plan accompanies the proposal, which is supported by Environmental Health with a number of conditions of consent recommended.
Landscape Officer	***Referral completed, conditions recommended.*** <u>22.12.2025 Previous comments</u>: On review of all Plans including the Landscape Plans as submitted with the application, Landscape Referral note the following for adjustment to all plans including the landscape plans: • The location of the proposed underground rainwater tanks within deep soil areas of Lots 1, 2, 3, 4, 5, 9, 10 and 11 in the rear yards are not supported as this limits tree establishment and growth. More thought is required to consider the location of structures within deep soil to ensure tree establishment is not impacted in the long term and the rainwater tanks should be located elsewhere and more ideally against the buildings where tree planting is not considered appropriate. It is noted that within lots 6, 7 and 8 the proposed underground rainwater tanks are away from proposed tree planting however remain in landscaped area that will require sufficient soil depth above to maintain the proposed lawn surface finish. • As identified in PDCP control D16.12 Fences, no front fences are permitted forward of the building line in the front setback and plans shall be adjusted accordingly. • Proposed tree planting within each lot is generally acceptable with the exceptions as listed and these shall be reflected on adjusted plans: Lots 1, 3 and Lots 6 to 11 inclusive shall include a medium sized tree to the rear of the properties to achieve at least 8.5 metres in height at maturity with a larger canopy spread that the currently nominated tree species. Landscape Referral note the requirement for adjustment to address the issues raised above; thus, assessment shall continue upon receiving such updated plans. <u>23.03.2026 Updated comments:</u> Amended architectural plans and landscape plans have been submitted in response to the previous landscape referral response

	comments. The submitted Landscape Plans are satisfactory to achieve the landscape setting outcomes of Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls: C6.2 Natural Environment and Landscaping Principles; D16 Warriewood Valley Locality, and in particular D16.5 Landscaped Area for Newly Created Individual Allotments; and Warriewood Valley Landscape Masterplan and Design Guidelines, August 2018 (WVLMDG). The request for merit consideration of D16.12 Fences is noted and this matter shall be determined by the Assessing Planning Officer. It is noted that the subsurface rain-water tanks are relocated away from valuable deep soil areas required for the establishment of tree canopy. The landscape plans will require detailed documentation (surface finishes, and levels, planting layouts and plant schedules) at construction certificate stage suitable for construction issue, to ensure the landscape design intent is achieved, and conditions shall be imposed. The proposal is therefore supported subject to recommended conditions.
NECC (Bushland and Biodiversity)	***Referral completed, conditions recommended.*** <u>Officer Comment</u> Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable provisions: NSW Biodiversity Conservation Act 2016 NSW Biodiversity Conservation Regulation 2017 SEPP (Resilience and Hazards) 2021 – Coastal Wetlands and Proximity Area Pittwater LEP – Clause 7.6 Biodiversity Protection. The proposed development would occur entirely on the northern portion of the property, north of the proposed extension to Lorikeet Grove. The northern portion of the property was previously cleared under approved DA2021/2600 and bulk earthworks including building pads and retaining walls for the 11 houses were approved. The southern portion of the property, south of the proposed extension to Lorikeet Grove, is not being impacted under the proposed works of DA2025/1304. A Biodiversity Statement prepared by Cumberland Ecology dated September 2025 was submitted to accompany this DA which outlines that the northern portion of the property was previously cleared of all native vegetation and habitat. This was conducted in accordance with the requirements of the Biodiversity Conservation Act 2016 with an approved Biodiversity Development Assessment Report (February 2024) and Biodiversity Management Plan (April 2025) both prepared by Cumberland Ecology. Under the approved BDAR the impacts on biodiversity values within the proposed development site were offset through the requirement of ecosystem credits. An Arboricultural Impact Statement has been prepared by Creative Planning Solutions (March 2025). According to the conclusions of the

	Statement further assessment under an Arboricultural Impact Assessment is not required as the proposed development will not impact any trees on site or in the neighbouring properties. No trees are required to be removed for the proposed development as there are no trees located on the northern area of the property. Portions of the proposed Lot 1 are identified on the NSW Governments Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, 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). Under DA2021/2600 this area was approved for clearance and therefore there is no native vegetation remaining in the Biodiversity Value Mapped portion of Lot 1. As such, the proposed development will not trigger entry into the BOS. Additionally, the Biodiversity Management Plan (Cumberland Ecology, April 2025) (BMP) identifies a portion of the proposed Lot 6 as mapped as PCT4006: Northern Paperbark-Swamp Mahogany Sawsedge Forest. As part of the BMP it is recommended that this area is revegetated utilising locally native Northern Paperbark-Swamp Mahogany Saw-sedge Forest species of local provenance for plantings. The BMP has also identified 30 priority weed species on site that are to be removed in accordance with the management strategies provided in the BMP. It is therefore a condition of approval that all Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed. The listed species in the Landscape Plan do not account for legislative requirements that a minimum of 60% locally native vegetation species (by proportion of number of plants, excluding hybrid and cultivar species) are required for any new landscaping as per the Pittwater DCP Clause 7.6 Biodiversity Protection. Locally native species are to be consistent with the Narrabeen Ward section of the Native Planting Guide available on Council's website. It is therefore a condition of approval that the Landscape Plan is to be amended to account for this requirement. The proposed development will take place within an existing cleared area. No native vegetation or trees are proposed for removal. As such, impacts to flora and fauna and nearby biodiversity values is considered unlikely subject to the amendment of the Landscape Plan. No objections in relation to biodiversity, subject to conditions.
Strategic and Place Planning (Development Contributions)	***Referral completed, conditions recommended.*** <u>Officer Comment</u> This application seeks approval to construct a dwelling house on each of the eleven approved residential lots being created under subdivision consent DA2021/2600. The subdivision consent creating the eleven residential lots that are the subject of this application also approved civil works to facilitate the subdivision such as water management and section of Lorikeet Grove and reconstruction of Warriewood Road that in turn, serves access to each of the eleven proposed dwellings the subject of current application. In other words, this DA cannot proceed in isolation and is dependent on subdivision consent DA2021/2600 progressing.

	The development contributions for these 11 dwellings have not yet been paid for, as required by consent DA2021/2600. An Offer to enter into a Planning Agreement with Council has been lodged (Council ref VPA2024/0003). Though the Offer is not finalised, a draft Planning Agreement is now being prepared based the amended Offer lodged with Council on 5 May 2026. No objection to the proposal is raised subject to: 1. Consideration has been made to ensure the area of development footprint by the dwellings are consistent with impervious fraction modelled for the water management approved for this site under consent DA2021/2600. 2. A condition being imposed to read "Prior to a Construction Certificate being issued, the development contributions imposed under consent DA2021/2600 has been paid to Council."

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	***Referral completed, conditions recommended.*** 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. A consent 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 1 Coastal Wetlands and littoral rainforest area

2.7 Development on certain land within coastal wetlands and littoral rainforests area

1) The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:

a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,

b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,

c) the carrying out of any of the following:

i) earthworks (including the depositing of material on land

ii) constructing a levee,

iii) draining the land,

iv)environmental protection works,

d) any other development.

Comment

The subject application assesses impact of the proposal as made which includes excavation and filling of land and in accordance with the response to clause 2.8 below there are no significant adverse impacts associated with the subject proposal.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment

The original subdivision consent creating the eleven residential lots that are the subject of this application also approved civil works to facilitate the subdivision such as water management and section of Lorikeet Grove and reconstruction of Warriewood Road that in turn, serves access to each of the eleven proposed dwellings the subject of current application. On this basis the relevant considerations have been completed at that time to

ensure relevant impacts have been addressed. The subject application there purely relates to the earthworks on the subject site to construct the building platforms, retaining walls, driveways and pools. The extent of cut and fill is shown on the DA plans so that there is a clear understanding of the level changes on the site. The drainage works proposed only relates to the land that was originally assessed and forming part of the approved subdivision. That said Councils internal specialists have reviewed the proposal and the supporting consultant reports.

Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable provisions: NSW Biodiversity Conservation Act 2016 NSW Biodiversity Conservation Regulation 2017 SEPP (Resilience and Hazards) 2021 – Coastal Wetlands and Proximity Area Pittwater LEP – Clause 7.6 Biodiversity Protection.

The proposed development would occur entirely on the northern portion of the property, north of the proposed extension to Lorikeet Grove. The northern portion of the property was previously cleared under approved DA2021/2600 and bulk earthworks including building pads and retaining walls for the 11 houses were approved.

The southern portion of the property, south of the proposed extension to Lorikeet Grove, is not being impacted under the proposed works of DA2025/1304.

A Biodiversity Statement prepared by Cumberland Ecology dated September 2025 was submitted to accompany this DA which outlines that the northern portion of the property was previously cleared of all native vegetation and habitat.

This was conducted in accordance with the requirements of the Biodiversity Conservation Act 2016 with an approved Biodiversity Development Assessment Report (February 2024) and Biodiversity Management Plan (April 2025) both prepared by Cumberland Ecology. Under the approved BDAR the impacts on biodiversity values within the proposed development site were offset through the requirement of ecosystem credits.

An Arboricultural Impact Statement has been prepared by Creative Planning Solutions (March 2025). According to the conclusions of the Statement further assessment under an Arboricultural Impact Assessment is not required as the proposed development will not impact any trees on site or in the neighbouring properties. No trees are required to be removed for the proposed development as there are no trees located on the northern area of the property.

Portions of the proposed Lot 1 are identified on the NSW Governments Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, 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). Under DA2021/2600 this area was approved for clearance and therefore there is no native vegetation remaining in the Biodiversity Value Mapped portion of Lot 1. As such, the proposed development will not trigger entry into the BOS.

Additionally, the Biodiversity Management Plan (Cumberland Ecology, April 2025) (BMP) identifies a portion of the proposed Lot 6 as mapped as PCT4006: Northern Paperbark-Swamp Mahogany Sawsedge Forest. As part of the BMP it is recommended that this area is revegetated utilising locally native Northern Paperbark-Swamp Mahogany Saw-sedge Forest species of local provenance for plantings.

The BMP has also identified 30 priority weed species on site that are to be removed in accordance with the management strategies provided in the BMP. It is therefore a condition of approval that all Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed.

The listed species in the Landscape Plan do not account for legislative requirements that a minimum of 60% locally native vegetation species (by proportion of number of plants, excluding hybrid and cultivar species) are required for any new landscaping as per the Pittwater DCP Clause 7.6 Biodiversity Protection. Locally native species are to be consistent with the Narrabeen Ward section of the Native Planting Guide available on Council’s website. It is therefore a condition of approval that the Landscape Plan is to be amended to account for this requirement.

The proposed development will take place within an existing cleared area. No native vegetation or trees are proposed for removal. As such, impacts to flora and fauna and nearby biodiversity values is considered unlikely subject to the amendment of the Landscape Plan.

Having regard to the above the consent authority can be satisfied that there will be no adverse impacts in relation to the biophysical, hydrological or ecological integrity of any coastal wetland or littoral rainforest or affect the quantity and quality of surface and ground water flows to and from any coastal wetland or littoral rainforest. Further the consent conditions include measures to revegetate certain areas of the site to improve environmental quality of the local area.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. The application for the underlying subdivision was supported by a Detailed Site Investigation (DSI) and a Remediation Action Plan (RAP). The application was referred to Council's Environmental Health officers who are satisfied that the land can be suitably remediated for the proposed development purpose subject to compliance with the recommendations in the DSI and actions within the RAP.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	10.5m	Dwelling Houses: 10.5m	-	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
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone R3 Medium Density Residential

The R3 – Medium Density Residential objectives are addressed below:

To provide for the housing needs of the community within a medium density residential environment

Comment

The proposed eleven (11) new dwelling houses provide for the housing needs of the community. The dwellings are of a scale, height and general format that is anticipated in the R3 zone and accords with the more prescriptive development controls for the area set out under Clause 6.1 of the PLEP and the PDCP. Accordingly, the proposed development satisfies the objective.

To provide a variety of housing types within a medium density residential environment

Comment

The proposed eleven (11) new dwellings comprise of predominantly four (4) and five (5) bedroom homes with a range of alternate internal layouts across the ground and first floors, providing for the diverse needs of the community. Some of the larger dwellings include studies or upper lounge rooms with double garages whilst other homes include a single garage and smaller internal format to provide a degree of relative affordability.

The design elements of each dwelling are also noticeably varied in their façade features, materiality and stylistic elements that provides sufficient variation in the streetscape. Due to the diversity of layout, scale of homes and design features it is considered that the proposal suitably addresses the above objective.

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

Comment

Not applicable.

To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses

Comment

Not applicable.

5.21 Flooding

This clause requires the consent authority to be satisfied that development is compatible with the flood function and behaviour of the land and will not create adverse flooding impacts to downstream properties.

The application has been referred to Council's Flooding Engineers for consideration. Earthworks approved under DA2021/2600 have resulted in the ground heights being raised to or above the flood planning level (FPL) for each lot and accordingly, the dwellings have been designed such that the floor levels are at the required freeboard above the FPL.

The filling across front setback areas has resulted in substantive level changes from the street verges which has necessitated the inclusion of front walls to retain filled areas. These walls have been detailed on the updated architectural and landscape plans. The walls are supported on the basis that they do not unreasonably compromise landscape outcomes across the front setbacks which now accommodate compliant deep soil zones. Overall quantum of deep soil landscaping will ensure the vegetative character of the area is maintained.

Accordingly, it is considered that the development is consistent with the flood conditions of the site (as modified) and that any impacts to neighbouring properties has been duly considered as part of the underlying subdivision approval.

6.1 Warriewood Valley Release Area

The objective of this clause is to permit development in the Warriewood Valley Release Area in accordance with the *Warriewood Valley Strategic Review Report and Addendum Report* and ensure that development does not adversely impact on waterways and the existing native riparian vegetation.

The proposed eleven (11) lots, the subject of this application, were approved pursuant to the Court approved residential development (*Warriewood Developers Pty Ltd v Northern Beaches Council* LEC No: 2023/96634/ DA2021/2600) with the forty-five (45) dwellings approved pursuant to this consent not altered. Accordingly, the number of dwellings proposed remain compliant with this clause.

Clause 6.1(4) of PLEP 2014 prescribes that development consent must not be granted at the subject site unless the consent authority are satisfied that the proposed development will not have any significant adverse impacts upon opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within creek line corridors, the water quality and flows within creek line corridors, or the stability of the bed, shore, and banks of any watercourse within creek line corridors.

The application has been referred to Council's Environmental Health – Riparian officer and Engineers who are satisfied that subject to compliance with the recommended conditions, the proposed dwellings can be constructed in a manner that will not adversely impact upon the approved rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within creek line corridors, the water quality and flows within creek line corridors, or the stability of the bed, shore, and banks of any watercourse within creek line corridors.

7.1 Acid Sulfate Soils

The site is identified within Class 4 and 5 on the Acid Sulfate Soils Map of PLEP 2014.

An Acid Sulphate Soil Management Plan (ASSMP) accompanies the proposal, which is supported by Environmental Health with a number of conditions of consent recommended.

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.

All earthworks across the site were previously approved as part of DA2021/2600. No further major earthworks are proposed / required to accommodate the proposed dwellings.

7.6 Biodiversity

Portions of the proposed Lot 1 are identified on the NSW Governments Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, 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). Under DA2021/2600 this area was approved for clearance and therefore there is no native vegetation remaining in the Biodiversity Value Mapped portion of Lot 1. As such, the proposed development will not trigger entry into the BOS.

The application was referred to Council's Biodiversity Officer who is satisfied that the proposed development is unlikely to have any adverse impacts on biodiversity values within the creek corridor or riparian vegetation aligning the southern boundary of the site, subject to conditions.

The proposed development will take place within an existing cleared area. No native vegetation or trees are proposed for removal. As such, impacts to flora and fauna and nearby biodiversity values is considered unlikely subject to the amendment of the Landscape Plan.

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
Part C6 Design Criteria for Warriewood Valley Release Area		
C6.1 Integrated Water Cycle Management	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.6 Interface to Warriewood Wetlands or non-residential and commercial/industrial development	Yes	Yes
Part D16 Warriewood Valley Locality		
D16.1 Character as viewed from a public place	Yes	Yes
D16.4 Water Management for individual allotments	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	No - justified	Yes
D16.6 Front building line	No - justified	Yes
D16.7 Side and rear building line	No - justified	Yes
D16.9 Solar Access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	No - justified	Yes
D16.13 Building colours and materials	Yes	Yes

A detailed assessed of key built form and landscape controls under the PDCP relevant to the proposed development under Chapter D16 – Warriewood Valley Locality is provided below. Revised plans and responses provided by the Applicant in their response to Council's Request for Additional Information dated 17 March 2026 is dealt with in the table below.

Built Form Controls – D16 Warriewood Valley Locality

Built Form Control	Requirement	Proposed	Complies
D16.1 Character as viewed from a public place	Facades to address public places, provide visual interest, have a street presence and incorporate specific design elements.	The proposed dwellings are well articulated and are designed to positively contribute to the streetscape and wider public domain. The majority of dwellings incorporate stepped components in the façade which assists in breaking up the bulk and massing but also recesses garaging such that it does not detract from the streetscape appearance. Each of the dwellings activate the street and include windows to habitable rooms that are orientated to overlook the street. Design elements utilised in facades demonstrate a degree of variance across each dwelling and a robust palette of materials and neutral colour schemes have been adopted.	**Yes**
D16.1 Character as viewed from a public place	General services facilities must be suitably concealed from view. External storage not to interfere with amenity. Landscaping is to be integrated with the building design to screen and soften the visual impact of the built form. Garages, carports and other structures including hardstand areas must not be the dominant site feature when viewed from a public place.	Dwelling services have been designed such that they are well concealed as part of each dwelling. External waste storage areas have been purposefully designed with pads and landscaped enclosures. Comprehensive landscaping has been developed as part of the proposal demonstrating opportunities for trees, deep soil zones and limited but considered hard landscaped elements. Overall the landscaping approach has resulted in an integrated design working with the built form. The front fencing is essentially unavoidable (required to ensure safe flooding levels) and is considered to be residential in its scale and form and integrates with the design and style of the facades. Majority of dwellings fronting Lorikeet Drive have adopted single space garages with sufficient space in the driveway to enable stacked parking. Where double garages are proposed these are typically set forward of the front building line as required by D16.6 (see below assessment). Double garages are well articulated and adopt diverse materiality and colour schemes to reduce visual appearance of garage dominance to the street.	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	<u>Lots 9m-14m wide</u> Min. landscaped area: 35% Min. dimensions: 4m <u>Lots >14m wide</u> Min. landscaped area: 45% Min. dimensions: 4m Lots fronting Macpherson St: 2 trees in front setback 1 small tree in rear setback Other Lots: 1 small tree in front setback 1 small tree in rear setback Small tree = 6m at maturity	**Lot 1** – 14m: 38% - Complies Lot 2 – 14.5m: 38% Lot 3 – 21m: 36% Lot 4 – 12m: 36% Lot 5 – 9.87m: 26% Lot 6 – 12.76m: 31% Lot 7 – 12.7m: 29% Lot 8 – 14.69m: 40% **Lot 9** – 13.385m: 36% - Complies **Lot 10** – 13.385m: 40% - Complies **Lot 11** – 13.36m: 32 - Complies The non-compliance can be directly attributed to the minimum 4m dimension requirement with all lots containing a compliant overall percentage of landscaped area where the 4m dimension requirement is relaxed. This requirement was relaxed in relation to the recent subdivision approval at 16 MacPherson Street Warriewood with all allotments containing appropriate landscaped areas ensuring that they will sit within a landscaped setting as depicted in the accompanying landscape plans prepared by Place Landscape. As all lots are able be appropriately landscaped it is considered that strict compliance is unreasonable and unnecessary under the circumstances. In our opinion areas of less than 4m in width are capable of successfully contributing to the landscaped character of the area.	Yes and No refer to column 3 (bold are compliant) Yes

<table>
<tr>
<td>D16.6 Front Building Lines</td>
<td>6.5m to Warriewood Road, 5m to articulation zone.

Other roads for 3 metres (other than where tandem spaces are proposed and 5.5m applies) to front façade,

4 metres to garaging with 1.5 articulation zone.

Corner Lots: 2m to dwelling and 1m to articulation zone.</td>
<td>The Applicant has provided the following detailed breakdown of the extent of compliance / non-compliance. Extracts from the Applicant's supplementary SEE seeking to justify non-compliances is also provided below:

<table>
<tr><th>Lot No.</th><th>Required front setbacks</th><th>Proposed setbacks (min)</th><th>Compliance</th></tr>
<tr><td>1</td><td>1.5m - articulation zone
4m - garaging
5.5m - dwelling</td><td>4.501m
5.4m
4.4 – 6.5m</td><td>Yes
Yes
No - Partial breach</td></tr>
<tr><td>2</td><td>1.5m - articulation zone
4m - garaging
5.5m - dwelling</td><td>4.485m
5.5m
4.5 – 6.5m</td><td>Yes
Yes
No - Partial breach</td></tr>
<tr><td>3</td><td>1.5m - articulation zone
4m - garaging
4.5m - dwelling</td><td>5.264m
5.264m
5.264m</td><td>Yes
Yes
Yes</td></tr>
<tr><td>4</td><td>1.5m - articulation zone
4m - garaging
5.5m - dwelling</td><td>4.5m
5.4m
4.4 – 6.5m</td><td>Yes
Yes
No - Partial breach</td></tr>
<tr><td>5</td><td>1.5m - articulation zone
4m - garaging
5.5m - dwelling</td><td>4.855m
5.5m
4.856 – 7m</td><td>Yes
Yes
No - Partial breach</td></tr>
<tr><td>6</td><td>5m - articulation zone

6.5m - garaging
6.5m - dwelling</td><td>Garage and FF terrace within
6.49 – 8m
6.8m</td><td>Yes - Allowable

No - Minor breach
Yes</td></tr>
<tr><td>7</td><td>5m - articulation zone

6.5m - garaging
6.5m - dwelling</td><td>Porch and FF terrace within
6.5m
6.5m</td><td>Yes - Allowable

Yes
Yes</td></tr>
<tr><td>8</td><td>5m - articulation zone

6.5m - garaging
6.5m - dwelling</td><td>Garage and FF terrace within
5.5 – 6.9m
6.7m</td><td>Yes - Allowable

No - Partial breach
Yes</td></tr>
<tr><td>9</td><td>5m - articulation zone

6.5m - garaging
6.5m - dwelling</td><td>Porch, GF bed, FF terrace and LG
6.3 – 8m
6.3 – 8.5m</td><td>No - minor habitable floor space breach

No - Partial breach
No - Partial breach</td></tr>
<tr><td>10</td><td>5m - articulation zone

6.5m - garaging
6.5m - dwelling</td><td>Garage and FF terrace within
5.364 – 7m
6.7m</td><td>Yes - Allowable

No - Partial breach
Yes</td></tr>
<tr><td>11</td><td>5m - articulation zone

6.5m - garaging
6.5m - dwelling</td><td>Garage, porch, and FF terrace within
6.2 – 7.2m
6.5m</td><td>Yes - Allowable

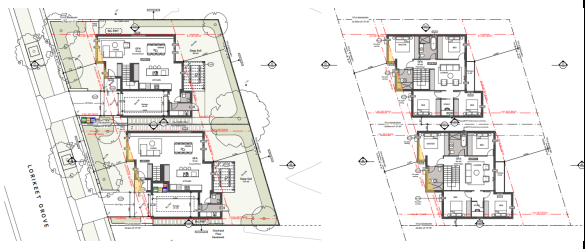
No - Partial breach
Yes</td></tr>
</table>

Applicant's justification for non-compliances:
Having regard to the relatively minor nature of the breaching elements and the spayed nature of the boundary alignments which ensure that an equal or greater extent of building form is setback behind the required front setback alignment we are again satisfied that the objectives of the control are not defeated on sites with a splayed front boundary alignment.

The accompanying landscape plans demonstrate that the proposed front setbacks will not prevent the implementation of appropriate landscaping at the front of the properties with the minor intrusions within the articulation zone significantly less than that anticipated by the control which in relation to Lorikeet Grove would see some development to within 1.5m of the front boundary.

Again, the absence of unacceptable streetscape, landscape and residential amenity impacts sufficient to demonstrate the acceptability of the front setbacks having regard to section 4.15(3A)(b) of the Act. These matters have been appropriately resolved and/ or justified.

The non-compliances observed to front setback areas are the result of the splayed design of the lots as evidenced in the supporting architectural plans and extent of breaches shown (see below</td>
<td>Non-compliances identified and justified</td>
</tr>
</table>

		extract of the plans demonstrating breached areas in yellow shading):  The minor non-compliances in this instance do not compromise or restrict the achievement of the objectives of this chapter in delivering reasonable landscape and deep soil outcomes within the front setbacks. Dwelling façade designs and the high standard of articulation together with controlled massing ensures streetscapes to Warriewood Road and Lorikeet Drive will align with Council's desired outcomes for the area. Some variation in the setbacks can be conducive to creating visual interest. The non-compliances are therefore considered justified and are supported. Council are not compelled to strictly apply numerical controls and are to apply setbacks in a flexible manner under S4.15 of the EP and A Act 1979 where the outcomes achieve the objectives. The proposal complements the established residential character of the area.	
D16.7 Side and Rear Building Lines	Side One side: 0m at ground floor and 1.5m at upper levels on zero lot line. Length of zero lot line is limited to 13m (excludes detached garages on rear loaded lots, including those incorporating secondary dwellings above garage). 0.9m setback applies to remaining portion of the dwelling. Other side: 0.9m Rear Front loaded lots less than 20m: 4m	<u>Ground side and rear setbacks</u> Lot 1 – 0.9m to both sides and 6m rear - complies Lot 2 – 0.9m and 2m to sides and 6m rear - complies Lot 3 – 0.9m and 2m to sides and 6m rear - complies Lot 4 – 0.9m to both sides and 6m rear - complies Lot 5 – 0.9m to both sides and 6m rear - complies Lot 6 – 0.9m to both sides and 6m rear - complies Lot 7 – 0.9m to both sides and 9m rear - complies Lot 8 – 0.9m to both sides and 9m rear - complies Lot 9 – 0.9m to both sides and 9m rear - complies Lot 10 – 0.9m to both sides and 9m rear - complies Lot 11 – 0.9m to both sides and 9m rear - complies All ground floor side and rear setbacks are in accordance with those identified on the approved plan of subdivision associated with the Court approved residential development (Warriewood Developers Pty Ltd v Northern Beaches Council LEC No: 2023/96634/ DA2021/2600. <u>Upper level side setbacks</u> The proposal includes non-compliant side setbacks to the first floor level. This was an issue identified in Council's correspondence dated 19 February 2026, seeking further information and / or justification from the Applicant for the breaches. The Applicant has provided the following detailed breakdown of the extent of compliance / non-compliance with upper level side setbacks. Extracts from the Applicant's supplementary SEE seeking	Non-compliances identified and justified

to justify the non-compliances and/or provide additional information is also provided below:

Lot No.	Required setbacks	Proposed upper-level setbacks	Compliance
1	NW - 1.5m SE - 1.5m	901mm 901mm	No - 599mm variation No - 599mm variation
2	NW - 1.5m SE - 1.5m	901mm 2.0m	No - 599mm variation Yes
3	NW - 900mm SE - 2.5	1.896m 3.01m	Yes Yes
4	NW - 1.5m SE - 1.5m	900mm 904mm	No - 600mm variation No - 596mm variation
5	NW - 1.5m SE - 1.5m	900mm 900mm	No - 600mm variation No - 600mm variation
6	NW - 1.5m SE - 1.5m	931mm - 4.139m 1.199m - 4.3m	No - Partial breach No - Partial breach
7	NW - 1.5m SE - 1.5m	1.922m - 3.032m 1.641m - 2.641m	Yes Yes
8	NW - 1.5m SE - 1.5m	1.690m 1.961m - 2.721m	Yes Yes
9	NW - 1.5m SE - 1.5m	1.083m - 1.539m 1.042m - 1.492m	No - Partial breach No - Partial breach
10	NW - 1.5m SE - 1.5m	1.149 - 3.679m 1.499m	No - Partial breach No - 1mm breach
11	NW - 1.5m SE - 1.5m	1.205m - 1.705m 901mm - 2.463m	No - Partial breach No - Partial breach

Applicant's justification for non-compliances:
The accompanying architectural plans have been amended to clearly nominate required 1.5m upper-level setback for each property to clearly identify the upper level non-compliant setback elements of the various dwellings. The diagrams confirm the following –

The dwellings on proposed Lot 3, 7 and 8 are compliant with the setbacks control with the dwellings on proposed Lots 2, 6, 9, 10 and 11 only partially noncompliant with the setback control. A variation to both upper-level side boundary setbacks is sought to the dwellings on proposed Lots 1, 4 and 5.

In relation to the upper-level setbacks of the dwelling on proposed Lot 1 the south- eastern façade adjoins a 3.65m wide drainage easement and accordingly will have no impact on the amenity of and adjoining residential property or disrupt the rhythm of setbacks and landscaping in a streetscape context. Whilst the upper-level north-western setback is non-compliant it contains a single fixed and screening bathroom window which is offset from the single south-east facing fixed and screened bathroom window within the dwelling on proposed Lot 2.

This design response ensures the maintenance of appropriate visual privacy between properties. Accordingly, the upper-level setbacks proposed to the dwelling on proposed Lot 1 do not defeat the relevant outcomes/ objectives of the control and are acceptable having regard to the flexibility that is to be applied to a DCP control where it can be demonstrated that the outcomes/ objectives of the control are achieved pursuant to section 4.15(3A)(b) of the Act.

In relation to the upper-level south-east facing setback of the dwelling on proposed Lot 2 we rely on our previous commentary in relation to the appropriate design and placemen of fenestration relative to the dwelling house on proposed Lot 1 to demonstrate its acceptability. Although the dwellings on proposed Lots 1 and 2 both have adjoining 900mm upper level setbacks, representing a combined separation of 1.8m, we note that the DCP setback provisions anticipate 900mm upper-level setbacks for dwelling houses on sites having a width of less than 9m and greater than 16m and to that upper-level setbacks of less than 1.5m are certainly anticipated for dwelling house development within the precinct.

		In relation to the upper-level setbacks of the dwelling on proposed Lot 4 we note that a combined setback of 2.8m is achieved to the dwelling on proposed Lot 3 and the absence of openings in the facade facing the dwelling on proposed Lot 5. For the reasons previously outlined we find these setbacks to be reasonable having regard to the outcomes/ objectives of the control. *In relation to the dwelling on proposed Lot 5 we note that were the width of the site reduced by 1mm, to be less than 9m, a 900mm upper-level setback would apply and the proposed setbacks would be compliant. The north-western façade contains 3 windows 2 of which are located above the stair void and the 3 rd associated with the lounge room nominated as fixed and screened. For the reasons previously outlined we find these setbacks to be reasonable having regard to the outcomes/ objectives of the control.* *In relation to the partial breaches associated with the dwellings on proposed Lots 6, 9, 10 and 11 we consider the articulated nature of the upper-level facades and the absence of unacceptable streetscape and residential amenity impacts sufficient to demonstrate the acceptability of the setbacks having regard to section 4.15(3A)(b) of the Act.* *Accordingly, for the reasons outlined we consider the side boundary upper-level setbacks to the acceptable having regard to their performance when assessed against the outcomes/ objectives of the control.* Having regard to the additional information and justification from the Applicant provided above, it is considered that the spatial separation afforded between the proposed detached dwellings is contextually appropriate having regard to the setbacks established by other dwelling house development within proximity of the site. The following detailed assessment is provided in relation to the Applicant's responses: **Dwellings on Lots 3, 7 and 8** – acknowledged as compliant with the side setback controls to the upper levels. **Dwellings on Lots 2, 6, 9, 10 and 11** – The breaches identified as considered very minor and on balance tend to meet the 1.5m control given staggered setbacks are proposed. The level of articulation provided along side setbacks achieves the objective of the control, sufficient internal privacy is achieved and majority of potential impacts are internalised to the development. Acceptable outcomes achieved. **Dwelling / Lot 1** – Non-compliance to the south-eastern boundary not deemed problematic due to interface with 3.65m overland drainage easement, allowing acceptable separation distance to neighbouring properties. Non-compliant setback to the north-west is dealt with via privacy treatments. Acceptable. **Dwelling / Lot 2** - Non-compliance to south-eastern boundary occurs to wall to two bedrooms with no windows along side façade and a single study window to be affixed with privacy screening. Acceptable. **Dwelling / Lot 4** – South-east wall contains a single bathroom window which is offset 2.8m to the dwelling on Lot 3 which has no window along the side elevation. The north-west aspect has no windows and so no privacy issues to contend with as a result of updated design. Acceptable	

		Dwelling / Lot 5 - South-east wall includes 3 window openings and a reduced setback to internal boundary to Lot 4. In this instance, the privacy impacts are removed due to the design of the adjacent upper level to Lot 4. North-west aspect includes a long, unbroken side aspect with a reduced 900mm setback to neighbouring properties at 33 Lorikeet Grove and 4 Pheasant Place. The north-west aspect also includes two windows above the stairwell and two windows to an upper level lounge room with a fixed privacy screen. The north-west aspect of Dwelling 5 is still viewed as a minor issue due to its reduced separation to established neighbouring properties to the north. A condition of consent is therefore recommended that updated plans be provided prior to the issue of a Construction Certificate delineating: a) Fixed privacy screening to all upper level windows retained along the north-western aspect of Dwelling 5 limited to W5201 and W5202. Acceptable subject to condition.	
D16.9 Solar Access	70% of the proposed dwellings - 2 hours of sunlight between 9am and 3pm in midwinter to private open space and windows to principal living area	Lot 1 – Min 3 hours to GF dining and kitchen windows Lot 2 – Min 3 hours to GF dining and kitchen windows Lot 3 – Min 4 hours to GF living Lot 4 – Min 3 hours to GF dining and kitchen windows Lot 5 – Min 2-3 hours to GF dining and kitchen windows Lot 6 – Min 3 hours to upper level lounge and terrace Lot 7 – Min 3 hours to upper level lounge and terrace Lot 8 – 5m – Min 3 hours to upper level lounge and terrace Lot 9 – 5m – Min 3 hours to upper level lounge and terrace Lot 10 – 5m – Min 3 hours to upper level lounge and terrace Lot 11 – 5m – Min 2 hours to living window Solar access outcomes demonstrated to be acceptable as per the revised architectural plan set.	Yes
D16.10 Private and Communal Open Space Areas	Min. area of private open space: 16m² Min. dimensions: 3m	Each dwelling comprises private open space with a minimum dimension of 3m. and an overall area in excess of 16m².	Yes
D16.12 Fences	Fencing is not permitted forwards of the building line. Boundaries between public and private land should be delineated by vegetation such as low hedges, garden beds or the like.	1.0m – 1.55m high sandstone fencing is proposed to street boundaries. This non-compliance was identified in Council's correspondence requesting further information. The Applicant has provided updated plans detailing front wall / fence heights of between 1.0m – 1.55m together with the following commentary: ***Applicant response:*** *In relation to front fencing, we note that fencing is proposed to address the level difference between the Council verge and the finished surface level of the front yards which have been filled to address flooding.* *The proposed fencing will prevent fall hazard between levels with the proponent open to a discussion regarding height and materiality which could ultimately be conditioned. In any event we note that the stated outcome of the clause D16.12 PDCP front fencing control as it relates to landscaping is to ensure front setbacks are enhanced by tree planting within the front setback with the landscape plans*	Non-compliance identified, supported on merit

		clearly demonstrating that the fencing does not compromise the landscape outcomes for each lot including the ability to accommodate canopy tree plantings. *We request a variation to this control based on the above site-specific justification.* The inclusion of front fencing / walls in this instance is a site-specific treatment required to manage level differences between the front of lots and the verges. The walls proposed are of a high standard of design and materiality and will not compromise the achievement of sounds front landscape outcomes. The walls will also contribute to the character of the streets in this location given that they will be constructed from sandstone and have been reviewed and accepted by Council's Landscape Officer.	
D16.13 Building Colours and Materials	External colours and materials shall be natural tones.	The application is supported by a Material Schedule which demonstrates a variety of building finishes and neutral colour schemes. The materiality, colour schemes and fenestration details have been reviewed by Council's Officers and are supported.	Yes

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.

INFRASTRUCTURE CONTRIBUTIONS

No developer contributions are payable under Warriewood Valley Development Contribution Plan or under the Housing and Productivity Contributions. This proposal only involves the approval of dwelling houses on lots approved under consent DA2021/2600 for which contributions were levied for the 11 lot subdivision and a residential flat building.

In accordance with the Warriewood Valley Development Contributions Plan (as amended), and condition 7 of the previous consent, before the issue of a Construction Certificate, the development contributions related to these eleven (11) dwellings are to be paid in relation to consent **DA2021/2600** approving the creation of these same eleven lots.

Consent DA2021/2600 condition

7. Warriewood Valley - Contribution Condition
The applicant must pay a total development contribution to Council of $3,176,496 in accordance with the Warriewood Valley Development Contributions Plan (as amended). The contribution is based on 43 additional dwellings/allotments as follows:
• a contribution for 11 Torrens Title allotments,
• a contribution for a 34-unit residential flat building, and
• a credit for two existing dwellings.

The contribution comprises:

a) a monetary contribution paid to Council prior to the issue of any Construction Certificate. The monetary contribution will be adjusted at the time of payment and when the quantum of land to be dedicated is known, in accordance with the provisions of the Warriewood Valley Development Contributions Plan (as amended), and

b) the dedication of creekline corridor land to Council, measured at 25m from the rear property boundary, in lieu of monetary contributions calculated in accordance with Table 4 of the Contributions Plan. The land to be dedicated is to be shown on an amended Plan of Subdivision which must be approved by Council prior to the issue of any Subdivision Certificate. Dedication of the creek land will occur through the registration of the final Plan of Subdivision after any required rehabilitation works in the creek corridor are completed.

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifier at the appropriate time as stated above.

The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than those already identified above) in lieu of the monetary contribution above (or any portion of that monetary contribution) through a Planning Agreement between Council and the Applicant in accordance the Warriewood Valley Development Contributions Plan (as amended) and Council's Planning Agreement Policy. The Planning Agreement between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.
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 Contributions Plan that enables the provision of local infrastructure and services commensurate with the increased demand resulting from development in the Warriewood Valley Release Area.

A condition has been included in this recommendation that requires details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifier prior to issue any Construction Certificate for any of the dwellings approved under this consent (DA2025/1304).

SUBDIVISION

The proposal very marginally modifies the approved plan of subdivision due to some very minor irregularities that have come to light post DA approval of the original subdivision. The registered surveyor provides the following explanation which is supported:

"In accordance with your instructions we have prepared preliminary subdivision plans for the land contained in Certificate of Title Folio 1/349085 and 2/349085 being Lot 1 & 2 in Deposited Plan 349085 situated at Warriewood in the Local Government Area of Northern Beaches, Parish of Narrabeen and County of Cumberland.

Over a period of time multiple versions of the subdivision layout was proposed and several draft versions of the subdivision plan were prepared. Initial versions of the draft plans were prepared utilising the subject deposited plan in conjunction with deposited plans adjoining the site. As such the dimensions shown were not 'by survey' and were prepared largely as a desktop exercise.

As this project has progressed a full field survey has been undertaken and reference marks shown on deposited plans as well as coordinated marks in the area have been connected to and measured. As per established survey principles and requirements comparison between 'original' dimensions shown on registered plans and the measured bearings and distances by survey was undertaken. This exercise revealed minor differences to some boundary lines which we found to be in the order of 15 – 20mm. This can be seen in the distance shown on different versions of the preliminary plans for the south-east boundary of the site where we have found a difference of 15mm between the street alignment of Warriewood Road and Lorikeet Grove.

Furthermore an error in the adjoining subdivision plan (DP271139) relating to the position of the easement for sewage purposes was found. The difference of around 60mm in position as shown on that plan compared to our definition and that shown on the plan which originally created the easement (DP581495) meant that some dimensions of proposed lots facing Warriewood Road whose rear boundary was to coincide with the easement required slight adjustment.

It should be noted that this plan is a preliminary draft plan only. Dimensions and areas shown on this plan may vary from a final plan registered at NSW land Registry."

On this basis the subdivision plans will have the effect of superseding the stamped approved subdivision plans under DA2021/2600. It is advisable that the applicant issue a S4.17 notice under the EP &A Act 1979 to alter the consent conditions under DA that will become superfluous once the subject DA is approved.

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 will 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 having regard to those justified non-compliances to planning controls
- 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 construction of eleven (11) dwelling houses at No. 43-49 Warriewood Road, Warriewood has been referred to the Northern Beaches Local Planning Panel (NBLPP) as the underlying subdivision approval was the subject of a recent Land and Environment Court judgement *(Warriewood Developers Pty Ltd v Northern Beaches Council LEC No. 2023/96634/ DA2021/2600)*, in addition Council is the owner of Lot 2 DP 972209, forming a drainage channel forming part of the subject development site.

Each of the new dwellings are two (2) storeys in height comprising of four (4) - five (5) bedrooms, open plan living areas and one (1) or two (2) car garages. The development also includes in-lot drainage treatments and supporting infrastructure as well as landscaping and retaining structures.

The development application was notified for twenty-eight (28) days, in accordance with the Conflict of Interest Management Strategy and 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 being supplementary to the original application package formed the basis of this assessment.

Overall, the development incorporates a high quality design that performs well against the objectives of the relevant controls. Detailed consideration has been given to potential impacts on neighbouring properties, particularly in relation to privacy, solar impacts, views, level changes and setbacks. Minor variations to front setbacks and front fencing have been considered and supported on the basis of site specific merit arguments. Additionally, reduced upper level setbacks have been justified on the basis of mitigating potential privacy impacts, with a recommended condition included to deal with further improvements to Dwelling 5.

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 NBLPP with a recommendation for **Deferred Commencement 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 a **Deferred Commencement** Development Consent to DA2025/1304 for construction of eleven (11) new dwelling houses on proposed Lots 1-11 on land at Lot 1 DP 349085 , 49 Warriewood Road WARRIEWOOD, NSW 2102 Lot 2 DP 972209 , 43 Warriewood Road WARRIEWOOD, NSW 2102 and Lot 2 DP 349085 , 45 Warriewood Road WARRIEWOOD NSW 2102, 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.

Schedule A - Deferred Commencement Conditions

DEFERRED COMMENCEMENT CONDITIONS

1. **Public Domain Works along Warriewood Road and Lorikeet Grove**
   All the public domain works required to be completed under the consent for DA2021/2600 must be certified as complete with Works as Executed Plans lodged consistent with the requirements of condition No.126 of that consent before this consent can become operative.

   Reason: To ensure required and approved public domain infrastructure is delivered in advance, prior to this consent becoming operative.

   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:

Schedule B - Operational Consent Conditions

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**
TP001	I	Development Summary	LK	08/08/2025
TP002	I	Materials and References	LK	08/08/2025
TP000	I	Site Analysis	LK	08/08/2025
TP003	I	Cut and Fill Plan	LK	08/08/2025
TP100	J	Lot 1, 2 Ground and First Floor Plan	LK	11/03/2026
TP101	J	Lot 1 and 2 Roof Plan	LK	11/03/2026
TP102	J	Lot 3, 4 and 5 Ground and First Floor Plan	LK	11/03/2026
TP103	J	Lot 3, 4 and 5 Roof Plan	LK	11/03/2026
TP104	J	Lot 6, 7 and 8 Ground Floor Plan	LK	11/03/2026
TP105	J	Lot 6, 7 and 8 First Floor Plan	LK	11/03/2026
TP106	J	Lot 6, 7 and 8 Roof Floor Plan	LK	11/03/2026
TP107	J	Lot 9, 10 and 11 Ground Floor Plan	LK	11/03/2026
TP108	J	Lot 9, 10 and 11 First Floor Plan	LK	11/03/2026
TP109	J	Lot 9, 10 and 11 Roof Plan	LK	08/08/2025
TP200	I	Street Elevations	LK	08/08/2025
TP201	I	Rear Elevations	LK	08/08/2025
TP202	I	Lot 01, 02 + 03 Side Elevations	LK	08/08/2025
TP203	I	Lot 04, 05 + 06 Side Elevations	LK	08/08/2025
TP204	I	Lot 07, 08 + 09 Side Elevations	LK	08/08/2025
TP205	I	Lot 10 + 11 Side Elevations	LK	08/08/2025
TP300	I	Sections AA, BB + CC	LK	08/08/2025
TP301	I	Section DD	LK	08/08/2025
TP302	I	Section EE, FF + GG	LK	08/08/2025
TP303	I	Section HH	LK	08/08/2025
TP400	I	Window and Door Schedule	LK	08/08/2025

Approved Plans Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
Landscape Plans L001 L002 L003 L004 L005 L006	C	Place Landscape	10.03.2026
Civil Engineering Plans Drawing Nos. CW001 CW010 CW011 CW012 CW013 CW014 CW015 CW016 CW018 CW019 CW020 CW021 CW022 CW023 CW024 CW025 CW026 CW027 CW030 CW031 CW034 and CW035	08	Capital Engineering Consultants	10.08.2025
Stormwater Plan Design Certificate	-	Capital Engineering Consultants	12.08.2025
Ecological Impact Assessment			

Waste Management Plan prepared with Council WMP effective 1.11.2016	-	Applicant	Undated
Waste Management Plan	-		
Preliminary Site Investigation Report No: 2148-PSI-01-060723.v1f	-	Sydney Environmental Group	7.07.2023
Detailed Ste Investigation report	V1	Sydney Environmental Group	28.07.2025
Remediation Action Plan Report No: 2148-RAP-01-280723.v1f	-	Sydney Environmental Group	28.07.2023
Geotechnical Investigation Report Ref: 33510PDrpt Rev1	Rev 01 -	JK Geotechnics	17.11.2021
BASIX Certificate	178488 4M	Jensen Hughes Pty Ltd	30.06.2025
Biodiversity Development Assessment report NO 21097RP4	V5	CUMBERLAND ECOLOGY	29.02.2024
Biodiversity Management Plan	V6	Cumberland Ecology	16.04.2025
Arboricultural Impact Assessment	B	Creative Planning Solutions	18.12.2023
Survey Plan	F	Summit Geomatic	02.09.2025
Biodiversity Statement		Cumberland Ecology	02.09.2025
Geotechnical Investigation Report GR24249		GEC Geotechnical	20.03.2025
Traffic Impact Report Ref 206/2024	A	TTPA	Nov 024
Ecology Compliance Letter	-	Cumberland Ecology	02.11.2025
Bushfire Support Letter		CBAA Bushfire Experts	27th July 2025
Acid Sulphate Soil Assessment and Management Plan		Noel Child	4th September 2025
Flood Impact Letter		Capital Engineering Consultants	24.02.2025
Plan of Subdivision		Peter Lawrence Nancarrow	February 2025

Nathers Thermal Performance		Robert Ramanous	26 June 2025
Bushfire Assessment Report S100N 'Subdivision'		Advanced Bushfire Performance Solutions	December 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.

3. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	30 October 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. 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

(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:

- 8.00am 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 directly to the Long Service Corporation. 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. The applicant shall bear the cost of all works associated with the development

(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.

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

7. Staff and Contractor Parking
The applicant is to make provision for parking for all construction staff and contractors on site for the duration of the project.

Reason: To ensure minimum impact of construction activity on local parking amenity.

8. Fencing Height / Vegetation
All fencing and/or vegetation along the frontage road(s) shall not impede pedestrian or driver visibility. This requires that vegetation does not exceed one (1) metre in height. Appropriate plants shall be selected within the 2.0 x 2.5m splay to ensure this condition is met.

Reason: To ensure maximum vehicular and pedestrian visibility

FEES/CHARGES/CONTRIBUTIONS

9. Security Bond
A bond (determined from cost of works) of $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

10. Warriewood Valley - Infrastructure Contributions
Prior to issue of a Construction Certificate, the development contributions related to these 11 dwellings are to be paid under consent DA2021/2600 approving the creation of these same eleven lots. Development Contributions payable to Council is in accordance with the Warriewood Valley Development Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Principal Certifier prior to issue of any Construction Certificate for any of the dwellings approved under this consent.

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 that enables the provision of local infrastructure and services commensurate with the increased demand resulting from development in the Warriewood Valley Release Area.

11. Construction, Excavation and Associated Works Security Bond(s)
The applicant is to lodge a bond with Council for the following:

Security Bond

As security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site a bond of $40,000.00.

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 CONSRUCTION CERTIFICATE

12. Amendments to the approved plans
The below amendments are to be made to the approved plans. This is to ensure the walls enhance the streetscape and do not degrade over time. To ensure adequate privacy provided to adjoining properties to the north.

(a) Plan notations or amendments to include solid sandstone block walls for fencing fronting Lorikeet Grove placed on reinforced concrete footing. All walls are to be suitably drained and designed by an experienced structural engineer to prevent medium to long term degradation. Full structural and hydraulic details to be provided to the certifier for all front and side boundary retaining walls prior to the issue of a construction certificate.

(b) Privacy screens to bottom 50% of windows W5201 and W5202 located at the upper level of the dwelling on Lot 5.

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

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

13. Detailed Landscape Plans
Detailed Landscape Plans, based on the approved Landscape Plans under the development consent, shall

be submitted at Construction Certificate stage to ensure compliance with the Pittwater 21 DCP landscape controls, and the following shall be documented or amended on the detailed plans:

i) all hard and soft landscape works shall be documented by layout including surface levels, material selection, plant selection, and schedule quantities
ii) the plant schedule shall include a minimum of 70% endemic vegetation, with all canopy trees to be endemic, whilst smaller trees may be exotic
iii) exempt species and environmental weeds are not permitted
iv) all canopy tree planting is to be located a minimum of 5 metres, and smaller trees at least 3 metres from existing and proposed dwellings, and within dep soil area
v) each tree is to be located at least 1.5 metres from adjoining common residential side boundaries
vi) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,

Certification shall be provided to the Certifying Authority by a qualified Landscape Architect that the documents are satisfactory to issue for construction and comply with the approved Landscape Plans under the development consent.

Reason: Landscape amenity.

Note: Street tree and understorey planting shall be consistent with the separate condition and as documented for the s138 works within the road reserve application.

14. Building components and structural soundness

B1 - All new development below the Flood Planning Level of 4.64m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 4.64m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 4.64m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

15. 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.

16. Amendment of Landscape Plans

The submitted Landscape Plan is to be amended in accordance with the following:

- Landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the Narrabeen ward section of the Native Planting Guide available on Council's website.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site

17. Vehicle Crossings Application

The Applicant is to submit an application (using form number 4028 available on Council website) with Council for driveway levels to construct 5 no vehicle crossings 3 metres wide in Lorikeet Grove in accordance with Northern Beaches Council Standard Drawing Normal in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

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

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

Reason: To facilitate suitable vehicular access to private property.

18. 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 Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

19. Detailed Design of Stormwater Treatment Measures and Biofiltration

Prior to the commencement of any construction works, the applicant must provide certification and ensure that the stormwater treatment measures are designed, constructed, and maintained in accordance with the following requirements:

- A certificate from a Civil Engineer must be submitted to the Principal Certifying Authority, confirming that the stormwater treatment measures have been designed in accordance with:

- the Stormwater Plans and details shown on the CIVIL WORKS drawing set Rev08 dated 10/08/2025 by CEC (Project SW24353); and
- Council's Water Management for Development Policy.
- The biofiltration system must:
- use sandy loam filter media with a saturated hydraulic conductivity of approximately 200 mm/hr;
- not be lined with a waterproof membrane;
- not be over-compacted, in order to maintain infiltration capacity; and
- be planted with native species suited to shallow media conditions.

Reason: To ensure the stormwater treatment system is designed and constructed in accordance with approved engineering plans, Council's policy requirements, and best-practice biofiltration standards.

20. Car Parking Standards

The driveway/access ramp grades, access, garages and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

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 maneuvering, access and parking of vehicles.

21. Car Parking Finishes

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

Vehicular Swept Paths

Vehicular maneuvering paths must be provided to demonstrate that a B99 vehicle can comfortably enter and exit each property. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to Council's traffic engineer for review with evidence of acceptability provided to the Principal Certifier prior to the issue of the construction Certificate.

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

22. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Safework 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.

23. Pedestrian sight distance at property boundary

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to each property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

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

Reason: To maintain pedestrian safety.

24. 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.

25. Stormwater Drainage Application

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include Civil Engineering plans for the design of the stormwater drainage outlets for each dwelling that will be connected either into the Warriewood Road or Lorikeet Grove kerb and gutter which are to be generally in accordance with Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

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

26. 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.

27. 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.

28. External Finishes to Roof

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

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

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

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

29. 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

30. 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.

DURING BUILDING WORK

31. Acid Sulfate Soils
All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan titled Acid Sulphate Soil Assessment & Management Plan: Residential Development Lots 1-11 43-45 & 49 Warriewood Road Warriewood NSW (Version 1; September 4th, 2025), dated 4 September 2025 ref. no.
Warriewood Road – Acid Sulphate Soil Management Plan (Version 1) – 040925.docx

Reason: To ensure management of potential acid sulfate soils.

32. Off-site Disposal of Contaminated Material
Any contaminated material removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with Protection of the Environment Operations Act 1997 (NSW); and Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: To protect environment and public health.

33. Requirement to notify about new Acid Sulfate Soils evidence
Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

34. Site Contamination - Acid Sulfate Soils
All stockpiles of potentially contaminated soil must be stored in a secure area in a way that is not likely to cause pollution or be a public health risk.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines.

Copies of all test results and disposal dockets must be retained by whom? for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:
- Protection of the Environment Operations Act 1997;
- Environment Protection Authority, Waste Classification Guidelines (2014);
- Water Quality Australia, National Acid Sulfate Soils Guidance (2018); and
- Acid Sulfate Soil Advisory Committee, Acid Sulfate Soil Manual (1998).

Reason: To protect environment and public health.

35. Site Contamination

All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility. All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination: Protection of the Environment Operations Act 1997; and Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

Reason: To protect human health and the environment.

36. Protection of existing street trees

All existing street trees in the vicinity of the works and any street trees at the development site frontage shall be retained during all construction stages and thereafter. Existing tree guards shall be maintained in place.

Should any street tree along the site frontage not contain a tree guard or the existing tree guard is damaged during works, tree protection fencing consisting of a four sided 1.8m high x 2.4m length standard wire mesh construction fence, in accordance with Australian Standard AS 4687-2007: Temporary Fencing & Hoardings, shall be installed around the tree for the duration of the works.

Any street tree damaged or removed shall be replaced at a minimum container size of 400 litres, and in accordance with guidelines provided by Council.

Reason: to retain and protect road reserve verge tree planting on development sites.

37. 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.

38. 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.

39. 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.

40. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

41. 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 Safework NSW 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.

42. 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.

43. 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.

44. 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.

45. Property Boundary Levels
The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

46. 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 Transport for NSW 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

47. Requirement to Notify about New Contamination Evidence
Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

48. Compliance with Detailed Site Investigation and Remediation Action Plan
The requirements of the Detailed Site Investigation and Remediation Action Plan required by this consent are to be fully implemented from commencement of any excavation, demolition or development works until the issue of an Occupation Certificate.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

49. Off-site Disposal of Contaminated Soil - Chain of Custody
'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the site to a lawful waste facility.

Details demonstrating compliance are to be submitted to the Principal Certifier and Council within seven (7) days of transport.

Reason: For protection of environment.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

50. Acid Sulfate Soil Management Confirmation
Details demonstrating compliance with the approved Acid Sulfate Soil Management Plan titled Acid Sulphate Soil Assessment & Management Plan: Residential Development Lots 1-11 43-45 & 49 Warriewood Road Warriewood NSW (Version 1; September 4th, 2025), dated 4 September 2025 ref. no. Warriewood Road – Acid Sulphate Soil Management Plan (Version 1) – 040925.docx is to be submitted to the satisfaction of the principal certifier prior to the issue of the occupation certificate.

Reason: To ensure management of potential acid sulfate soils.

51. Hazardous Building Materials Survey
A hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

52. Street tree planting
Street tree planting shall be installed in accordance with the approved Landscape Plans: six Lophostemon confertus, and in accordance with section S-1 of the Warriewood Valley Masterplan and Landscape Design Guidelines (Public Domain).

All street trees to be minimum 400 litre stock for S-1 (large canopy trees), and subject to final approval by Council. All street trees shall be subject to pre-order of plant material. All trees to be grown by recognised nursery under Natspec Specifying Trees. Alternative street tree container sizes may be considered only when existing services or road infrastructure limit the available soil volume where a large rootball will not be possible, subject to Council approval.

Existing subgrade shall be excavated to loosen the ground conditions to 400mm depth and at least 600mm for tree planting. Retain all quality existing topsoil in place, subject to approval from Council. Poor existing soils shall be replaced with minimum 400mm depth for garden areas and 700mm depth for tree planting with imported soilmix as nominated, subject to approval from Council

Tree pits shall be a minimum of 700mm depth x 2.5m wide. Backfilling soilmix shall consist of approved existing site topsoil or replacement soilmix subject to Council approval. All tree pit backfilling shall consist of 100% sandy loam, followed by a 100mm depth top layer of organic humus mix. Mulch shall consist of 75mm coarse hardwood chip mulch.

Tree guards shall be hardwood timber construction consisting of 4 x 75 x75 posts into a concrete slurry base set at 1 metre apart, to sit 1.5m above the ground and 1m into the ground, with top and mid rails 25x75, fastened to the posts.

Details are to be submitted on all plans.

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

Reason: To maintain environmental and streetscape amenity.

53. Landscape completion

Landscape works are to be implemented in accordance with the approved Detailed Landscape Plans.

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

Reason: Environmental amenity.

54. Building Components and Structural Soundness

B2 - A suitably qualified structural engineer is to certify the structural integrity of the new development up to the Flood Planning Level of 4.64m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 4.64m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

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

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

55. 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.

56. 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.

57. Certification for the Installation of Stormwater Treatment Measures and Biofiltration
Prior to the issue of an Occupation Certificate, the applicant must provide the Principal Certifier with a Civil Engineer's Certification including:

- A certificate from a Civil Engineer who is a member of Engineers Australia and listed on the National Engineers Register.
- The certificate must confirm that the stormwater treatment measures have been installed in accordance with:
- Installation Requirements
    - The biofiltration system must be installed strictly in accordance with the approved engineering drawings and specifications.
    - The filter media must be placed in layers to avoid segregation and compaction, and the base must remain uncompacted to maintain infiltration capacity.
    - The system must not be lined with a waterproof membrane, ensuring vegetation root systems can connect with underlying soils
    - All pipework, underdrains, and overflow structures must be installed to design levels and inspected prior to backfilling
    - Vegetation must be planted at the specified densities and watered until established.
- Initial Hydraulic Conductivity (Field Test)
    - The installed biofiltration system must be field-tested using a double-ring infiltrometer (or equivalent recognised field infiltration test) to confirm the in-situ saturated hydraulic conductivity (Ksat).
    - The measured Ksat must fall within the range of 100–300 mm/hr, with a design target of approximately 200 mm/hr.
    - The test must be carried out by a qualified geotechnical engineer with relevant experience in infiltration testing
    - Test results must be certified by the supervising Civil Engineer and submitted to the Principal Certifier.
- Laboratory Test Certificate
    - Issued by a NATA-accredited laboratory.
    - Confirms the saturated hydraulic conductivity of the filter media (e.g. ~200 mm/hr for sandy loam, consistent with Water by Design and CRC for Water Sensitive Cities guidelines).
    - Includes results of particle size distribution (PSD) testing to demonstrate compliance with bioretention media specifications.
- Supplier Compliance Certificate
    - Provided by the media supplier

- States that the supplied media complies with Water by Design Bioretention Filter Media Specifications (2023) or an equivalent recognised guideline.
- Quality Assurance Documentation
- Batch test results for the actual material delivered to site.
- Chain of custody or delivery dockets linking the tested sample to the installed media.

- Vegetation Establishment
  - Evidence that vegetation within the biofiltration system demonstrates a minimum 80% survival rate of plantings.

Reason: To ensure the stormwater treatment system is constructed in accordance with approved plans, meets recognised performance standards, and protects the receiving environment.

58. Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

59. Stormwater Treatment Measures Operation and Maintenance Plan

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

- Detail on the stormwater treatment measures:
  (a) Work as executed drawings
  (b) Intent of the stormwater treatment measures including modelled pollutant removal rates
  (c) Site detail showing catchment for each device
  (d) Vegetation species list associated with each type of vegetated stormwater treatment measure
  (e) Impervious area restrictions to maintain the water balance for the site
  (f) Funding arrangements for the maintenance of all stormwater treatment measures
  (g) Identification of maintenance and management responsibilities
  (h) Maintenance and emergency contact information

- Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
  (a) Activity description, and duration and frequency of visits Additionally for vegetated devices:
  (b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
  (c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure.
- Maintenance schedule and procedure – ongoing

(a) Activity description, and duration and frequency of visits
(b) Routine maintenance requirements
(c) Work Health and Safety requirements
(d) Waste management and disposal
(e) Traffic control (if required)
(f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
(g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

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

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

Reason: Protection of the receiving environment.

61. Waste Disposal Verification Statement
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

62. Post-Construction Dilapidation Report (Major Development)
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.

63. Validation for Remediation
A validation and site monitoring report, including a survey of all sites used for landfill disposal is to be prepared in accordance with relevant guidelines issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.

The plan must identify the extent and depth of all fill material in relation to existing roadways and buildings. The survey must also include a detailed survey of all sites used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings.

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

Reason: To ensure environmental amenity is maintained.

64. Waste and Recycling Facilities Certificate of Compliance
The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

65. Waste/Recycling Compliance Documentation
Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

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

66. 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 Detailed Landscape Plans and any conditions of consent. All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

67. Maintenance of Asset Protection Zones
Vegetation clearing for ongoing APZ maintenance must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Reason: To protect native vegetation and wildlife.

68. Maintenance of Stormwater Treatment Measures - Major
Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

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

Reason: Protection of the receiving environment.

69. Certification of Council Drainage Works and Works as Executed Data in accordance with Local Government S68 Approval
The Applicant shall submit certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 68 approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage plan) certified by a registered surveyor in relation to boundaries and/or relevant easements prepared in

accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' within the subject site, shall be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

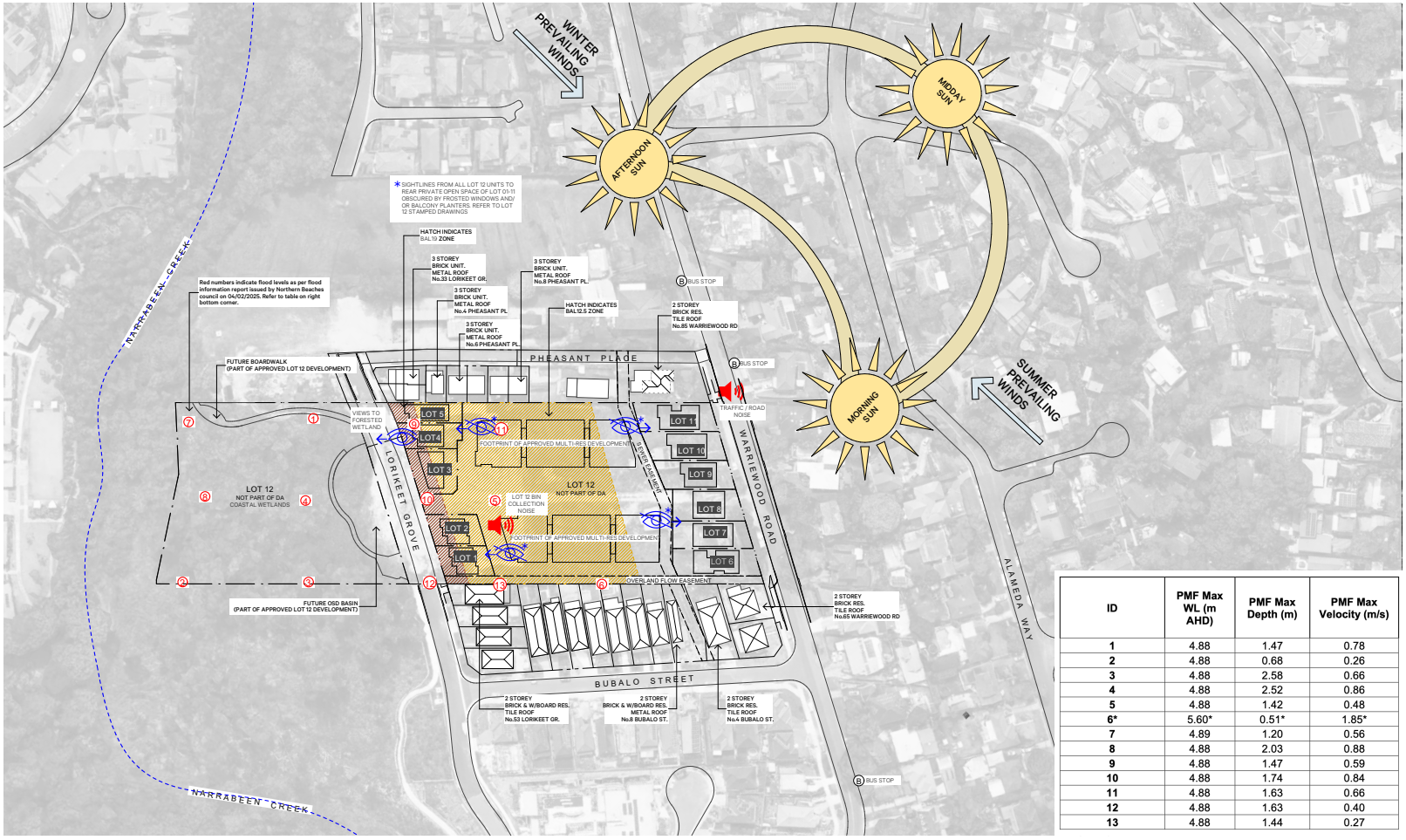
Reason: To ensure compliance of drainage works with Council's specification for engineering works.

FINAL DECLARATION

Consultant Name: Andrew Martin

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.





ID	PMF Max WL (m AHD)	PMF Max Depth (m)	PMF Max Velocity (m/s)
1	4.88	1.47	0.78
2	4.88	0.68	0.26
3	4.88	2.58	0.66
4	4.88	2.52	0.86
5	4.88	1.42	0.48
6*	5.60*	0.51*	1.85*
7	4.89	1.20	0.56
8	4.88	2.03	0.88
9	4.88	1.47	0.59
10	4.88	1.74	0.84
11	4.88	1.63	0.66
12	4.88	1.63	0.40
13	4.88	1.44	0.27

435 Swan Street Richmond
Melbourne 3121 Australia
ow@cleystudio.com.au

+ 61 (3) 7003 5279
www.cleystudio.com.au

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ACN: 633 834 401

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Scan QR code or follow website link for rating details.
Assessor name Robert Romanous
Accreditation No. ABSA 101535
Property Address 43-45 Warriewood Road, Warriewood, NSW, 2102
http://www.hero-software.com.au/pdf/HR-MNSQHB-09

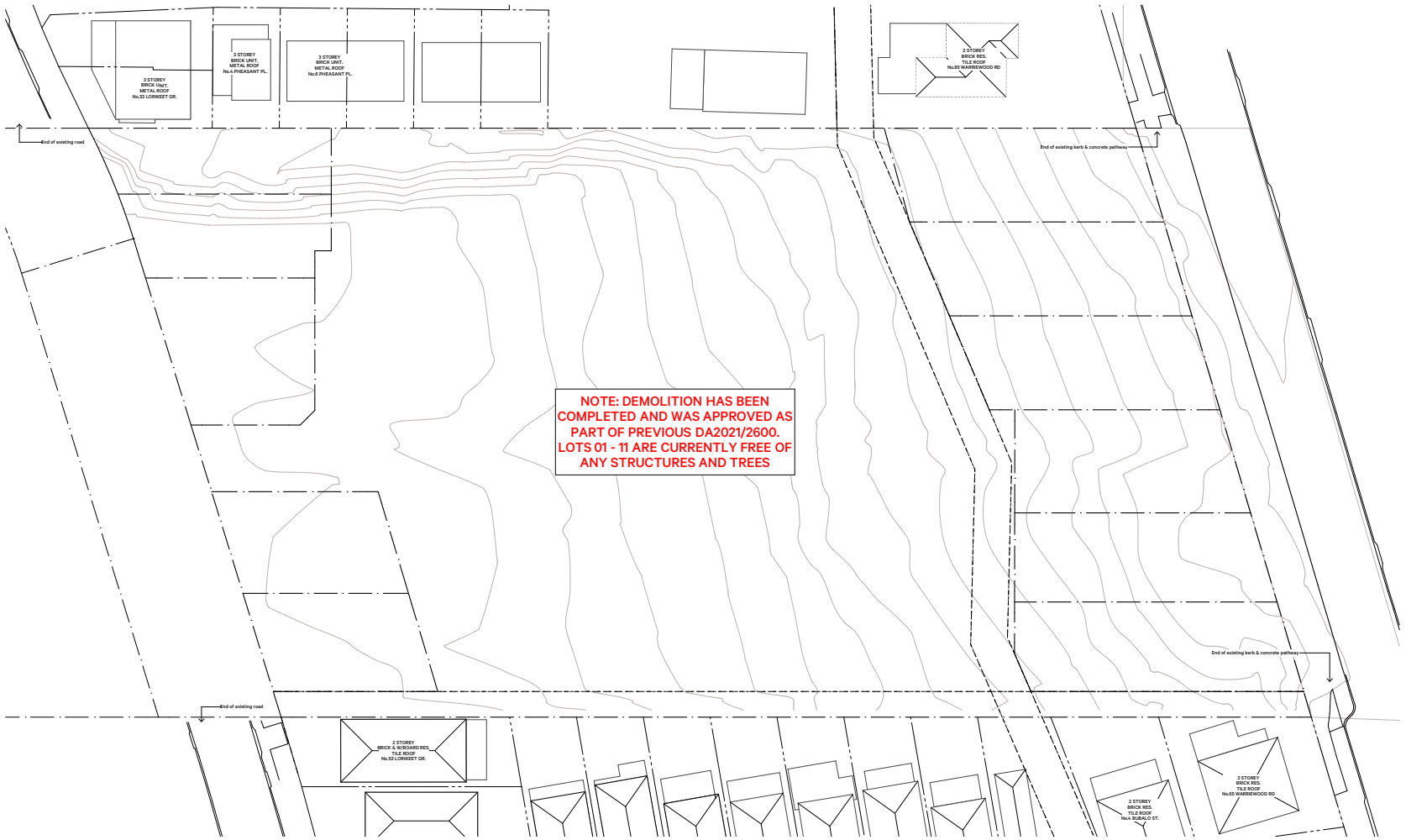
Revisions

#	Date	Description
C	19/12/2024	For Information
D	7/02/2025	Draft Development Application
E	18/02/2025	Draft Development Application
F	6/03/2025	Development Application
G	20/05/2025	Development Application
H	19/06/2025	For Information
I	8/08/2025	Development Application

Client
S Loura
Project
WARRIEWOOD
Project Address
43-45&49 Warriewood Rd Warriewood NSW 2102 Australia
Drawing Name
SITE ANALYSIS

Project Stage
Development Application
Scale
NTS
Date
8/08/2025
Drawn
LK
Project Number
2852
Drawing
TP000
Revision
I

CLEY STUDIO



435 Swan Street Richmond
Melbourne 3121 Australia
ce@cleystudio.com.au

+ 61 (3) 7003 5279
www.cleystudio.com.au

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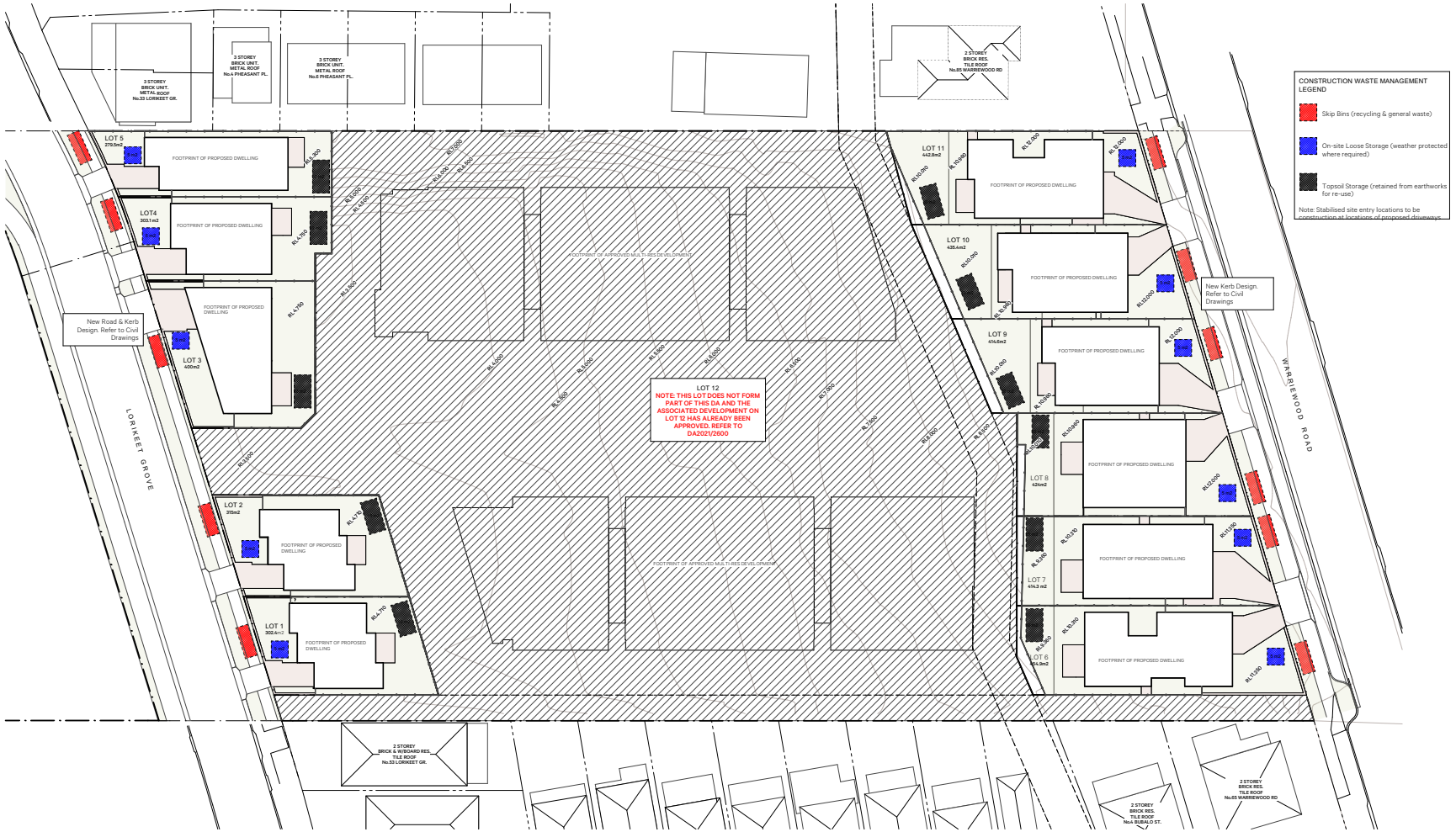
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Revisions		
#	Date	Description
F	6/03/2025	Development Application
G	20/05/2025	Development Application
H	19/06/2025	For Information
I	8/08/2025	Development Application

Client
S Loura
Project
WARRIEWOOD
Project Address
43-45&49 Warriewood Rd Warriewood NSW 2102 Australia
Drawing Name
EXISTING SITE PLAN & DEMOLITION PLAN

Project Stage
Development Application
Scale
1:250
Date
8/08/2025
Drawn
LK
Project Number
2852
Drawing
TP001
Revision
I

CLEY STUDIO



435 Swan Street Richmond
Melbourne 3121 Australia
ow@cleystudio.com.au

+ 61 (3) 7003 5279
www.cleystudio.com.au

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ACN: 633 834 401

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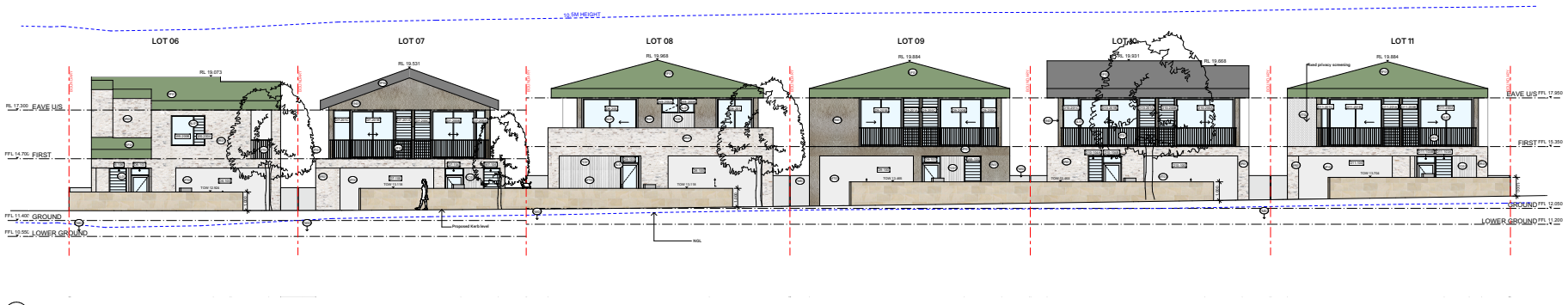
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Accreditation No.: ABSA 101535
Property Address: 43-45 Warriewood Road, Warriewood, NSW, 2102
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Revisions		
#	Date	Description
F	6/03/2025	Development Application
G	20/05/2025	Development Application
H	19/06/2025	For Information
I	8/08/2025	Development Application

Client: S Loura
Project: WARRIEWOOD
Project Address: 43-45&49 Warriewood Rd Warriewood NSW 2102 Australia
Drawing Name: SITE & CONSTRUCTION WASTE PLAN

Project Stage: Development Application
Scale: 1:250
Date: 8/08/2025
Drawn: LK
Project Number: 2852
Drawing: TP002
Revision: I

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NORTH ELEVATION - WARRIEWOOD RD
1:100



SOUTH ELEVATION - LORRIKEET AVE
1:100

435 Swan Street Richmond
Melbourne 3121 Australia
ce@cleystudio.com.au

+ 61 (3) 7003 5279
www.cleystudio.com.au

ABN: 76 633 834 401
ACN: 633 834 401

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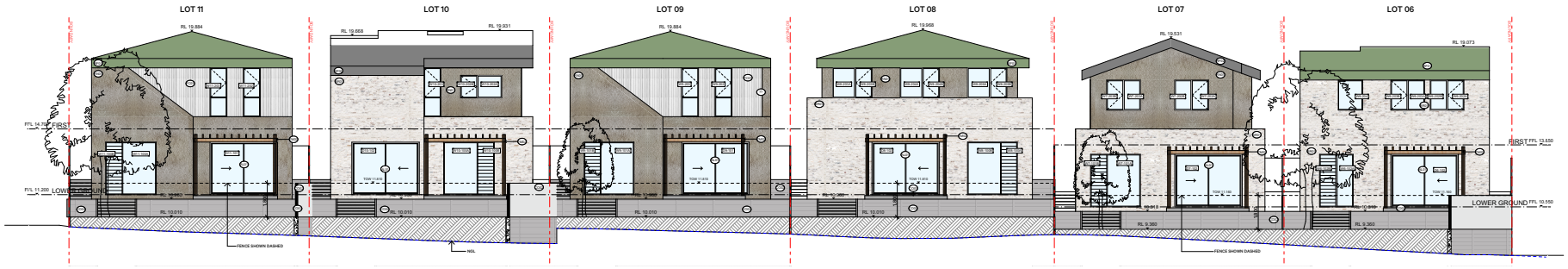
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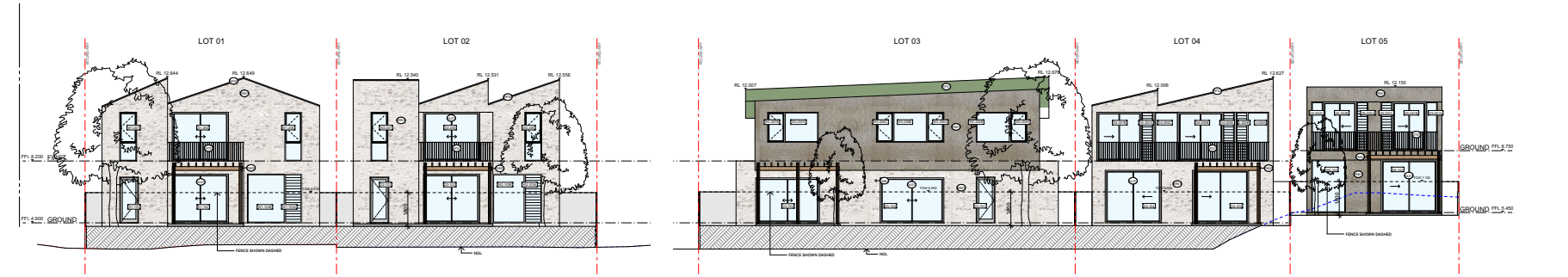
Client
S Loura
Project
WARRIEWOOD
Project Address
43-45&49 Warriewood Rd Warriewood NSW 2102
Australia
Drawing Name
STREET ELEVATIONS

Project Stage
Development Application
Scale
1:100
Date
8/08/2025
Drawn
LK
Project Number
2852
Drawing
TP200
Revision
I

CLEY STUDIO



E02 SOUTH ELEVATION - WARRIEWOOD
1:100



E03 NORTH ELEVATION - LORIKEET
1:100

435 Swan Street Richmond
Melbourne 3121 Australia
ow@oleystudio.com.au

+ 61 (3) 7003 5279
www.oleystudio.com.au

ABN: 76 633 834 401
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Accreditation No. ABSA 101535
Property Address 43-45 Warriewood Road, Warriewood, NSW, 2102
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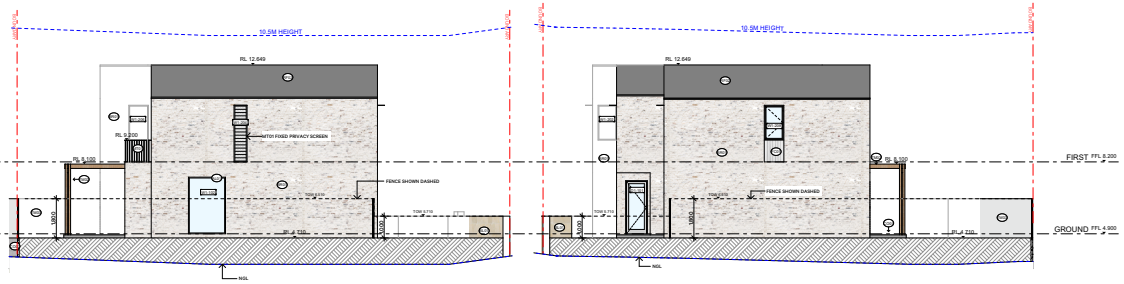
Revisions

#	Date	Description
C	19/12/2024	For Information
D	7/02/2025	Draft Development Application
E	18/02/2025	Draft Development Application
F	6/03/2025	Development Application
G	20/05/2025	Development Application
H	19/06/2025	For Information
I	8/08/2025	Development Application

Client
S Loura
Project
WARRIEWOOD
Project Address
43-45&49 Warriewood Rd Warriewood NSW 2102 Australia
Drawing Name
REAR ELEVATIONS

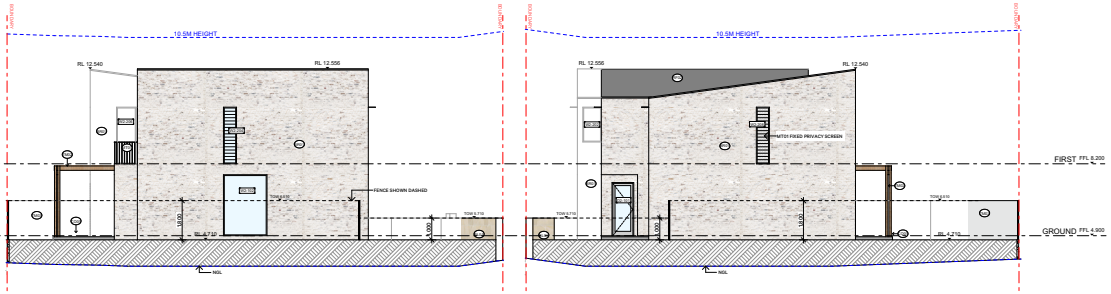
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Development Application
Scale
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Date
8/08/2025
Drawn
LK
Project Number
2852
Drawing
TP201
Revision
I

OLEY STUDIO



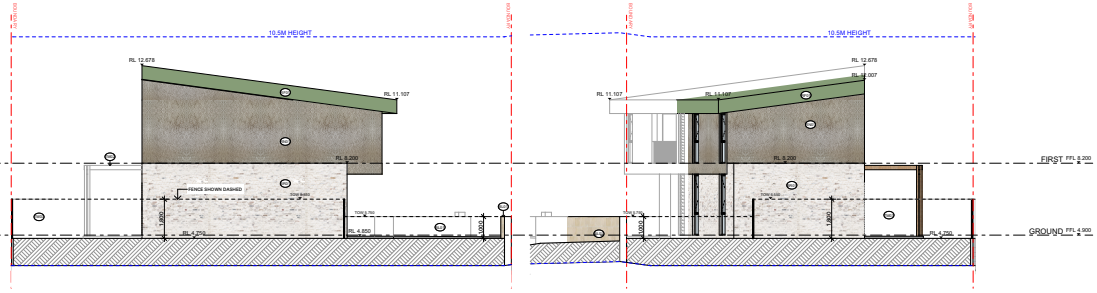
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1:100

E102 LOT 01 SIDE ELEVATION 02
1:100



E201 LOT 02 SIDE ELEVATION 01
1:100

E202 LOT 02 SIDE ELEVATION 02
1:100



E301 LOT 03 SIDE ELEVATION 01
1:100

E302 LOT 03 SIDE ELEVATION 02
1:100

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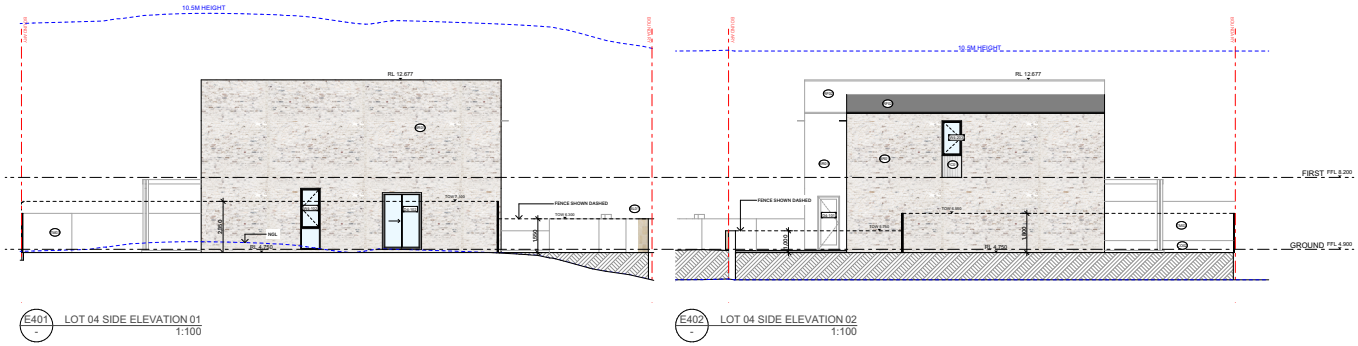
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#	Date	Description
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G	20/05/2025	Development Application
H	19/06/2025	For Information
I	8/08/2025	Development Application

Client
S Loura
Project
WARRIEWOOD
Project Address
43-45&49 Warriewood Rd Warriewood NSW 2102 Australia
Drawing Name
LOT 01, 02 + 03 SIDE ELEVATIONS

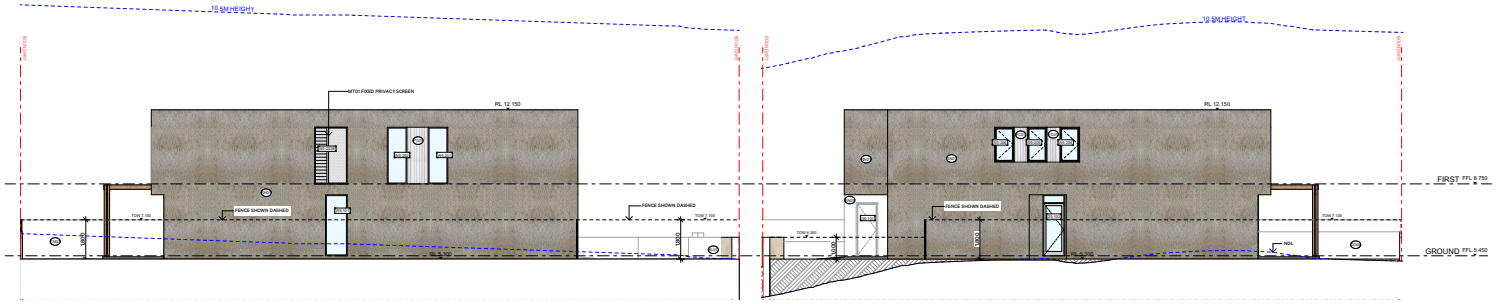
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Date
8/08/2025
Drawn
LK
Project Number
2852
Drawing
TP202
Revision
I

CLEY STUDIO



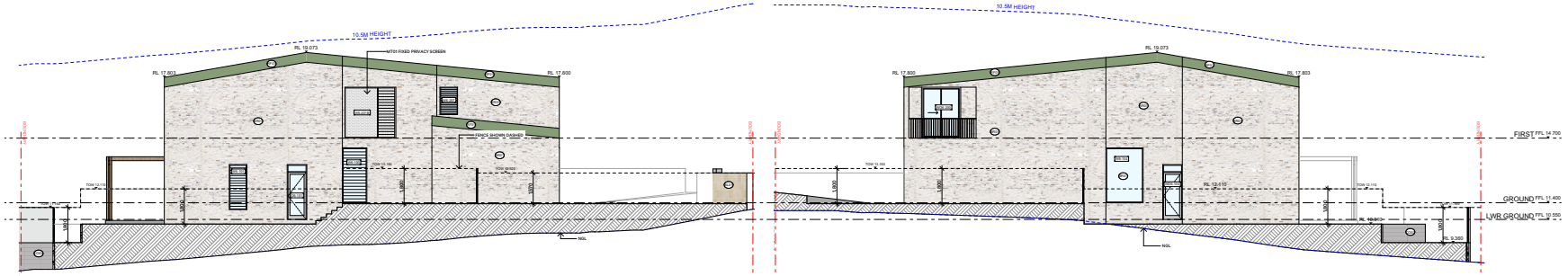
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E402 LOT 04 SIDE ELEVATION 02
1:100



E501 LOT 05 SIDE ELEVATION 01
1:100

E502 LOT 05 SIDE ELEVATION 02
1:100



E601 LOT 06 SIDE ELEVATION 01
1:100

E602 LOT 06 SIDE ELEVATION 02
1:100

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Melbourne 3121 Australia
ce@cleystudio.com.au

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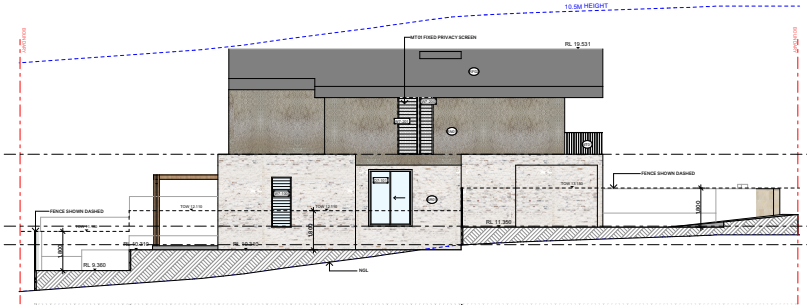
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G	20/05/2025	Development Application
H	19/06/2025	For Information
I	8/08/2025	Development Application

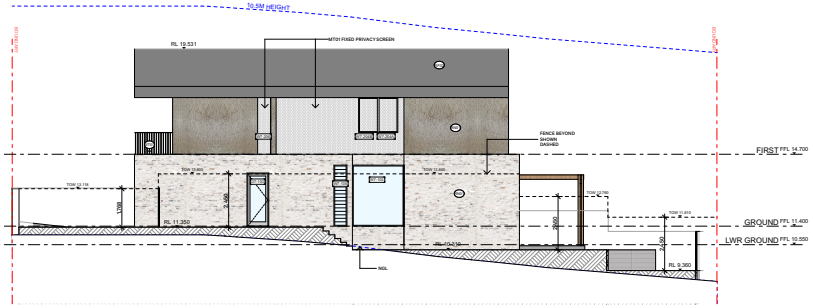
Client
S Loura
Project
WARRIEWOOD
Project Address
43-45&49 Warriewood Rd Warriewood NSW 2102 Australia
Drawing Name
LOT 04, 05 + 06 SIDE ELEVATIONS

Project Stage
Development Application
Scale
1:100
Date
8/08/2025
Drawn
LK
Project Number
2852
Drawing
TP203
Revision
I

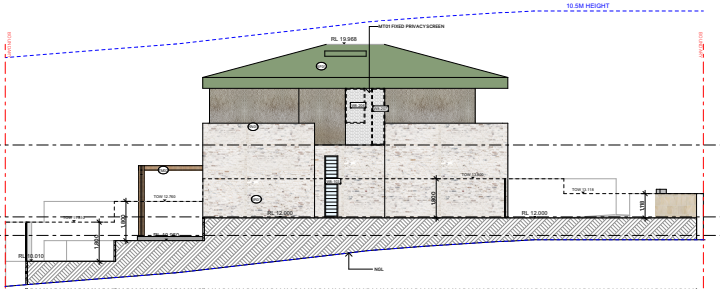
CLEY STUDIO



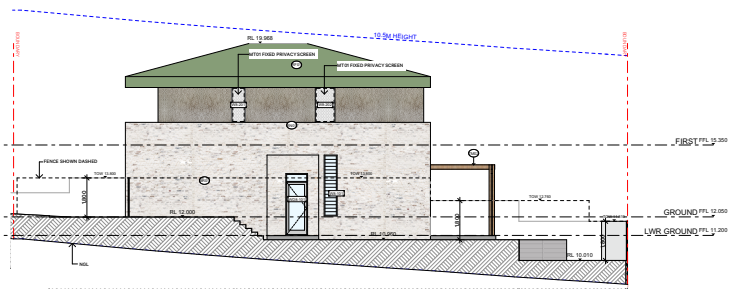
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1:100



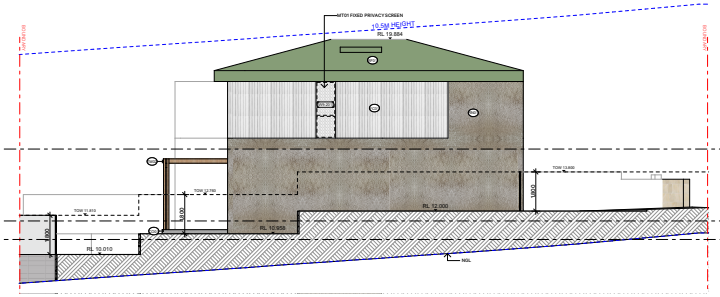
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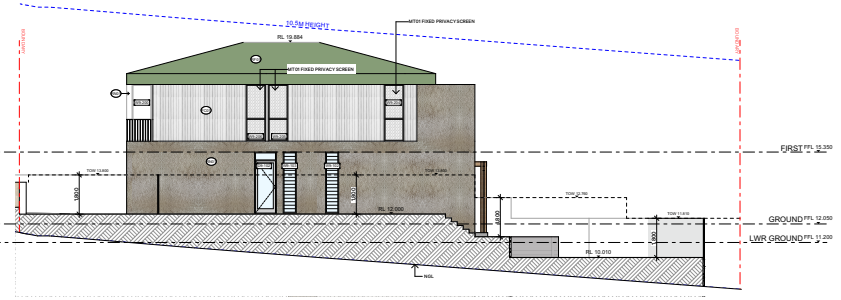
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1:100



E802 LOT 08 SIDE ELEVATION 02
1:100



E901 LOT 09 SIDE ELEVATION 01
1:100



E902 LOT 09 SIDE ELEVATION 02
1:100

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Revisions		
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G	20/05/2025	Development Application
H	19/06/2025	For Information
I	8/08/2025	Development Application

Client
S Loura
Project
WARRIEWOOD
Project Address
43-45&49 Warriewood Rd Warriewood NSW 2102 Australia
Drawing Name
LOT 07, 08 + 09 SIDE ELEVATIONS

Project Stage
Development Application
Scale
1:100
Date
8/08/2025
Drawn
LK
Project Number
2852
Drawing
TP204
Revision
I

CLEY STUDIO



E1001 LOT 10 SIDE ELEVATION 01
1:100

E1002 LOT 10 SIDE ELEVATION 02
1:100

E1101 LOT 11 SIDE ELEVATION 01
1:100

E1102 LOT 11 SIDE ELEVATION 02
1:100

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Client
S Loura
Project
WARRIEWOOD
Project Address
43-45&46 Warriewood Rd Warriewood NSW 2102 Australia
Drawing Name
LOT 10 + 11 SIDE ELEVATIONS

Project Stage
Development Application
Scale
1:100
Date
8/08/2025
Drawn
LK
Project Number
2852
Drawing
TP205
Revision
I

CLEY STUDIO

ITEM 4.2 DA2025/1907 - 8 MILGA ROAD AVALON BEACH - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE INCLUDING THE CONSTRUCTION OF A DETACHED STUDIO

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches 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 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. The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1907 for Alterations and additions to a dwelling house including the construction of a detached studio at Lot 26 DP 21756, 8 Milga Road AVALON BEACH subject to the conditions set out in the Assessment Report.

Reporting manager	**Adam Richardson**
TRIM file ref	2026/297129
Attachments	⇩1 Assessment Report ⇩2 Site Plan & Elevations ⇩3 Clause 4.6

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1907

Responsible Officer:	Anaiis Sarkissian
Land to be developed (Address):	Lot 26 DP 21756, 8 Milga Road AVALON BEACH NSW 2107
Proposed Development:	Alterations and additions to a dwelling house including the construction of a detached studio
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:	Hot House Architects

Application Lodged:	29/12/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/01/2026 to 04/02/2026
Advertised:	Not Advertised
Submissions Received:	14
Clause 4.6 Variation:	4.3 Height of buildings: 2.4%
Recommendation:	Approval

Estimated Cost of Works:	$ 1,338,590.00

EXECUTIVE SUMMARY

Development Application DA2025/1907 seeks consent for alterations and additions to an existing dwelling house, and attached double garage and detached studio to the rear.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the DA receiving more than ten objections within the notification period. The application was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for 14 days. A total of 14 objections were received throughout the assessment process, including 11 objections made during the notification period. Five second objections were made in response to the amendments made to the DA by the Applicant.

Various matters and concerns were raised in the objections; however, the main concerns relate to: visual privacy; building height, bulk and scale; tree removal; view sharing; and the characterisation of the studio. The submissions and the issues that they raise are addressed in the report, however and despite the objections the development results in acceptable impacts to adjoining properties.

The proposal seeks to vary the 8.5m maximum height of buildings standard within the Pittwater Local Environmental Plan 2014 by 2.4% (0.2 metres) and is accompanied by a written Clause 4.6 variation request, which is addressed within this Assessment Report. The non-compliance with the height standard arises from the previously excavated lower ground level which accommodates a lower level garage. This excavation is confined to the western side of the dwelling and therefore distorts the building height plane at this portion of the dwelling, as established in *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*. The height breach is confined to the roof and eave element only, resulting in a variation for a small section of the building, and does not create any view or overshadowing impacts. The remainder of the building (and development) is under the 8.5 metres height plane and the proposal largely complies with the applicable setback controls. The proposal results in acceptable variations to the building envelope at both elevations.

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

PROPOSED DEVELOPMENT IN DETAIL

This development application is for alterations and additions to an existing dwelling, and the construction of a detached studio to the rear of the property. The proposal involves partial demolition and driveway replacement, and includes the following works:

Lower Ground Floor:
- Tandem two-car garage
- Laundry and mud room
- Bedroom/teenagers retreat with ensuite and WIR

Ground Floor:
- Three bedrooms and two bathrooms
- Kitchen and lounge area opening out to a courtyard to the north

First Floor:
- Master suite with ensuite and WIR
- Dining room and entertaining space with access to front and rear facing decks
- Study
- Gas fireplace

Detached Studio:
- Office, bathroom and art studio space

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 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.4 Solar Access
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures
Pittwater 21 Development Control Plan - D1.8 Front building line
Pittwater 21 Development Control Plan - D1.11 Building envelope
Pittwater 21 Development Control Plan - D1.17 Construction, Retaining walls, terracing and undercroft areas

SITE DESCRIPTION

Property Description:	Lot 26 DP 21756 , 8 Milga Road AVALON BEACH NSW 2107

Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Milga Road. The site is regular in shape with a frontage of 15.24 metres along Milga Road and a depth of 45.72 metres. The site has a surveyed area of 695.6m². The site is located within the C4 Environmental Living zone and accommodates a two storey detached dwelling house with attached single garage. The site is steeply sloping from north to south with a fall of approximately 10 metres. The site contains large lawn areas at the front and rear of the property and includes several trees throughout. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by predominantly two storey detached dwelling houses.

Map:



SITE HISTORY

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

PLM2025/0090

Pre-lodgement meeting held on 18 September 2025 for alterations and additions to a dwelling house including a garage and secondary dwelling.
Council was not supportive of the proposal, particularly the nil front setback to the garage, building envelope encroachment at the western elevation, level of excavation and landscaping deficiencies. It was noted that any redesign should comply with the 8.5m maximum building height standard.

It is noted that under this development application, a studio is proposed to the rear of the site, not a secondary dwelling.

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 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested on 26 February 2026 in relation to stormwater, landscape, biodiversity, building height, building envelope, proposed studio, rear setback, landscaped area, studio height, visual privacy. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the significant 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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Sydney Bushfire Consultants, dated 7 May 2026) stating that the development can comply with the relevant specifications and requirements within Planning for Bush Fire Protection, subject to recommendations. The assessment identified a Bushfire Attack Level of 'Flame Zone' for the proposed studio and therefore the development application was referred to NSW Rural Fire Service, who provided recommended conditions. The recommendations of the Rural Fire Service and Bushfire Report have been included as part of the recommended conditions for any consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 21/01/2026 to 04/02/2026 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 14 submission/s from:

Name:	Address:
Mr Evan Turner-Schiller	6 Joseph Street AVALON BEACH NSW 2107
Mr Dean Russell Howarth	38 Watkins Road AVALON BEACH NSW 2107
Mrs Anne Fiona Thomson	100 Binburra Avenue AVALON BEACH NSW 2107
Mr Duncan Harry Burnett	10 Milga Road AVALON BEACH NSW 2107
Mr Roger Philip Sayers	104 Binburra Avenue AVALON BEACH NSW 2107
Mr David Richard Ravenscroft	100 Binburra Avenue AVALON BEACH NSW 2107
Mr Gregor Norman Wilson	102 Binburra Avenue AVALON BEACH NSW 2107
Mr John Stewart Cridland	98 Binburra Avenue AVALON BEACH NSW 2107
Mrs Michelle Vera Millner	63 Binburra Avenue AVALON BEACH NSW 2107
Turnbull Planning International Pty Ltd	5 / 1070 - 1076 Barrenjoey Road PALM BEACH NSW 2108
Mrs Karen Lesley Kiloh	25 Watkins Road AVALON BEACH NSW 2107
Mr Stephen Leslie Kiloh	25 Watkins Road AVALON BEACH NSW 2107
Mrs Nicola Jayne Kay	2 Milga Road AVALON BEACH NSW 2107
Mrs C Smith	Milga Road AVALON BEACH NSW 2107

A total of 14 submissions were received throughout the assessment process, including 11 objections made during the notification period. Five second objections were made in response to the amendments made to the DA by the Applicant.

The issues raised within the submissions are summarised and addressed as follows:

- ***Bulk, scale and streetscape impact***

  The submissions raised concerns that the size and facade of the proposed building is not consistent with Avalon Beach and the building will be an eyesore given its height and design relative to the neighbouring properties. Concern was raised over the design not having a coastal aesthetic and using a mix of materials and ornate structure not in keeping with homes in the area.

  Comment:
  The Desired Character Statement for Avalon Locality in PDCP indicate future development will maintain building heights below the tree canopy, minimise bulk and scale and contemporary buildings to utilise facade modulation and shade elements. The proposed dwelling incorporates sandstone cladding and retaining walls at the lower level with lighter coloured cladding above, which integrates well with the character of established dwellings in the streetscape. It is noted that dwellings are allowed to be unique and diverse in architecture and design which is a feature of existing dwellings in the locality this maintains visual interest and optimise amenity in streetscapes.

- ***Rear setback***

  The submissions raised concerns that the proposed 'studio' is sited too close to the rear boundary, being non-compliant with the 6.5 metres setback requirement.

  Comment:

The original proposal had the studio sitting only 4 metres from the rear boundary (Figure 4); however, the amended plans shifted the studio further south such that the studio now has a compliant rear setback of 6.5 metres (Figure 5). It is noted that minimum building lines do not apply to retaining walls.

Figure 4: *Original studio design*

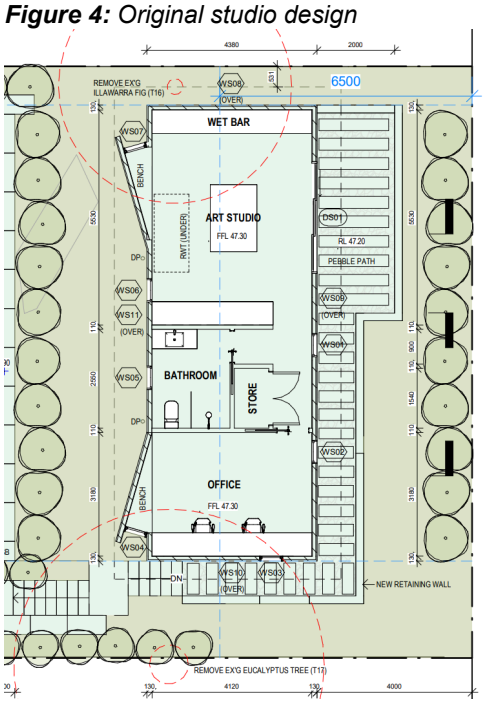
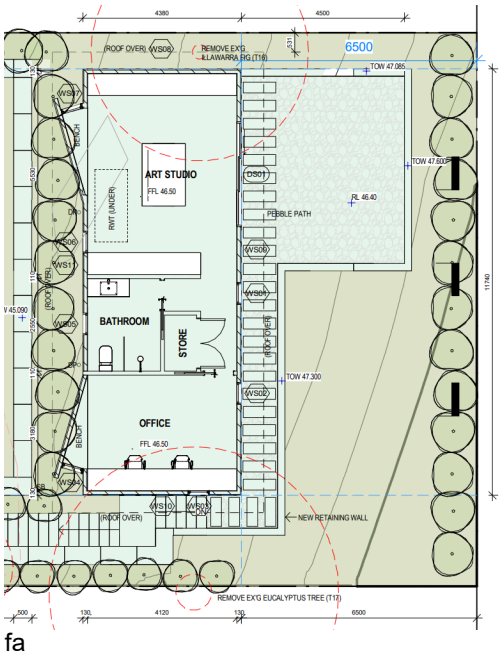


Figure 5: *Amended studio design*



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- **Proposed studio**

The submissions raised concerns that the proposed studio presents as a self-contained secondary dwelling and is elevated on stilts, presenting visual privacy and overlooking issues. It was suggested that the entry to the studio be relocated to face the principal dwelling rather than the rear boundary, and that the studio be built on the ground rather than elevated on stilts.

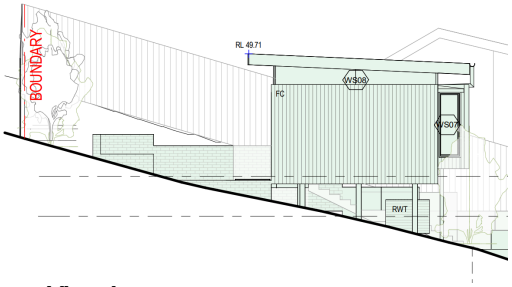
Comment:
The Applicant was asked to amend the design of the building such that it cannot be considered or easily reconfigured to be a self-contained dwelling, which may involve removing the bathroom or wet bar. The Applicant clarified that a secondary dwelling was not intended and therefore amended their design to remove the wetbar from the plans. There are insufficient planning grounds to warrant or press further design amendments given no built-in cooking facilities or wet bar are shown on the plans. Notwithstanding, an operational condition has been recommended, restricting the studio from being used as a secondary dwelling or separate occupancy and that . Built-in cooking facilities are not permitted to be installed.

The amended design brings the studio 2.5m further from the rear boundary and sits lower to the ground, reducing its elevation (refer Figures 6 and 7). The finished floor level of the studio has been lowered by 800mm from RL 47.30 to RL 46.50. Additionally, screen planting of lilly pillies has been incorporated along the rear boundary with a mature height of 3m, and up to 2m along the side boundaries, providing visual relief and privacy. There are insufficient planning grounds to require the entry to the studio to be relocated to the south.

Figure 6: *Original studio western elevation*



Figure 7: *Amended studio western elevation*



- ***View loss***

  The submissions raised concerns that the proposed development will block ocean views enjoyed by adjoining neighbours.

  Comment:
  View impacts have been addressed in detail under Section C1.3 of this Assessment Report. The assessment found that the overall impact of view loss is minor and that there are insufficient planning grounds to warrant or press further design amendments or for the application to be refusal on that ground.

- ***Lack of green space***

The submissions raised concerns that the development will not provide any appreciable green space.

Comment:
The amended proposal provides a compliant amount of landscaped area across the site.

- ***Flora and fauna impact***

  The submissions raised concerns that noise and light pollution coupled with elimination of backyard space will severely impact flora and fauna.

  Comment:
  Council's Landscape and Biodiversity Officers have reviewed the amended proposal and have raised no objections, subject to several recommended conditions to protect flora and fauna, including natural habitat features.

- ***Visual privacy***

  The submissions raised concerns in relation to potential overlooking from the proposed entertaining area on the third story of the dwelling house, and from the studio.

  Comment:
  Visual privacy has been addressed in detail under Section C1.5 of this Assessment Report. The proposal was found to provide a reasonable level of visual privacy for surrounding properties, including from the upper level and studio.

- ***Acoustic privacy***

The submissions raised concern over noise impacts upslope from the proposed development. In response to amended plans, submissions raised concern over an entertaining area being added to the rear of the studio, potentially causing noise pollution to surrounding properties.

Comment:
The proposed development is not expected to produce unreasonable noise levels and noise impacts are considered to be consistent with noise levels reasonably expected to be produced from a domestic residential setting and neighbourhood.

- ***Tree removal***

  The submissions raised concerns over the removal of the small-leaved fig tree (T16) due to privacy and amenity loss, and questioned whether T16 should be an exempt species. Concern was also raised over the removal of T11 located on the boundary, and the removal of T17. In response to amended plans, submissions questioned why the relocated studio still necessitates the removal of T16 and T17, rather than trimming. On the other hand, some submissions support the removal of T17 due to safety concerns and are opposed to a replacement tree being added.

  Comment:
  The differing neighbour opinions over whether the trees should be removed are noted. The Applicant's Arborist has provided additional information to confirm that Tree 16 is *Ficus obliqua*, which is an exempt tree under the Pittwater 21 Development Control Plan. A Landscape Plan has also been provided, indicating tree planting, screen planting and other small trees, shrubs and groundcovers across the site. The plans indicate removal of Tree 17 *Eucalyptus grandis* from the adjoining property. Only approval to prune the overhanging branches of Tree 17 from the owner of the adjoining property has been sighted. As such, approval to prune the branches has been included in recommended conditions. Removal of Tree 17, if required by the adjoining owner, can be addressed as a separate application to this DA. Council's Landscape and Biodiversity Officers have considered the matters in detail in the context of the amended plans and have no objections to the proposal, subject to recommended conditions.

- ***Building height***

  The submissions raised concerns over the height of the principal dwelling exceeding the maximum afforded to the site and presenting as three storeys. The proposed height is non-compliant measured at 9.76 metres, which is a variation of 1260mm or 14.82%.

Comment:
Due to the sloping topography of the site, the dwelling largely presents as two stories from most elevations. From the streetscape, the upper level is recessed, thereby providing visual relief (Figure 8), and the bulk and scale of the development is not excessive with respect to surrounding development (Figure 9). It is noted that the original Clause 4.6 written request submitted with the application was incorrect and significantly overstated the height variation. The dwelling largely sits within the 8.5 metres building height plane. The true height variation is minor at 2.4% (8.7 metres) due to the existing excavated garage level, and has been assessed in detail under Section 4.6 of this Assessment Report.

Figure 8: *3D drawing*



Figure 9: *Street view of 6, 4 & 2 Milga Road*



- ***Extent of demolition***

The submissions raised concerns that the extent of demolition proposed effectively makes this proposal a new development rather than alterations and additions.

Comment:
The proposal involves the retention of some existing walls, mainly in the lower ground level, with the plans indicating which fabric is to be demolished. The proposal has been assessed and the facades of the dwelling are compliant with the required front, side and rear setbacks. As such, the categorisation of the proposal as alternations and additions gains no benefit from a panning assessment context over the alternative "new dwelling'. The position of existing walls has not been used to justify any built form non-compliances. Therefore, Council has no concerns with the proposal being presented as alterations and additions. As the consent is a conceptual approval this is a matter for the Certifier with structural issues being addressed in the Construction Certificate.

- ***Overshadowing***

The submissions raised concerns in relation to overshadowing of 6 Milga Road and 2 Milga Road in the afternoon.

Comment:
Overshadowing to 6 Milga Road has been addressed under Section C1.4 of this Assessment Report. The proposal is found to have a negligible impact on the existing overshadowing to 6 Milga Road. The proposed development will not result in any overshadowing to 2 Milga Road.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Supported, subject to Conditions*** Amended Plans and Information Comment Updated confirmation from the consulting Arborist is noted. The Arborist has confirmed that Tree 16 is *Ficus obliqua*, which is an exempt tree under P21DCP. A Landscape Plan has also been provided indicating tree planting, screen planting and other small trees, shrubs and groundcovers across the site. The Plans indicate removal of tree 17 *Eucalyptus grandis* from the adjoining property. Approval to prune the overhanging branches of Tree 17 from the owner of the adjoining property has been sighted. Approval to prune the branches has been included in recommended conditions. The issue of removal if required by the adjoining owner can be addressed as a separate application. Landscape issues previously raised are considered resolved. No objections are raised regarding landscape issues subject to conditions. <u>Summary</u> Additional information is required: • A landscape plans prepared by a qualified landscape designer addressing enhancement of the natural landscape. • DNA testing of Tree 16 identified as *Ficus obliqua,* to confirm it is not actually the locally native *Ficus rubiginosa.* • Confirmation of owner's consent for pruning of Tree 17 (*Eucalyptus grandis*) located on the adjoining property. <u>Assessment</u> The application seeks consent for: Alterations and additions to a dwelling house including the construction of a detached studio. The Arborist's report prepared by Bluegum Tree Care and Consultancy is noted. The Report indicates removal of eleven trees from the site. Nine trees are exempt species under PDCP. No objections are raised to removal of exempt trees. The other two trees to be impacted are removal of Tree 16 (*Ficus obliqua*) and majority canopy removal T17 (*Eucalyptus grandis*). The Arborist's report indicates that *Ficus obliqua* is an exempt species under PDCP. Whilst this is technically correct, *F. obliqua* is closely

Internal Referral Body	Comments
	related to *Ficus rubiginosa*, a locally occurring native tree that is excluded from exemption. As visual distinction between the trees is difficult, it is recommended that a sample of Tree 16 be sent for DNA testing (available through the Royal Botanic Gardens Sydney) to confirm its nomenclature. It is apparent that the proposed studio could be relocated or redesigned to enable retention of the tree as the structure is proposed to be on piers, minimizing impact on tree roots. It is also noted that the Tree 17 *E. grandis* is located within an adjoining property, though the majority of the canopy extends into the subject property, close to existing ground levels. The application has been supported by an 'owner's consent' letter approving the required canopy removal. The consent letter is provided on a real estate agent letterhead and not signed by the owner of the property where the tree is located. Unless there is a power of attorney for the agent to sign on behalf of the owner, this consent is considered inadequate to be considered as owner's consent. Confirmation should be sought regarding the status of the agent to act on behalf of the owner. The site is noted to be within the C4 - Environmental Living Zone, which places grater emphasis on the natural landscape and environmental values. As the proposal incorporates significant earthworks and landform reshaping, a landscape plan prepared by a qualified landscape architect or landscape designer is required to indicate how the proposal is to be integrated into the natural landscape and be enhanced by local native species planting and materials. At this stage, the proposal is not supported with regard to landscape issues.

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Supported, subject to Conditions*** The comments in this referral relate to the following applicable controls and provisions: • Pittwater LEP – Clause 7.6 Biodiversity Protection • Pittwater DCP – Clause B4.6 Wildlife Corridors ADDITIONAL COMMENTS 28/04/2026: Additional information has been provided by the Project Arborist Alexis Anderson from Bluegum Tree Care and Consultancy (March 2026), confirming the identification of Tree 16 as *Ficus obliqua*. Council's Biodiversity Referral body are satisfied with this conclusion. A Landscape Plan and Planting Schedule have been provided which confirms that 64% of the proposed landscaping will be locally native species in accordance with the Pittwater Native Planting Guide. This is satisfactory and there are no objections to the proposed Planting Schedule. An *Angophora costata* and *Corymbia maculata* are identified on the Planting Schedule and satisfy the requirement for replacement of the canopy trees (Tree 7 and Tree 16) proposed for removal. Consent, conditions and comments regarding the proposed removal of Tree 17 have been deferred to Council's Landscape Referral body. No objections in relation to biodiversity, subject to conditions. ORIGINAL COMMENTS 20/02/2026: As per the PLM2025/0090 Biodiversity Response, a Landscape Plan and Planting Schedule is required to be prepared for the proposed development. The Planting Schedule is to ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in the Pittwater Ward section of the Native Planting Guide which is available on the Council website). Landscaping is to be outside areas of core bushland and not include environmental weeds. The site is also mapped as Bushfire Prone Land, and any landscaping plan will need to address the landscaping requirements of Planning for Bushfire Protection. According to the Arboricultural Impact Assessment (Bluegum Tree Care and Consultancy, December 2025), two prescribed trees (either by height or by species) (Tree 17 and Tree 7) are proposed for removal. If approved, these trees are to be replaced with locally native canopy species as listed under the Pittwater Ward section of the Native Planting Guide. The requested Landscape Plan is to incorporate this and include at least two locally native canopy tree plantings as replacement. As per Pittwater DCP Clause 4.6 Wildlife Corridors, "the development shall not result in a significant loss of canopy cover" and "shall provide wildlife corridors via the creation, restoration and/or regeneration of

Internal Referral Body	Comments
	habitat". In its current form the proposal requires the removal of 88% of trees located on site with only two trees to be retained. Four trees (Tree 4, 5, 6 and 13) of the six trees (Tree 1, 2, 4, 5, 6 and 13) proposed for retention are located on neighbouring properties and do not contribute to the provision of wildlife corridors on site. Therefore, replacement planting is to account for canopy loss as a result of the proposed development, including Tree 16 which provides a significant level of canopy cover at the back of the property in proximity to Bangalley Headland Reserve. The requested Landscape Plan is to account for this and include additional locally native canopy tree and shrub plantings. As requested in the Landscape referral, DNA testing is required to confirm the species of Tree 16 (*Ficus obliqua* or *Ficus rubiginosa*). This will determine whether species exemption applies and therefore could impact the outcome of the Biodiversity referral. The Biodiversity assessment will resume upon receipt of this additional information addressing the above concerns.

Internal Referral Body	Comments
NECC (Development Engineering)	***Supported, subject to Conditions*** Development Engineering 2nd Referral Response. **Council's Development Engineer raises no objection to this proposal subject to conditions.** **Stormwater** The proposed stormwater design is generally satisfactory subject to conditions. **25/02/2026** **Development Engineering 1st Referral Response.** **Council's Development Engineer requests additional information regarding the stormwater design.** This proposal is for alterations and additions to a dwelling house including the construction of a detached studio. **Stormwater** **Council's Development Engineer requests additional information regarding the stormwater design as detailed below.** • As the proposed increase in impervious area is greater than 50sqm, stormwater plans in accordance with Council's "Water Management for Development Policy" prepared by a qualified civil/hydraulic engineer shall be submitted to Council for assessment. **Site Access and Parking** The proposed site access works can be generally compliant subject to conditions. A Roads Act application has been conditioned. **Geotechnical Investigation** A geotechnical report has been provided with completed forms No.1 and No.1(a).

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	***Supported, subject to Conditions*** 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.
Rural Fire Service - Local Branch - EP&A Act, s4.14	The development application was referred to the NSW Rural Fire Service, who have no objection to the proposal, subject to recommended conditions in relation to asset protection zones, construction standards, water and utility services and landscaping. The recommendations of the Rural Fire Service are included in the conditions 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. A1823904 dated 27 November 2025 and A1823612 dated 26 November 2025).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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 5.0 metres 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 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	8.7m	2.4% (0.2m)	**No**

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	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 proposal has been assessed against the objectives of the C4 zone and in this instance, the proposal satisfied the objectives, as detailed below.

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

Comment:
The proposal will continue to provide for low-impact residential development within an area that contains special ecological, scientific or aesthetic values.

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

Comment:
The amended proposal reduces the perceived bulk and scale of the development and has been supported by Council's Landscape and Biodiversity Officers, subject to conditions. It is therefore satisfied that the proposal will not adversely affect those values.

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

Comment:
The proposal will continue to provide for residential development of a low density and scale that is integrated with the landform and landscape. The amended proposal has been designed and sited to minimise environmental impacts.

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

Comment:
The amended proposal provides a compliant amount of landscaped areas on the site. The proposed development does not negatively impact riparian and foreshore vegetation and wildlife corridors, and has been supported by Council's Biodiversity and Landscape Officers, subject to recommended conditions.

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: 8.7 metres
Percentage of variation: 2.4%

Figure 10: *Proposed height variation (highlighted yellow) - western side of dwelling*

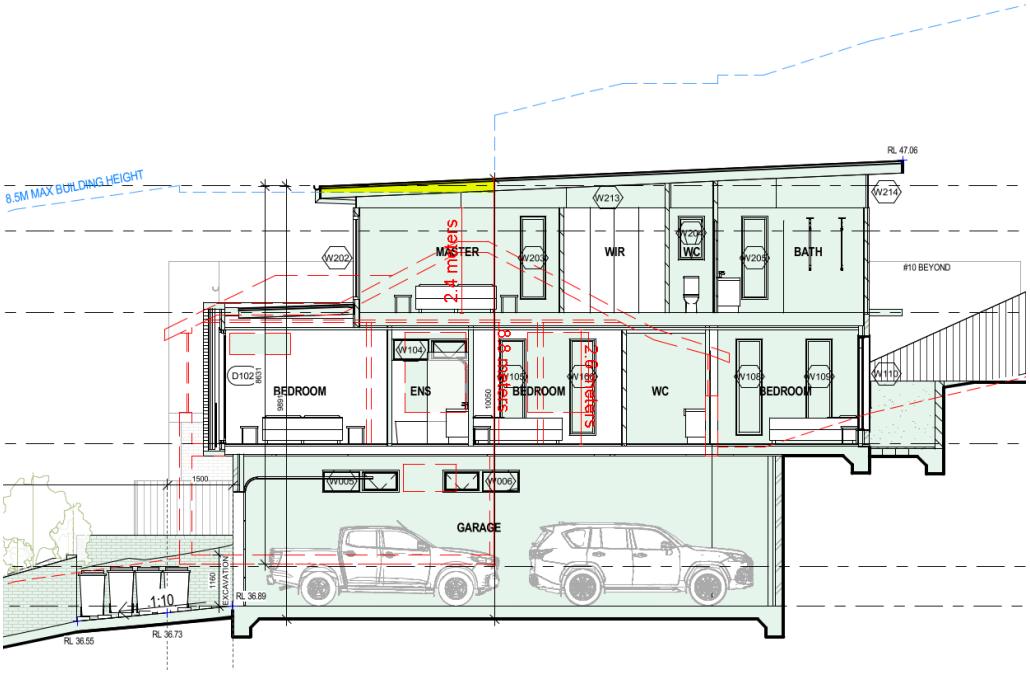


Figure 11: *Proposed height variation (highlighted yellow) - middle of dwelling*

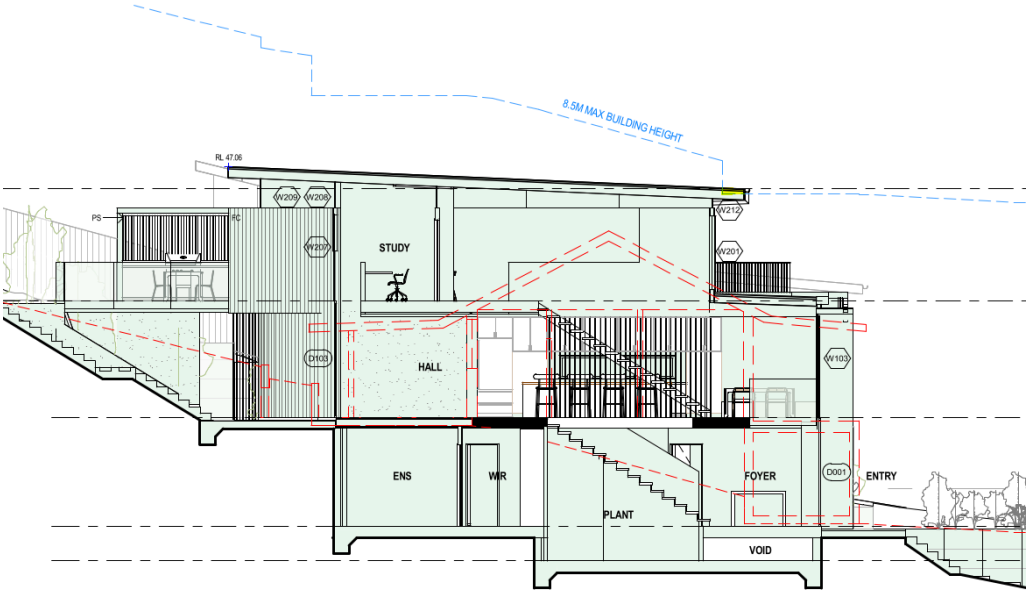
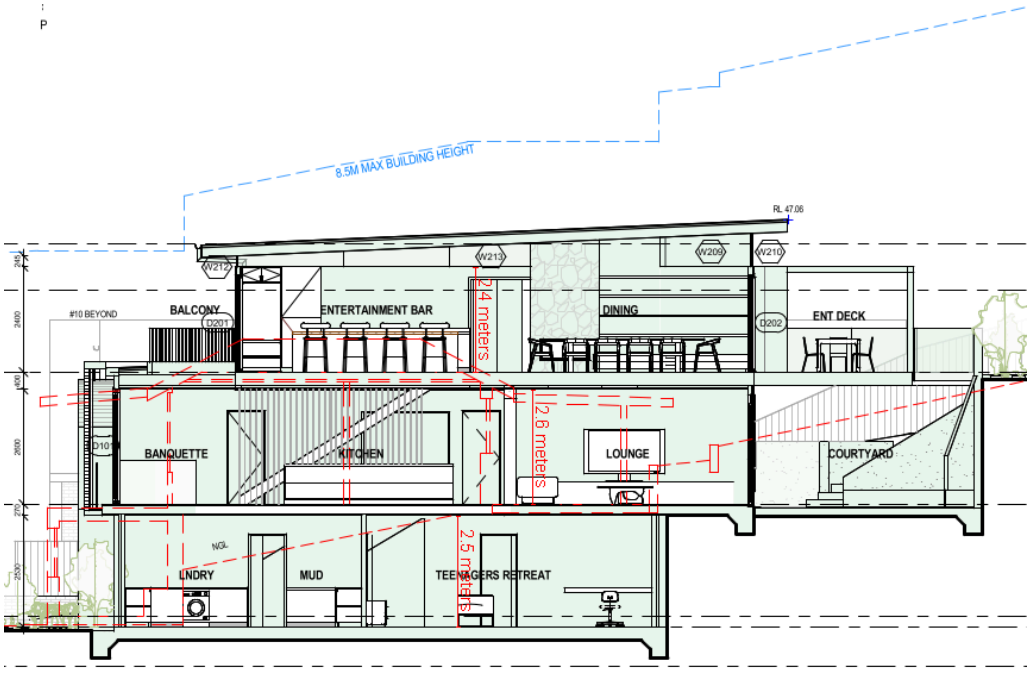


Figure 12: *Section extract demonstrating height compliance - eastern side of dwelling*



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 is unreasonable or unnecessary in the circumstances of this application for the following reasons:

- The height non-compliance arises from the previously excavated lower ground floor area for the garage on the western side of the land.
- The portions of the dwelling above the height limit are minor, relating only to the roof and eave elements, and do not result in unreasonable overshadowing or view impacts.
- The proposal responds sensitively to natural topography by working with the existing excavated ground levels for the site, and having a roof form that follows the slope of the land.
- The floor-to-ceiling heights at the ground and first floor levels are not excessive at 2.6m and 2.4m, respectively.
- The proposal is consistent with the objectives of the height of buildings standard and C4 Environmental Living zone.

(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 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 non-compliance is directly attributed to the excavation that occurred to the natural landform to accommodate the pre-existing garage accommodation over which the breaching elements are located. The building height breaching elements are quantitively and qualitatively appropriately described as minor and inconsequential in relation to streetscape, residential amenity and broader environmental consequences.

It is agreed that the height breach is caused by the requirement to measure the building height from the existing excavated ground levels, as established in *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*. The Court accepted (at [74]) that "The prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid

above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl4.6(3)(b) of LEP 2014." The prior excavation of the site for the garage at the lower level on the western side distorts the building height plane (refer Figure 10) and therefore is an environmental planning ground that justifies contravening the height of buildings development standard. This is reinforced by the fact that the dwelling is almost entirely compliant with the building height at the middle (refer Figure 11), and completely compliant at the eastern side (refer Figure 12), where there is no prior excavation for the existing garage. The height non-compliance is considered to be overall minor and does not result in any unreasonable environmental or amenity impacts.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 for the following reasons:

The proposed development is an orderly and economic use and development of the land, and 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(g) and (k) of the EP&A 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, and the previous excavation of the site distorting the building height plane, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The site is located approximately 390m from Class 2 land; however, the works are not below 5 metres AHD, with the garage floor level sitting at 36.89 metres AHD. As such, a Preliminary Acid Sulfate Soil Assessment is not considered to be necessary for the development of the site.

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.

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

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

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

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

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

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

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

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

(f) the likelihood of disturbing relics

Comment: The subject site does not contain any known relics.

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

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

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

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

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

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

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 s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.6 Biodiversity protection

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

(a) whether the development is likely to have:
(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment:

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

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

Comment:

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

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

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

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

Comment:

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

7.7 Geotechnical hazards

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

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

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

Development consent must not be granted to development on land to which this clause applies unless:
(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and

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

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

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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.4m	1.5% (0.1m)	**No**
Rear building line	6.5m	6.5m	N/A	Yes
Side building line	East - 2.5m	2.5m	N/A	Yes
	West - 1.0m	1.0m	N/A	Yes
Building envelope	East - 3.5m	One encroachment between nil and 0.4m in height for a length of 1.9m	6% (0.4m)	**No**
	West - 3.5m	One encroachment between nil and 0.9m in height for a length of 6.3m One encroachment between nil and 0.9m in height for a length of 5.3m	19.1% (0.9m)	**No**
Landscaped area	60% (417.4m^2)	56% (390m^2) +6% impervious = 62%	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes

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	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

Description of non-compliance

Section C1.3 of the Pittwater 21 Development Control Plan requires all new development to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.

Comment:

The outcomes of the control are:

- *A reasonable sharing of views amongst dwellings.*

  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".

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*".

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*".

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*."

- *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.*
- *Canopy trees take priority over views.*

The primary views of concern are towards the south-east from the private open space of the neighbouring property at 10 Milga Road. The views consist of ocean and headland views. Other views of concern are from the kitchen and dining area of 10 Milga Road towards the headlands to the east. Additionally, from the rear yard and side carport area of 100 Binburra Avenue, and from the rear yard of 102 Binburra Avenue towards the south-east, being ocean and headland views. Furthermore, from the rear of the dwelling at 104 Binburra Avenue towards ocean and headland views to the south-east. The views of concern are obtained primarily from a standing position.

100 Binburra Avenue
With respect to the views enjoyed from 100 Binburra Avenue, the views from the carport over the side boundary are not as significant as those broader views obtained from the upper levels and deck of the dwelling out towards the rear of the property (refer Figure 13), which will be maintained. Notwithstanding, the proposed development is not expected to impact the ocean and headland views obtained from the

carport area (refer figure 14). In terms of the views from the rear yard, the amended dwelling and studio position would not obscure the ocean views enjoyed from the rear fence (refer Figure 15). However, it is noted that screen planting up to 3 metres in mature height is proposed along the rear fence for visual privacy. A condition has been recommended requiring the screen planting to be maintained at a height such that views are maintained.

Figure 13: *Site photo from rear yard facing north towards rear yard and dwelling at 100 Binburra Ave (darker blue)*



Figure 14: *View from carport across side boundary towards south-east*



Figure 15: *View from rear yard of 100 Binburra Ave along boundary fence facing south*



102 Binburra Avenue
The proposed development would have no impact on the ocean views obtained from the rear yard of 102 Binburra Avenue, which is deduced from the gap between the existing roofline and the ocean view, as evident from Figure 16 below.

Figure 16: *View from rear yard of 102 Binburra Avenue facing south-east*



104 Binburra Avenue
The siting and height of the new dwelling are such that the ocean and headland views enjoyed from the dwelling at 104 Binburra Avenue will remain untouched, as can be understood from Figure 17.

Figure 17: *View from inside the dwelling at 104 Binburra Avenue facing east*



10 Milga Road

With respect to view loss concerns from 10 Milga Road, height poles were used to provide a more accurate assessment. The height poles were placed at either side of the highest end of the roofline at RL 47.06. Ocean and headland views are enjoyed from the private open space at the very rear of the property, and not from inside the dwelling. Figures 18-20 demonstrate that the proposal will not cause any loss of ocean or headland views from the level lawn platform at the very rear of the site. However, the ocean view enjoyed along the steeply sloping eastern boundary of 10 Milga Road will be lost (refer Figure 21). It is considered that the steeply sloping portion of the rear yard is not an area that is practically utilised as a private recreation area, and therefore the impact on views from this portion along the side boundary is less significant than the views enjoyed from the level platform, which will be maintained (refer Figure 22).

Figure 18: *View from levelled lawn area of 10 Milga Road at eastern edge towards south-east*



Figure 19: *View from levelled lawn area of 10 Milga Road at middle of property towards south-east*



Figure 20: *View from levelled lawn area of 10 Milga Road at western edge towards south-east*



Figure 21: *View from sloping lawn area along eastern boundary towards south-east*



Figure 22: *Photo from sloping land along eastern boundary facing north-west towards level lawn area of 10 Milga Road*



The non-compliant portion of the dwelling with respect to building height does not create any view loss impacts as the breach is located at the front of the dwelling, where the roof RL is at the lower point. Given the overall impact of view loss is minor, and substantial views are still enjoyed from the property from higher use area, there are insufficient planning grounds to warrant or press further design amendments.

The development is consistent with the outcomes of the control and is acceptable on merit.

C1.4 Solar Access

Description of non-compliance

Pursuant to Section C1.4 of the Pittwater 21 Development Control Plan, the main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).

The amended proposal is supported by shadow diagrams, which demonstrate that the main private open space area and windows to the principal living areas of the neighbouring property to the west at 10 Milga Road will receive at least 3 hours of solar access during mid-Winter (refer Figures 23-25).

With respect to the eastern neighbour at 6 Milga Road, the proposed dwelling will not create any additional shadow impact between 9am and 12pm in mid-Winter (refer Figure 23 and 24), and have a negligible impact on the existing condition in the afternoon (refer Figure 25).

In terms of solar access to the proposed dwelling, the outdoor entertaining area and deck will have sunlight access from 12pm to 3pm in mid-Winter, which is considered to be the main private open space area given the steep sloping topography to the rear of the property is not conducive to usable private open space for recreational purposes.

Figure 23: *Existing and proposed shadowing at 9am on June 21st*

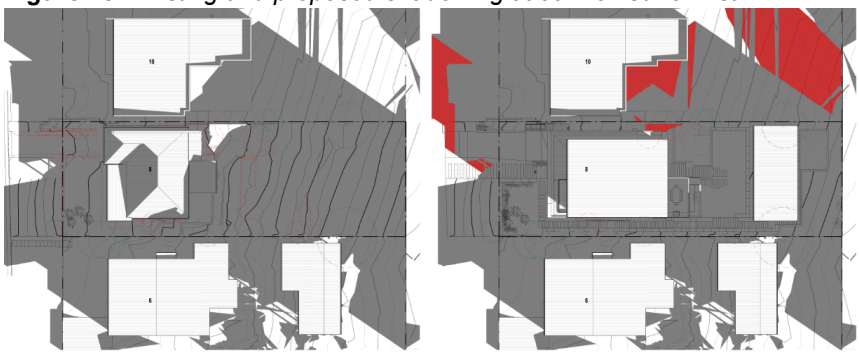


Figure 24: *Existing and proposed shadowing at 12pm on June 21st*

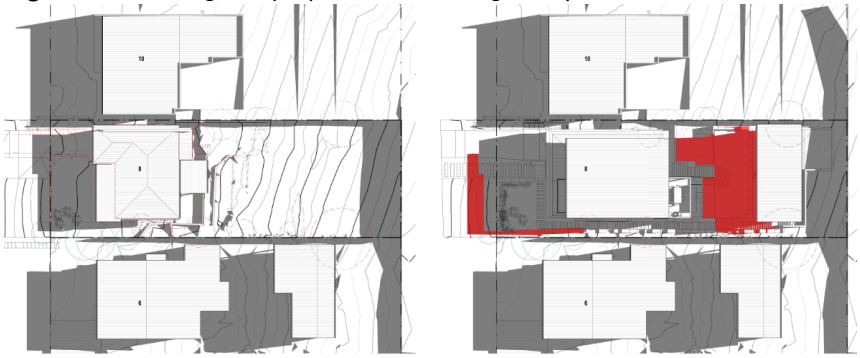
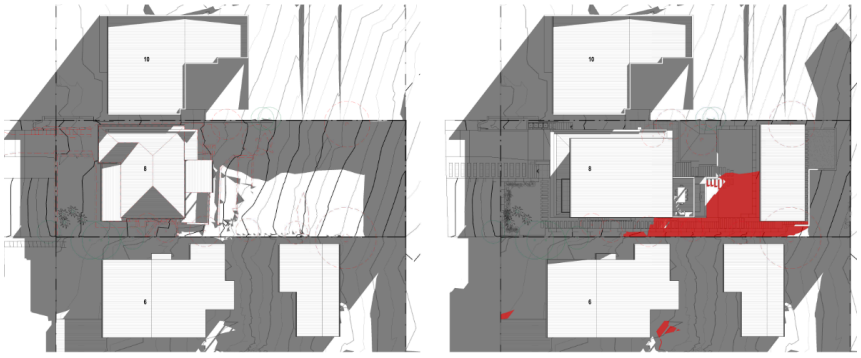


Figure 25: *Existing and proposed shadowing at 3pm on June 21st*



Comment:

The outcomes of the control are:

- *Residential development is sited and designed to maximise solar access during mid-winter.*
- *A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.*
- *Reduce usage and/dependence for artificial lighting.*

The proposal has been sited and designed to maximise solar access during mid-Winter by orientating dining and living areas towards the north, and incorporating highlight windows and large areas of glazing to this elevation. Additionally, the proposal incorporates highlight windows to the side elevations to maximise solar access and reduce dependence on artificial lighting, while maintaining a reasonable level of visual privacy.

The development is consistent with the outcomes of the control and is acceptable on merit.

C1.5 Visual Privacy

Pursuant to Section C1.5 of the Pittwater 21 Development Control Plan, private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7 metres above floor level). Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building. Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

10 Milga Road
With respect to visual privacy for the neighbouring property to the west, at the lower ground level, the proposed dwelling house includes a garage with two highlight windows (refer Figure 26).

At the ground floor level, there are six windows; two of these are highlight windows, and the other four windows are to bedrooms, which are low-activity rooms. Notwithstanding, there is a fence along the common boundary, which provides a level of screening to the ground floor level.

In terms of the upper floor level, there is a highlight window above the walk-in-robe plus a small window to the water closet. Windows W205 and W203 are to a bathroom and bedroom, respectively, which are

low-activity rooms. It is also important to note that there is no direct line of site into 10 Milga Road as there are no windows along the adjoining dwelling's eastern elevation closest to the common boundary. The proposed dwelling face sits 3 metres from the boundary, with the entertaining deck sited 7.4 metres from the common boundary, and the balcony being 7.7 metres from the common boundary (refer Figure 27). The adjoining kitchen windows sit 8.1 metres from the common boundary, and as such, there is sufficient spatial separation between the living areas of the adjoining dwelling and the proposed windows, deck and balcony.

Regarding privacy impacts to the proposed studio to the rear of the site, WS08 is a highlight window and WS07 is a gill window, with limited direct line of sight to the adjoining property from the art studio space (refer Figure 28).

Figure 26: *Western elevation*

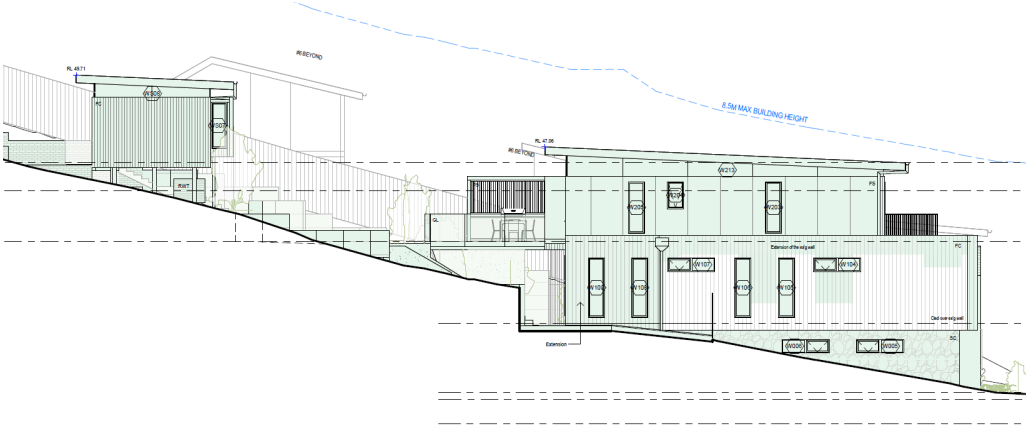


Figure 27: *Upper floor plan*

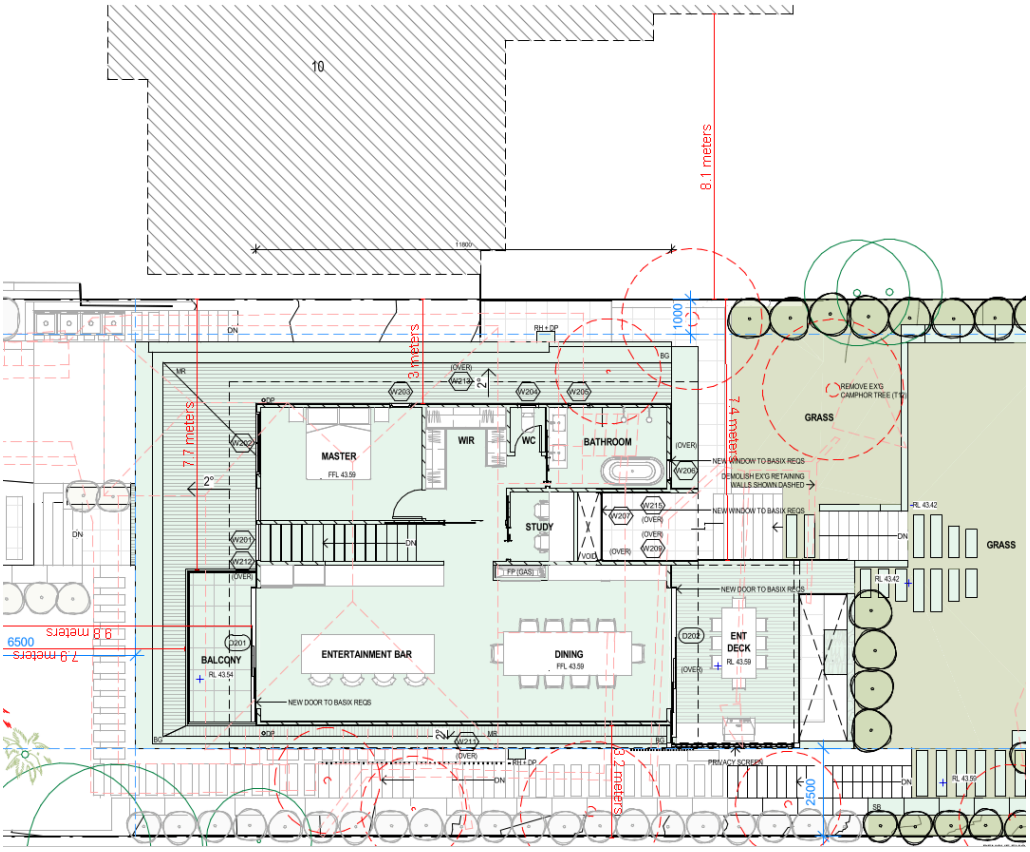
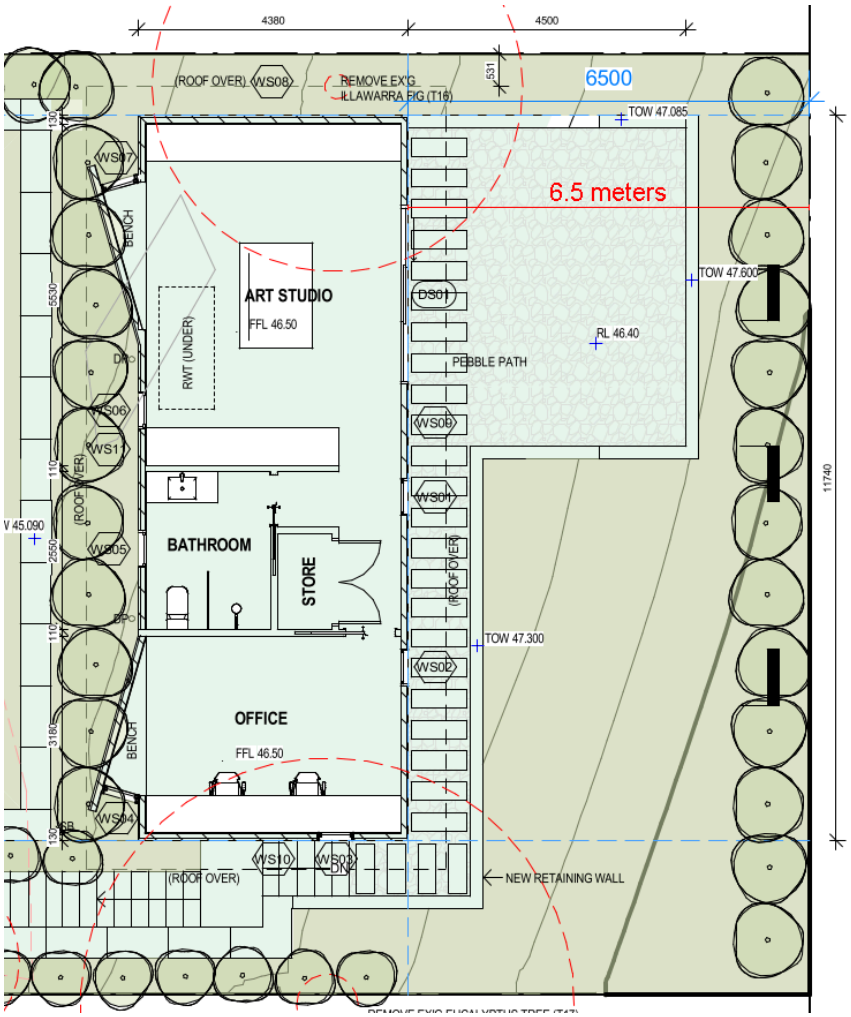


Figure 28: *Studio floor plan*



6 Milga Road

In terms of privacy impacts to the adjoining development to the east, the windows to the lower ground floor are screened by the existing boundary fence.

At the ground floor level, W102 is to the kitchen (Figure 29), which adjoins the side entry porch and large window of the neighbouring property (refer Figure 30); however, the proposed window is not excessive and there are several screen trees proposed to be planted along the common boundary, which have a mature height of 2 metres. W101 is a highlight window to the lounge room with a sill height of 1.8 metres. The courtyard is also screened by the existing boundary fence.

With respect to the upper floor level, there are no windows along the eastern elevation of the proposed dwelling (refer Figure 29). The entertaining deck at the rear of the dwelling incorporates privacy screening along its full western elevation facing 6 Milga Rd, and the balcony at the front of the dwelling has a floor level of RL 43.59, which is far higher than the floor level of the adjacent balcony at RL 39.07. Standing eye level on the proposed balcony would be approximately RL 45.20, which is significantly higher than the roof eave height of the adjacent dwelling at RL 44.18. As such, there would be no direct line of sight into the adjoining dwelling and balcony.

Regarding privacy impacts arising from the proposed studio to the rear of the site, WS10 is a highlight window and WS04 is a gill window, with limited direct line of sight to the adjoining property from the office space (refer Figure 28). WS03 is screened from the neighbouring property through the existing boundary fence and new screen planting along the eastern boundary with a mature height of 2 metres (refer Figure 31).

Figure 29: *Eastern elevation*

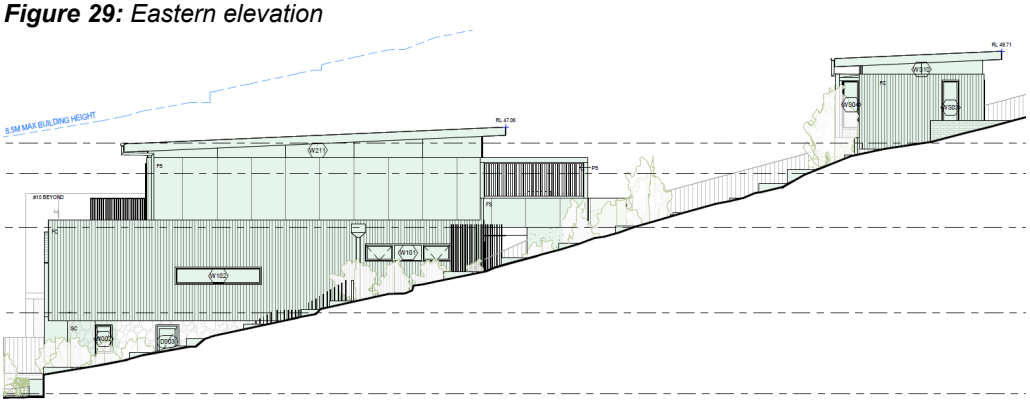
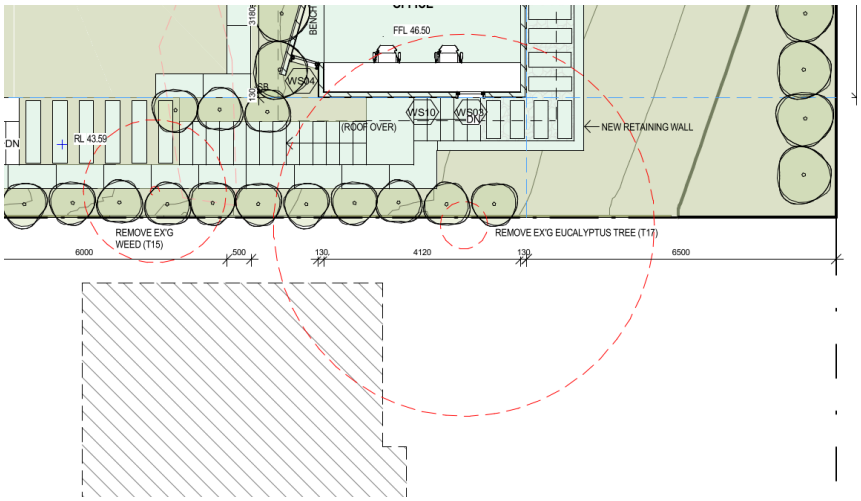


Figure 30: *Site photo from eastern boundary facing 6 Milga Road*



Figure 31: *Studio interface with 6 Milga Road*



100 & 98 Binburra Avenue

In terms of privacy impacts for the rear neighbours, the proposal includes the planting of Lilly pilly trees along the rear boundary with a mature height of 3 metres to soften and screen the proposed studio. However, the adjoining dwellings to the rear are located at such an elevation above the proposed studio owing to the sloping topography of the site and surrounding land that there would be no direct line of sight into the proposed studio from the main living areas of the rear neighbours (refer Figure 32). It is also important to note that the amended design sets the studio back a further 2.5 metres from the rear boundary to have a compliant setback of 6.5 metres. Additionally, the studio now sits closer to the existing ground level, thereby better integrating with the natural landscape and minimising the visual bulk of the building. The finished floor level of the studio lowered by 800mm from RL 47.30 to RL 46.50, and the ridge height of the studio is RL 49.71, which is lower than the top of the existing rear boundary fence (refer Figures 33 and 34). As such, there are insufficient planning grounds to warrant refusal on the basis of privacy impacts or press for further design amendments.

Figure 32: *Site photo facing north from the rear of the property*



Figure 33: *Amended studio siting*

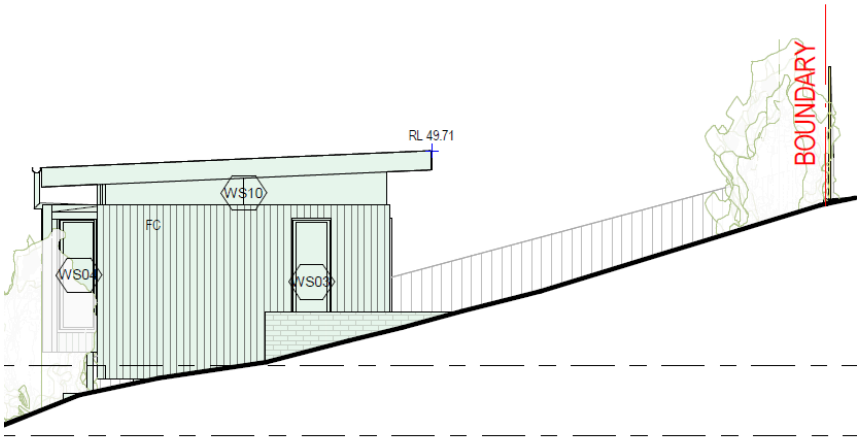
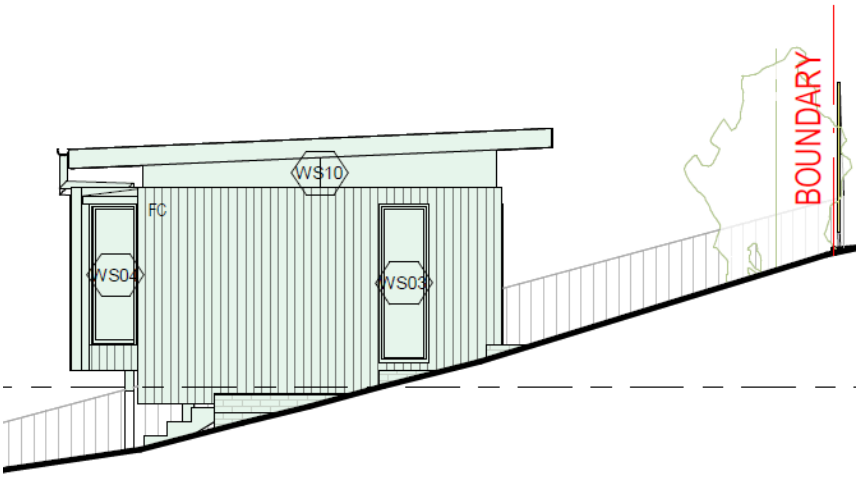


Figure 34: *Original studio siting*



Comment:

The outcomes of the control are:

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*
- *A sense of territory and safety is provided for residents.*

The habitable rooms and outdoor living areas of the amended proposal optimise visual privacy through good design, and the development provides a sense of territory and safety for residents.

The development is consistent with the outcomes of the control and is acceptable on merit.

C1.14 Separately Accessible Structures

Merit consideration

Section C1.14 of the Pittwater 21 Development Control Plan provides that a separately accessible structure 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 and it is not designed for separate habitation and does not contain any cooking facilities. Where the purpose of the structure or its distance from the nearest bathroom facility dictates, bathroom/toilet facilities may be allowed.

The amended proposed studio does not include any built-in cooking facilities or a wet bar, but does include a bathroom. An operational condition has been recommended, stating that: No approval is granted or implied under this Development Consent for the use of any part of the studio for the purpose of a secondary dwelling or separate occupancy. Built-in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area of the dwelling house.

D1.8 Front building line

Description of non-compliance

Pursuant to Section D1.8 of the Pittwater 21 Development Control Plan, the minimum front building line

for built structures other than driveways, fences and retaining walls is 6.5 metres.

The proposed dwelling has a 6.4 metres setback from the front boundary, representing a 1.5% (0.1 metres) variation to the minimum standard of 6.5 metres.

It is important to note that this non-compliance is associated with the architectural detailing of the entry arch, as evident in Figures 35 to 37. There are also other low-lying structures, such as retaining walls, planters boxes and steps within the front setback area; however, the face of the dwelling is set back 7.2 metres from the front boundary at the lower ground level, 6.5 metres at the ground floor, and 9.8 metres at the upper floor, with a 7.9 metres setback to the balcony. As such, the bulk of the dwelling has a compliant setback from the front boundary.

Figure 35: *Proposed lower ground floor*

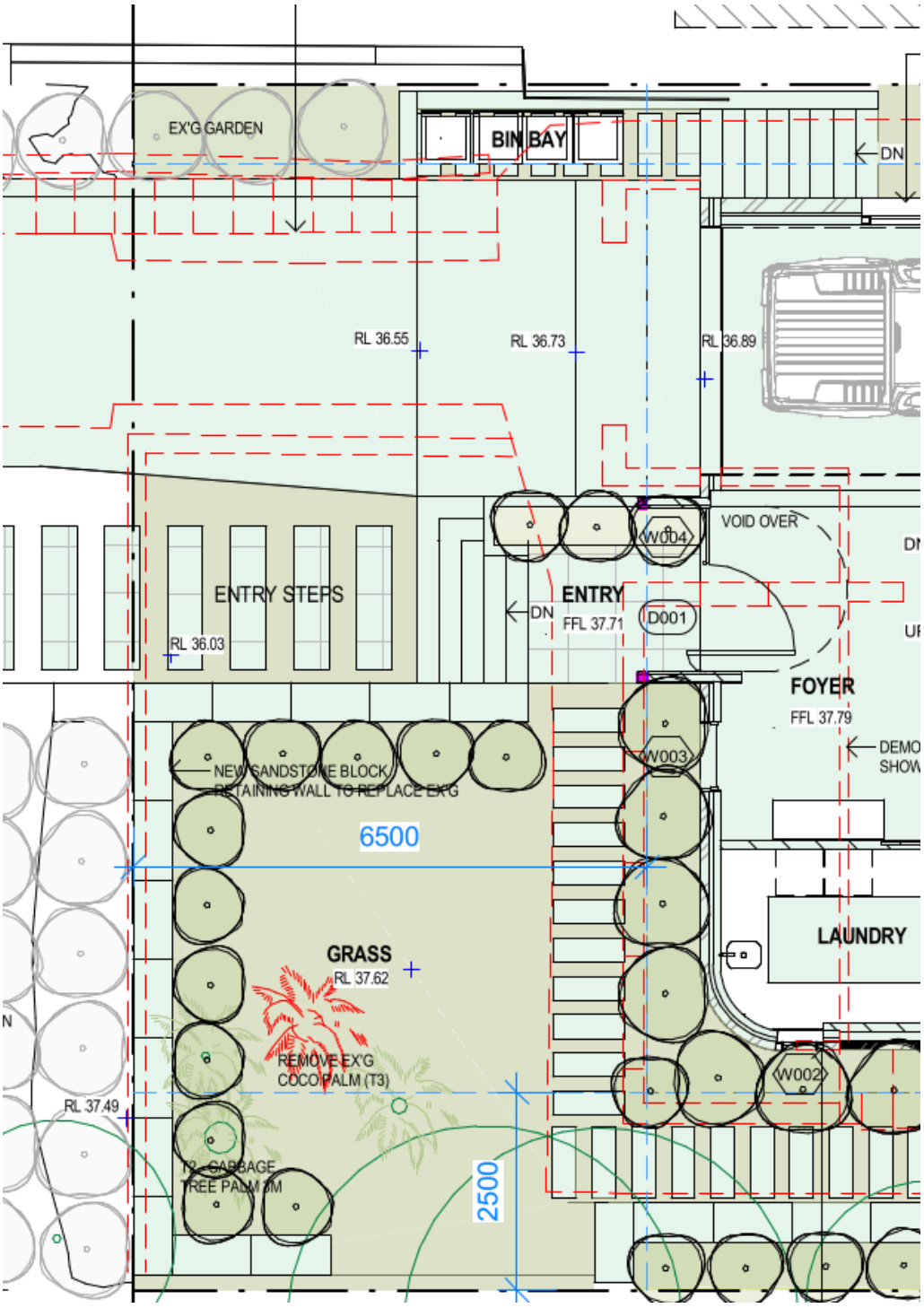


Figure 36: *Proposed ground floor*

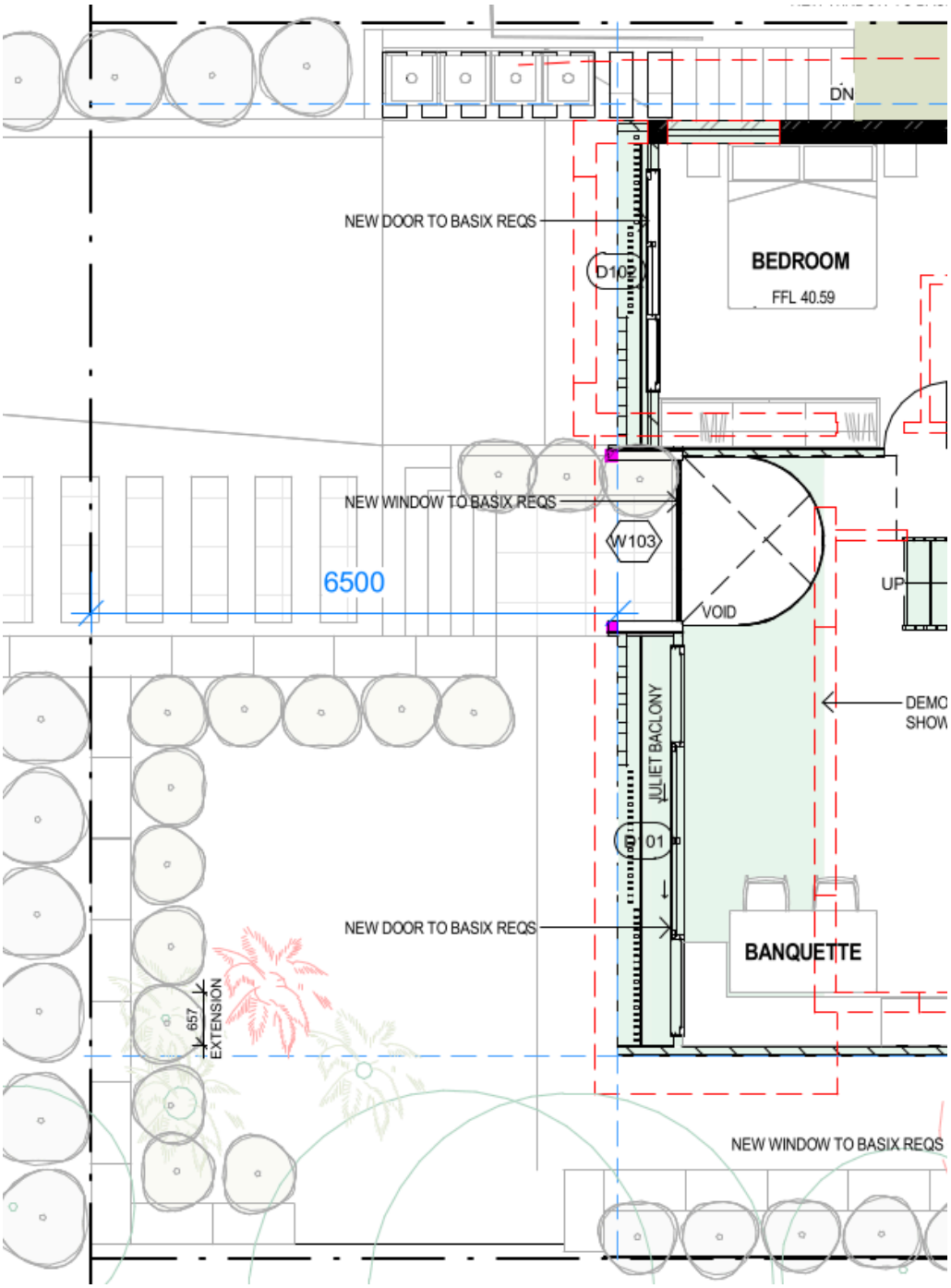
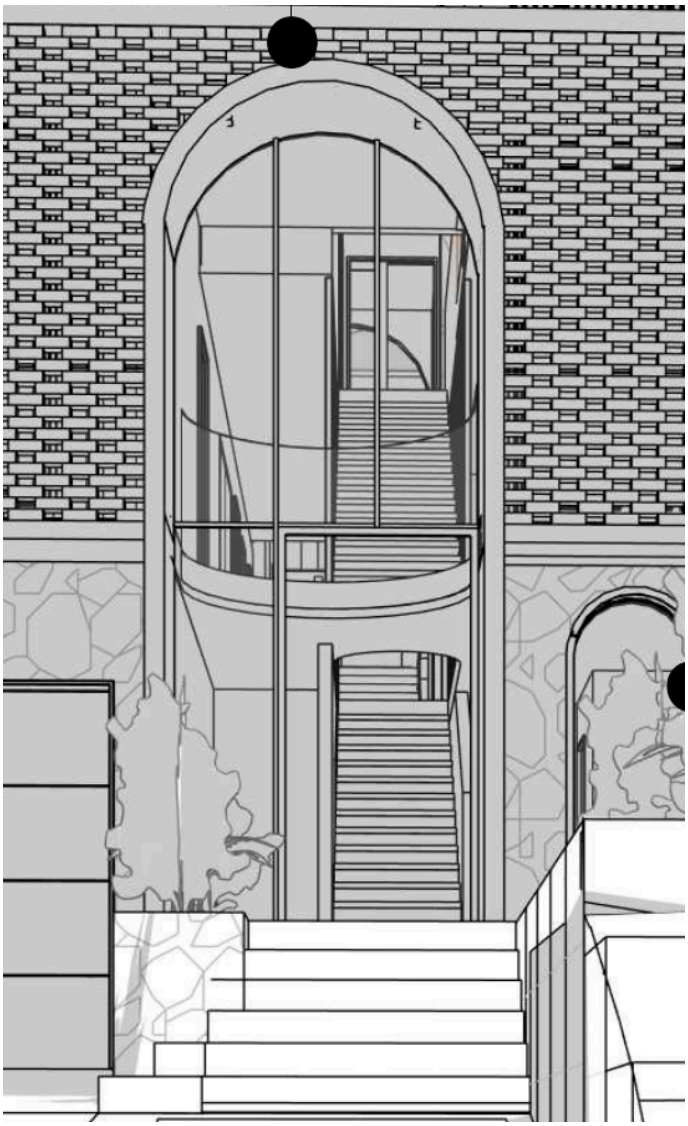


Figure 37: *3D perspective*



Comment:

The outcomes of the control are:

- *To achieve the desired future character of the Locality.*
- *The amenity of residential development adjoining a main road is maintained.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Vehicle manoeuvring in a forward direction is facilitated.*
- *To encourage attractive street frontages and improve pedestrian amenity.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development and in keeping with the desired future character of the Avalon Beach locality. The site does not adjoin a main road, and several new plantings are proposed within the front setback area to visually reduce the built form. Vehicle manoeuvring in a forward direction cannot reasonably facilitated on the site; however, the garage and driveway sit much higher than the street level (by at least 2 metres), thereby reducing the creation of blind spots. Therefore it can reasonably be presumed that entering and exiting the site should not cause major safety concerns.

The development is consistent with the outcomes of the control and is acceptable on merit.

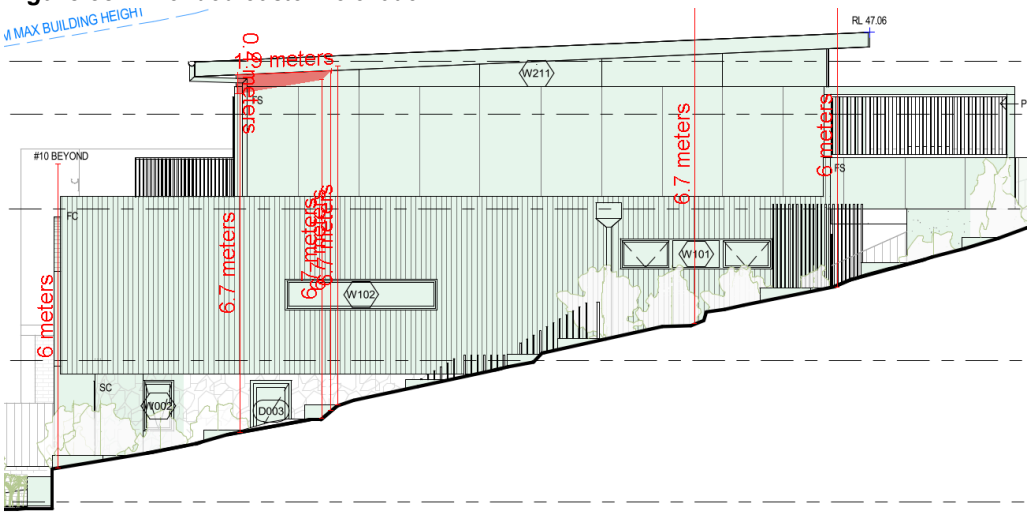
D1.11 Building envelope

Description of non-compliance

Pursuant to Section D1.11 Building envelope of the Pittwater 21 Development Control Plan, buildings must be sited within the building envelope which is determined by projecting planes at 45º from a height of 3.5m above the existing ground level at the side boundaries.

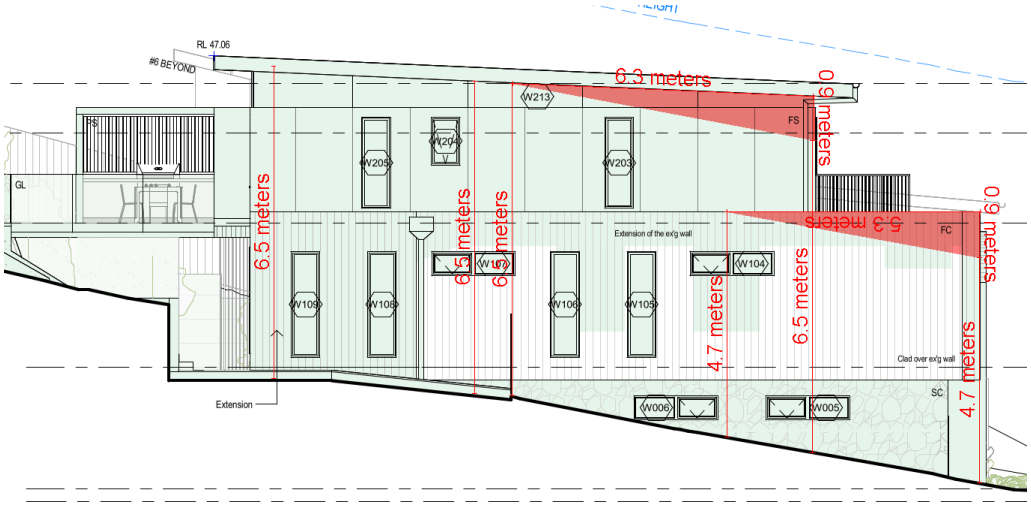
The eastern elevation of the proposed dwelling presents an encroachment between nil and 0.4m in height for a length of 1.9m, resulting in a maximum variation of 6% (0.4 metres), as shown shaded red in Figure 38 below.

Figure 38: *Amended eastern elevation*



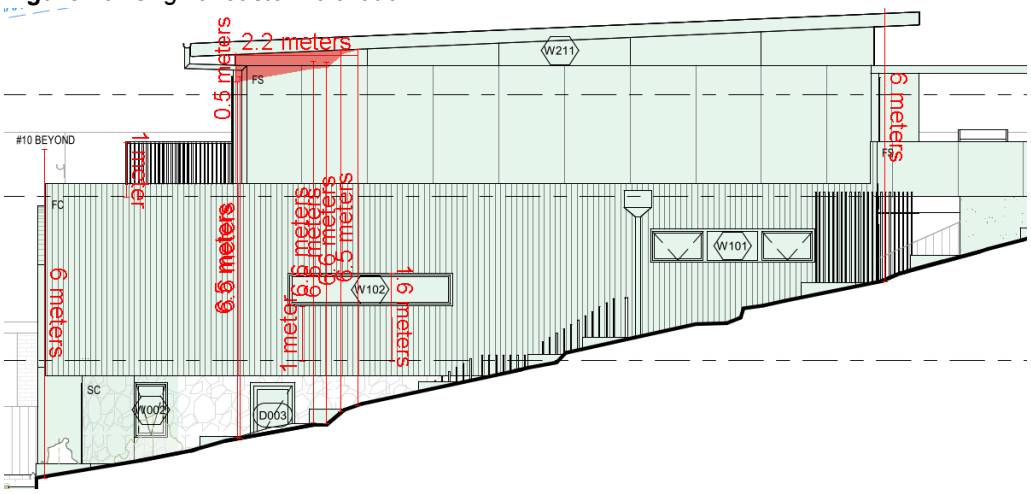
The western elevation presents one encroachment between nil and 0.9 metres in height for a length of 6.3 metres and a second encroachment between nil and 0.9 metres in height for a length of 5.3 metres, resulting in a maximum variation of 19.1% (0.9 metres), as shown shaded red in Figure 39 below.

Figure 39: *Amended western elevation*



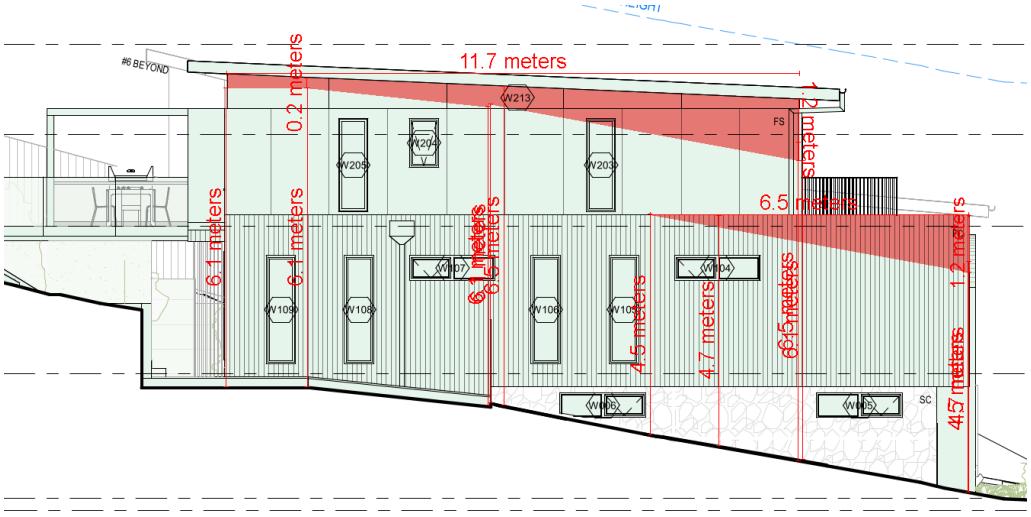
It is important to note that the original design presented an encroachment at the eastern elevation of between nil and 0.5 metres in height for a length of 2.2 metres, representing a maximum variation of 7.7% (0.5 metres), as shown shaded red in Figure 40 below.

Figure 40: *Original eastern elevation*



The western elevation originally presented an encroachment of between 0.2 metres and 1.2 metres in height for a length of 11.7 metres, and a second encroachment of between nil and 1.2 metres in height for a length of 6.5 metres, representing a maximum variation of 26.7% (1.2 metres), as shown shaded red in Figure 41 below.

Figure 41: *Original western elevation*



The amended design brings the building line in from the western side at the lower ground and ground levels by 200mm, and from both side boundaries at the upper level. This presents a significant improvement to the original design in terms of the degree of envelope encroachment, particularly at the western elevation. By increasing the separation of the upper level from the western boundary by 400mm and from the eastern boundary by 200mm, the proposal also presents an improved built form outcome and lower amenity impact through reducing the degree of visual privacy impact for the neighbouring properties.

It is important to note that the the dwelling is compliant with the minimum side building lines at both elevations and all levels. There are also no windows within the portions of encroachment, and the floor-to-ceiling heights are not excessive, at 2.5 ,etres, 2.6 metres and 2.4 metres.

Comment:

The outcomes of the control are:

- *To achieve the desired future character of the Locality.*
- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*
- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*
- *The bulk and scale of the built form is minimised.*
- *Equitable preservation of views and vistas to and/or from public/private places.*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*
- *Vegetation is retained and enhanced to visually reduce the built form.*

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development and in keeping with the desired future character of the Avalon Beach locality. The bulk and scale of the built form has been minimised by significantly reducing the footprint and increasing the setbacks of the upper floor level, such that it reads as a recessed building element from the streetscape. The proposal provides serval new planting across the site, and does not unreasonably impact on

visual privacy or the enjoyment of views.

The development is consistent with the outcomes of the control and is acceptable on merit.

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

Merit consideration

Section C1.17 of the Pittwater 21 Development Control Plan stipulates that lightweight construction and pier and beam footings should be used in environmentally sensitive areas. Retaining walls and terracing shall be kept to a minimum. Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials. In the provision of outdoor entertaining areas, preference is given to timber decks rather than cut/fill, retaining walls and/or terracing.

The proposed dwelling, given its setting on land with sloping topography which rises towards the rear, has been appropriately designed, noting private open spaces and entertaining decks cannot reasonably be provided with pier and beam footings and limited retaining walls without elevating the structures high above the existing ground level.

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 $13,386 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $1,338,590.

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 alterations and additions to an existing dwelling house plus a detached studio at the rear, has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the application receiving at least 10 objections within the notification period.

The application was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for 14 days. A total of 14 objections were received, including 11 during the notification period. Five second submissions were made in response to amended plans.

The concerns raised in the objections have been addressed within the submission section of this Assessment Report. For the reasons discussed within the report, the impacts of the development are acceptable, despite the number and scope of the submissions recieved.

The critical assessment issues relate to tree impacts, visual privacy, building height and envelope, and view sharing.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

REASON FOR DETERMINATION

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

RECOMMENDATION

That 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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/1907 for Alterations and additions to a dwelling house including the construction of a detached studio on land at Lot 26 DP 21756, 8 Milga Road, AVALON 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**
DA 001	2	Cover Sheet	Hot House Projects Pty Ltd	23 March 2026
DA 010	2	Site Analysis	Hot House Projects Pty Ltd	23 March 2026
DA 100	2	Lower Ground Plan	Hot House Projects Pty Ltd	23 March 2026
DA 101	2	Ground Floor Plan	Hot House Projects Pty Ltd	23 March 2026
DA 102	2	First Floor Plan	Hot House Projects Pty Ltd	23 March 2026
DA 110	2	Roof Plan	Hot House Projects Pty Ltd	23 March 2026
DA 200	2	Elevations	Hot House Projects Pty Ltd	23 March 2026
DA 201	2	Elevations	Hot House Projects Pty Ltd	23 March 2026

DA 202	2	Elevations	Hot House Projects Pty Ltd	23 March 2026
DA 300	2	Sections	Hot House Projects Pty Ltd	23 March 2026
DA 301	2	Sections	Hot House Projects Pty Ltd	23 March 2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
DA 002 - External Finishes	2	Hot House Projects Pty Ltd	23 March 2026
DA 011 - Construction, Sediment Control and Waste Management Plan	2	Hot House Projects Pty Ltd	23 March 2026
C1 - Landscape Plan	B	Contour Landscape Architecture	19 March 2026
C2 - Planting Palette	B	Contour Landscape Architecture	19 March 2026
C3 - Landscape Details	B	Contour Landscape Architecture	19 March 2026
C4 - Landscape Specification	B	Contour Landscape Architecture	19 March 2026
Waste Management Plan	-	Author Unknown	27 November 2025
BASIX Certificate (Studio)	A1823904	Hot House Projects Pty Ltd	27 November 2025
BASIX Certificate	A1823612	Hot House Projects Pty Ltd	26 November 2026
Geotechnical Report	J6130	White Geotechnical Group Pty Ltd	24 November 2025
Arboricultural Impact Assessment	-	Bluegum Tree Care and Consultancy	December 2025
Sheet 1 - Notes, Calculations & Pits Details	-	Nasseri Associates	11 December 2025
Sheet 2 - Drainage Plan (Lower Ground)	-	Nasseri Associates	11 December 2025

Sheet 3 - Drainage Plan (First Floor)	-	Nasseri Associates	11 December 2025
Sheet 4 - Elevation Plan	-	Nasseri Associates	11 December 2025
Sheet 5 - OSD/RWT1 Details	-	Nasseri Associates	11 December 2025
Sheet 6 - OSD/RWT2 Details	-	Nasseri Associates	11 December 2025
Bushfire Assessment Report	2	Sydney Bushfire Consultants	7 May 2026
Bushfire Risk Assessment Certificate	-	Sydney Bushfire Consultants	7 May 2026

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	21 January 2026
NSW Rural Fire Service	NSW Rural Fire Service Referral Response	26 May 2026

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

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

3. **No Approval for Secondary Dwelling**
No approval is granted or implied under this Development Consent for the use of any part of the studio or lower ground floor for the purpose of a secondary dwelling or separate occupancy. Built-in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area on the ground floor level of the dwelling house.

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 directly to the Long Service Corporation. 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 $13,385.90 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $1,338,590.00.

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 $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. **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.

9. **On-Site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Nasseri Associates, drawing number D4107, Sheet 1-6, dated 11/12/2025. 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 Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group, dated 24/11/2025 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.

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

The Applicant is to submit an application (using form number 4025 available on Council website) 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 the proposed new vehicular crossover and its associated retaining structures/battering, the new pedestrian access as well as the removal of all redundant structures within the Road Reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer.

The design must include the following information:

- Driveway long-sections along both sides of the driveway starting from the centerline of the road to the parking facility by a qualified civil/traffic engineer.
- Details of all retaining structures/battering within the Road Reserve by a qualified engineer.
- Details of the new pedestrian access within the Road Reserve.
- All relevant engineer's certificate for all works within the Road Reserve.
- Removal of all redundant structures within the Road Reserve.

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.

12. **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.

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

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

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

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

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

15. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Tree Removal and Pruning Within the Property**
This consent approves the removal of existing trees on the subject site as identified in the Arboricultural Impact Assessment dated December 2025 prepared by Bluegum Tree Care and Consultancy as listed below:

i) 3, 7, 8, 9, 10, 11, 12, 14, 15, 16

ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Pruning of branches overhanging the subject site from Tree 17 located on the adjoining property may be undertaken. Pruning from within the subject property is to be undertaken by a qualified Arborist with minimum qualifications AQF Level 3. Pruning within the subject property boundary only is approved.

Reason: To enable authorised building works.

17. **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

18. **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 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.

19. **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,

ii) all trees and vegetation located on adjoining properties not approved for pruning,

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 the Arboricultural Impact Assessment dated December 2025 prepared by Bluegum Tree Care and Consultancy and AS4970-2025 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 AS4970-2025 Protection of trees on development sites,

ix) the activities listed in section 4.2 of AS4970-2025 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) approved tree pruning from within the site to enable approved works shall be in accordance with AS4373-2007 Pruning of amenity trees and undertaken by an Arborist with minimum qualifiication AQF Level 3,

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 complaint to AS4970-2025 Protection of trees on development sites.

Reason: Tree and vegetation protection.

20. **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.

21. **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.

22. **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.

23. **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.

24. **Handling of asbestos during demolition**
While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material;
- Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA online reporting tool WasteLocate.

Reason: To ensure that the removal of asbestos is undertaken safely and professionally.

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

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

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal 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.

26. **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.

27. **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.

28. **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.

29. **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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

30. **Required Planting**
Trees, shrubs and ground covers shall be planted in accordance with Landscape Plans Dwg Nos C1, C2, C3, C4 Rev B dated 19/03/2026 prepared by Contour Landscape Architecture

a)

i) specimen tree planting shall be a minimum pre-ordered planting size of 75 litres; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and 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.

31. **Native Landscaping**
Any new landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the Pittwater Ward 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.

32. **Replacement of Canopy Trees**
At least 2 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the Pittwater Ward Section of the Native Planting Guide available on Council's website.

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.

33. **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.

34. **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.

35. **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 Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

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

36. **Waste Disposal Verification Statement**
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

37. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link:
https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2023-12/guide-for-submitting-legal-documents.pdf?1756256223

The form for the application can be found on Council's website using the following link: https://applications.northernbeaches.nsw.gov.au/T1PRProd/WebApps/eProperty/P1/eSubmit/T r=WC.WEBGUEST&f=%24P1.ESB.TERMS.VIW&ReturnUrl=%2fT1PRProd%2fWebApps%2fe

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

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered

38. **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.

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

39. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

40. **Landscape planting and view sharing**

Any new landscape and tree plantings are to be of a species and position which when established and grown to full maturity is not to impact on views enjoyed by surrounding properties.

Reason: To allow for view sharing.



1. VIEW FROM STREET



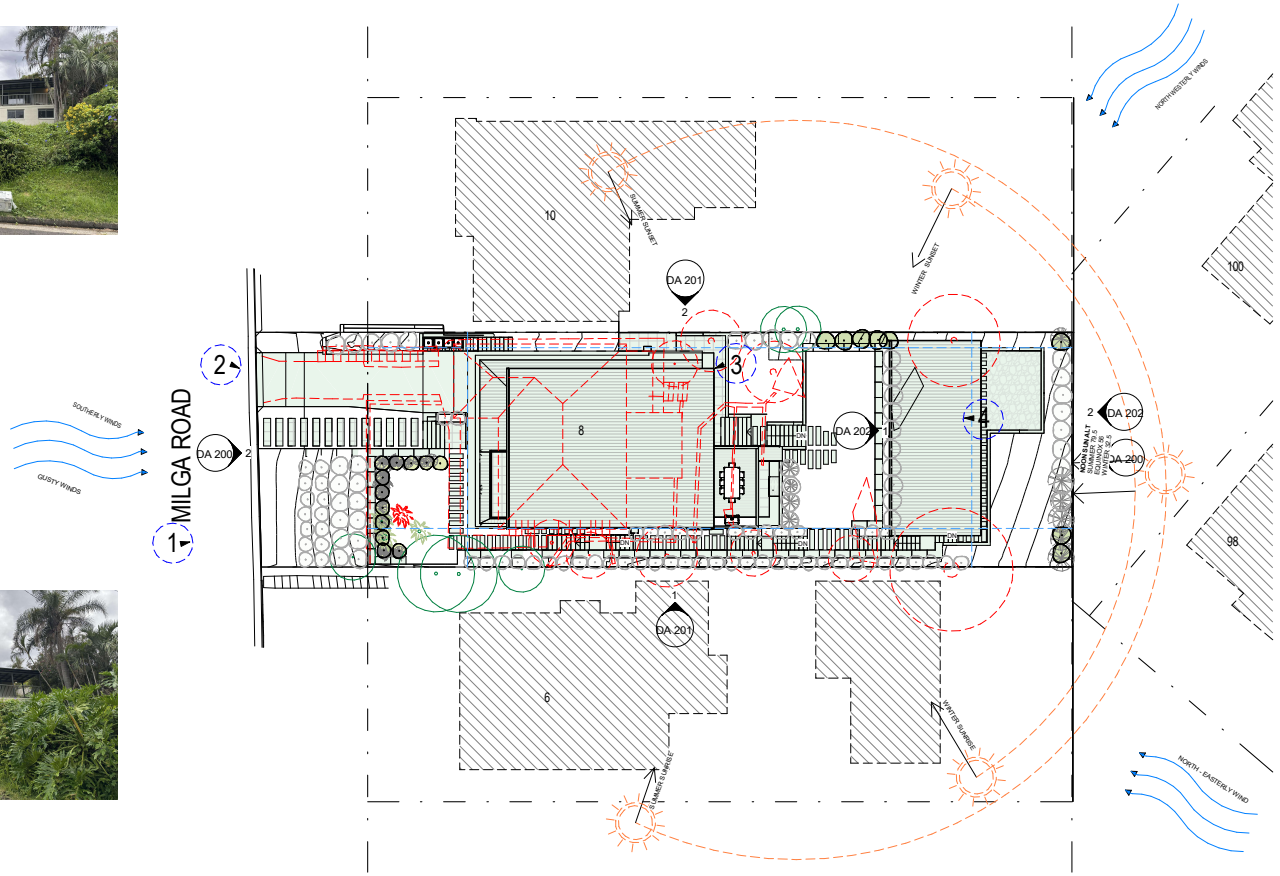
2. FRONT OF EXISTING DWELLING



3. VIEW FROM REAR YARD



3. VIEW FROM REAR OF SITE



1 Site Analysis
1 : 200

FOR DEVELOPMENT APPLICATION ONLY

HOT HOUSE ARCHITECTS

61 2 9999 9999
+61 0433 775 490
se 8 11 level 1 bungan st
mona vale nsw 2106
po.box 26 newport nsw 2106
info@hothousestudio.com
www.hothousestudio.com
Nominated Architect:
Wade Stewart Cogle
NSW ARB Registration:
10971

PRINT DATE: 23/03/2026 4:38:33 PM PRINT SIZE: A2

NOTES:
Builder is to examine the site and verify conditions and dimensions. Any discrepancies must be brought to the architect's attention.
Use figured dimensions only. Do not scale.
All work shall comply with the Building Code of Australia and relevant australian standards.

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ISSUE	DESCRIPTION	DATE
01	DA Issue	04/03/2026
02	DA Rev.1	23/03/2026

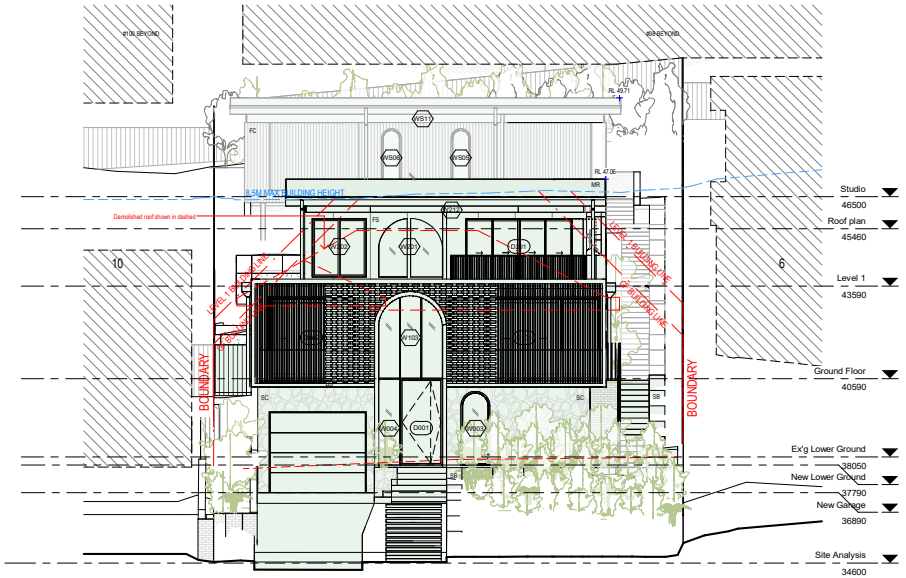
CONSULTANTS:
Architect: HOT HOUSE ARCHITECTS, PO Box 26, NEWPORT NSW 2106, m. 0433 775 490, info@hothousestudio.com
Surveyor: END LAND SERVICES, 33 RYDE ROAD, PYMBLE, NSW, 2073, office@endlandservices.com.au
Geotech: WHITE GEOTECHNICAL GROUP, 1/9 SOUTH CREEK ROAD, Dee Why, p. 02 7900 3210
Bushfire: SYDNEY BUSHFIRE CONSULTANTS, m. 0410 808 256, scott@sydneybushfireconsultants.com.au
Arborist: BLUE GUM TREE CARE AND CONSULTANCY, m. 0437 289 083, info@bluegumtreehort.com.au
Hydraulic: WARNER ASSOCIATES, 6/114 NARABANG WAY, BELROSE, NSW, 2085, p. 02 9986 3974, hawarnerassociates@bigpond.com

CLIENT: Vinay & Felicia Prasad
PROJECT: ALTERATIONS & ADDITIONS
ADDRESS: 8 MILGA ROAD, AVALON BEACH

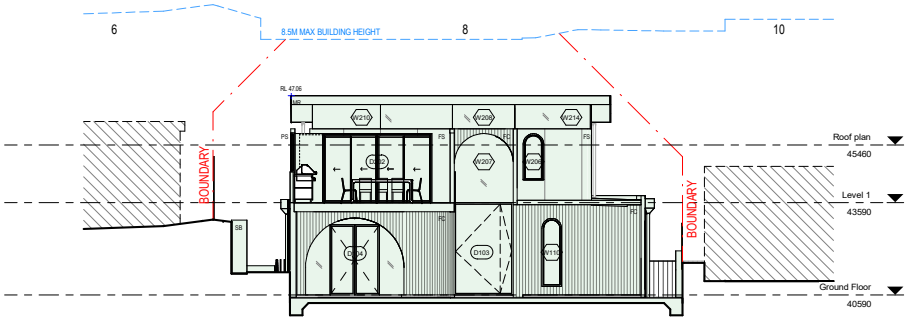
DRAWING TITLE: SITE ANALYSIS

PROJECT NO.	DRAWN	CHECKED
1123HHA	NC	WC

DATE	23 March 2026	DRAWING NO	REVISION NO
SIZE A2	As indicated	DA 010	02



2 South/Street
1 : 100



1 North
1 : 100

LEGEND:

BL	BALUSTRADE	EXG	EXISTING	GL	GLASS BALUSTRADE	SB	SANDSTONE BLOCK
BG	BOX GUTTER	FBK	FACE BRICK	MR	METAL ROOF	SC	STONE CLADDING
BDY	BOUNDARY	FC	FIBRE CEMENT CLADDING	OG	OPERABLE GLASS	SKY	SKYLIGHT
BS	BRICK SCREEN BREEZEWAY	FG	FIXED GLASS	OH	OVER HANG	TBC	TO BE CONFIRM
CB	CONCRETE BLOCK	FZ	FLAME ZONE	PB	POOL BARRIER	TC	TIMBER CLADDING
CONC	CONCRETE	FP	FIREPLACE	PS	PRIVACY SCREEN	TI	TIMBER
DP	DOWN PIPE	FS	FIBRE CEMENT SHEET	RH	RAINHEAD	TS	TIMBER SCREEN
D001	NEW DOOR TO BASIX REQS	FW	FLOOR WASTE	RT	RETAINING WALL	WIR	WALK IN ROBE
		GD	GRATED DRAIN	RWT	RAIN WATER TANK	W001	NEW WINDOW TO BASIX REQS

FOR DEVELOPMENT APPLICATION ONLY

LEGEND:
DEMOLISH
NEW WORK
BOUNDARY
OVERHEAD
HIDDEN

BASIX COMMITMENTS:
1. ALL NEW OR ALTERED CONSTRUCTION (FLOOR, WALLS, CEILING AND ROOF) TO BE IN ACCORDANCE WITH BASIX CERTIFICATE.
2. ALL WINDOWS, SKYLIGHTS AND DOORS TO BE INSTALLED AS PER BASIX GLAZING REQUIREMENTS

NOTES
1. ALL DESIGN AND CONSTRUCTION WORKS TO BE IN ACCORDANCE WITH APPLICABLE AUSTRALIAN STANDARDS AND BUILDING CODE OF AUSTRALIA
2. ALL WORKS TO BE CARRIED OUT IN ACCORDANCE WITH BASIX CERTIFICATE AND THE SURVEY

HOT HOUSE ARCHITECTS

61 2 9999 9999
+61 0433 775 490
suite 8 11 level 1 bungan st
mona vale nsw 2106
po box 26 newport nsw 2106
info@hothousestudio.com
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Nominated Architect:
Wade Stewart Cogle
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NOTES:
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CONSULTANTS:

Architect: HOT HOUSE ARCHITECTS, PO Box 26, NEWPORT NSW 2106, m. 0433 775 490, info@hothousestudio.com

Surveyor: END LAND SERVICES, 33 RYDE ROAD, PYMBLE, NSW, 2073, office@endlandservices.com.au

Geotech: WHITE GEOTECHNICAL GROUP, 1/5 SOUTH CREEK ROAD, Dee Why, p. 02 7900 3210

Builder/Re: SYDNEY BUSHFIRE CONSULTANTS, m. 0410 808 290, scott@sydneybushfireconsultants.com.au

Arborist: BLUE GUM TREE CARE AND CONSULTANCY, m. 0437 389 083, info@bluegumtreecare.com.au

Hydraulic: WARDEN ASSOCIATES, 6/114 NARABANG WAY, BELROSE, NSW, 2085, p. 02 9986 3674, hwardenassociates@bigpond.com

CLIENT: Vinay & Felicia Prasad

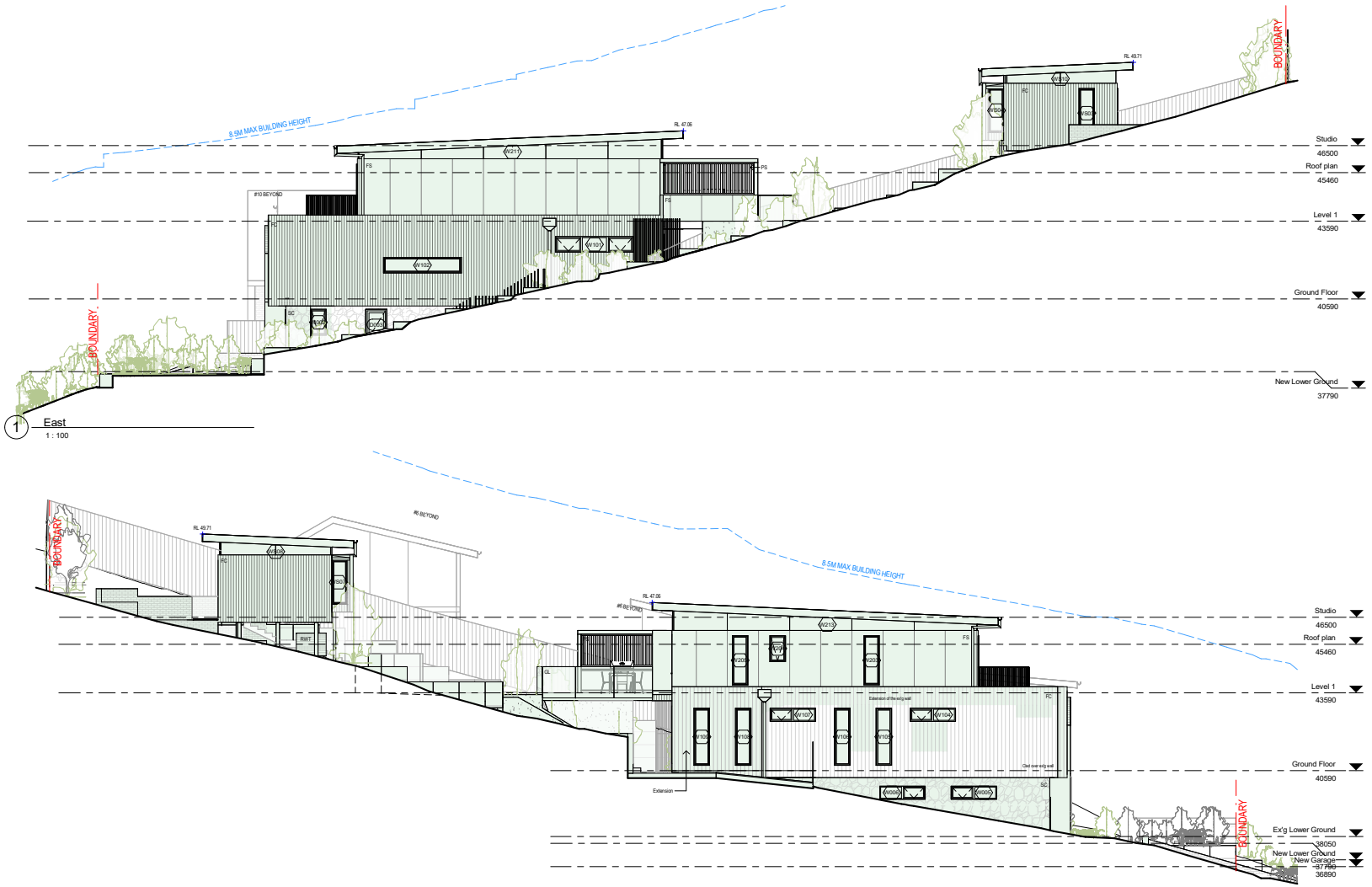
PROJECT: ALTERATIONS & ADDITIONS

ADDRESS: **8 MILGA ROAD, AVALON BEACH**

DRAWING TITLE: ELEVATIONS

PROJECT NO.	DRAWN	CHECKED
1123HHA	NC	WC

DATE	23 March 2026	DRAWING NO	REVISION NO
SIZE A2	As indicated	DA 200	02



FOR DEVELOPMENT APPLICATION ONLY

HOT HOUSE ARCHITECTS

61 2 9999 9999
+61 0433 775 490
se 8 11 level 1 bungan st
mona vale nsw 2106
po.box 26 newport nsw 2106
info@hothousestudio.com
www.hothousestudio.com
Nominated Architect: Wade Stewart Cogle
NSW ARB Registration: # 10971

NOTES:
Builder is to examine the site and verify conditions and dimensions. Any discrepancies must be brought to the architect's attention.
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All work shall comply with the Building Code of Australia and relevant australian standards.

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Hot House Projects Pty Ltd TAs Hot House Architects

ISSUE	DESCRIPTION	DATE
01	DA Issue	04/03/2026
02	DA Rev.1	23/03/2026

CONSULTANTS:
Architect: HOT HOUSE ARCHITECTS PO Box 26, NEWPORT NSW 2106 m. 0433 775 490 info@hothousestudio.com
Surveyor: END LAND SERVICES 32 RYDE ROAD, PYMBLE, NSW, 2073 office@endlandservices.com.au
Geotech: WHITE GEOTECHNICAL GROUP 1/9 SOUTH CREEK ROAD, Dee Why p: 02 7900 3210
Builder/Est: SYDNEY BUILDING CONSULTANTS m: 0410 809 250 scott@sydneybuildingconsultants.com.au
Arborist: BLUE GUM TREE CARE AND CONSULTANCY m: 0437 289 083 info@bluegumtreehort.com.au
Hydraulic: WARREN ASSOCIATES 3/114 NARABANG WAY, BELROSE, NSW, 2085 p: 02 9986 3674 kwarrenassociates@bigpond.com

CLIENT: Vinay & Felicia Prasad

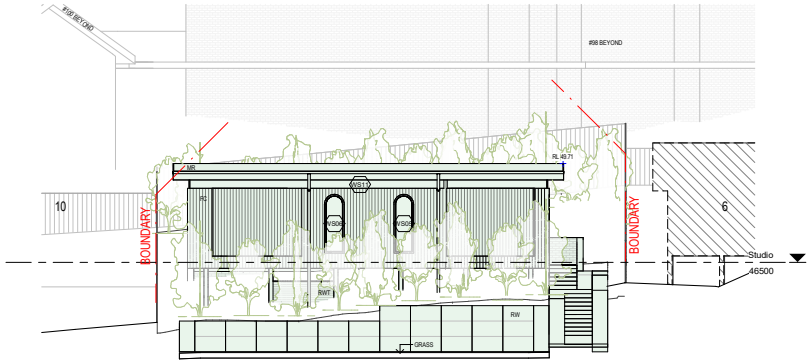
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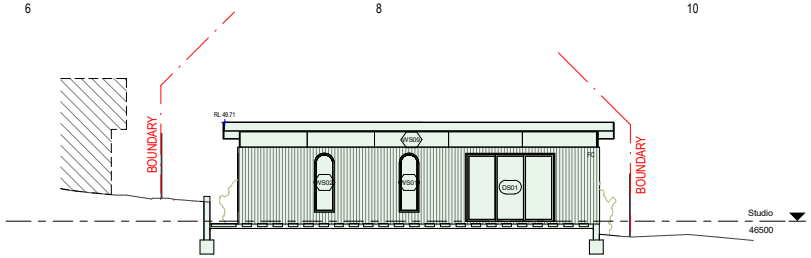
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PROJECT NO.	DRAWN	CHECKED
1123HHA	NC	WC

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1 South (Studio)
1 : 100



2 North (Studio)
1 : 100

LEGEND:

BL	BALUSTRADE	EXG	EXISTING	GL	GLASS BALUSTRADE	SB	SANDSTONE BLOCK
BG	BOX GUTTER	FBK	FACE BRICK	MR	METAL ROOF	SC	STONE CLADDING
BDY	BOUNDARY	FC	FIBRE CEMENT CLADDING	OG	OPERABLE GLASS	SKY	SKYLIGHT
BS	BRICK SCREEN BREEZEWAY	FG	FIXED GLASS	OH	OVER HANG	TBC	TO BE CONFIRM
CB	CONCRETE BLOCK	FZ	FLAME ZONE	PB	POOL BARRIER	TC	TIMBER CLADDING
CONC	CONCRETE	FP	FIREPLACE	PS	PRIVACY SCREEN	TI	TIMBER
DP	DOWN PIPE	FS	FIBRE CEMENT SHEET	RH	RAINHEAD	TS	TIMBER SCREEN
DOOR	NEW DOOR TO BASIX REQS	FW	FLOOR WASTE	RT	RETAINING WALL	WIR	WALK IN ROBE
		GD	GRATED DRAIN	RWT	RAIN WATER TANK	WNNX	NEW WINDOW TO BASIX REQS

FOR DEVELOPMENT APPLICATION ONLY

LEGEND:
DEMOLISH
NEW WORK
BOUNDARY
OVERHEAD
HIDDEN

BASIX COMMITMENTS:
1. ALL NEW OR ALTERED CONSTRUCTION (FLOOR, WALLS, CEILING AND ROOF) TO BE IN ACCORDANCE WITH BASIX CERTIFICATE.
2. ALL WINDOWS, SKYLIGHTS AND DOORS TO BE INSTALLED AS PER BASIX GLAZING REQUIREMENTS

NOTES:
1. ALL DESIGN AND CONSTRUCTION WORKS TO BE IN ACCORDANCE WITH APPLICABLE AUSTRALIAN STANDARDS AND BUILDING CODE OF AUSTRALIA
2. REFER TO ENGINEERS DRAWINGS FOR CONSTRUCTION WITH BASIX CERTIFICATE AND THE SURVEY

HOT HOUSE ARCHITECTS

61 2 9999 0668
+61 0433 775 490
se 8 11 level 1 bungan st
mona vale nsw 2106
po.box 26 newport nsw 2106
info@hothousestudio.com
www.hothousestudio.com
Nominated Architect:
Wade Stewart Cogle
NSW ARB Registration:
10971

PRINT DATE: 23/03/2026 6:47:38 PM PRINT SIZE: A2

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CONSULTANTS:

Architect:
HOT HOUSE ARCHITECTS
PO Box 26, NEWPORT NSW 2106
m. 0433 775 490
info@hothousestudio.com

Surveyor:
END LAND SERVICES
32 RYDE ROAD, PYMBLE, NSW, 2073
office@endlandservices.com.au

Geotech:
WHITE GEOTECHNICAL GROUP
1/5 SOUTH CREEK ROAD, Dee Why
p. 02 7900 3210

Builder/Arb:
SYDNEY BUSHFIRE CONSULTANTS
m. 0410 809 250
scott@sydneybushfireconsultants.com.au

Arborist:
BLUE GUM TREE CARE AND CONSULTANCY
m. 0437 289 083
info@bluegumtreehunt.com.au

Hydraulic:
WARREN ASSOCIATES
9/114 NARABANG WAY, BELROSE, NSW, 2085
p. 02 9986 3674
kwarrenassociates@bigpond.com

CLIENT:
Vinay & Felicia Prasad

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3BF TOWN PLANNERS

Suite 1, 9 Narabang Way Belrose NSW 2085 | Phone: (02) 9986 2535 | Fax: (02) 9986 3050 | www.bbfplanners.com.au

2nd April 2026

Development application DA2025/1907
Updated clause 4.6 variation request - Height of buildings
Alterations and additions to an existing dwelling house and construction of detached a detached studio
8 Milga Road, Avalon Beach

1.0 Introduction

This updated clause 4.6 variation request has regard to the Revision 2 plans prepared by Hot House Architects.

This clause 4.6 variation request has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe)* at [42] – [48], *FouC4Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney [2019]* NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

2.0 Pittwater Local Environmental Plan 2013 ("PLEP")

2.1 Clause 4.3 - Height of buildings

Pursuant to Clause 4.3 of Pittwater Local Environmental Plan 2013 (PLEP) the height of a building on the subject land is not to exceed 8.5 metres in height. The objectives of this control 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.

Building height is defined as follows:

> ***building height*** *(or* ***height of building****) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*

Ground level existing is defined as follows:

> ***ground level (existing)*** means the existing level of a site at any point.

It has been determined that a portion of the roof and eave located over the first-floor master bedroom and stair void breach the height standard by a maximum of 200mm or 2.35% as depicted on the following section extracts section extracts. The balance of the proposed works sit comfortably below the prescribed building height standard.

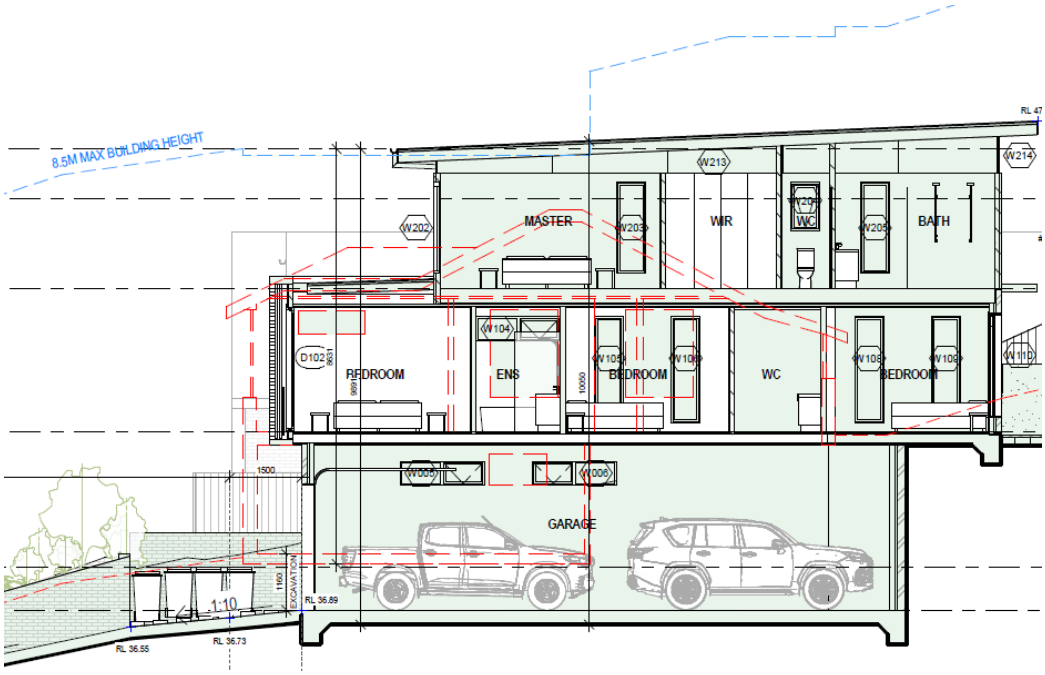


Image 1: Section extract demonstrating the minor height breach

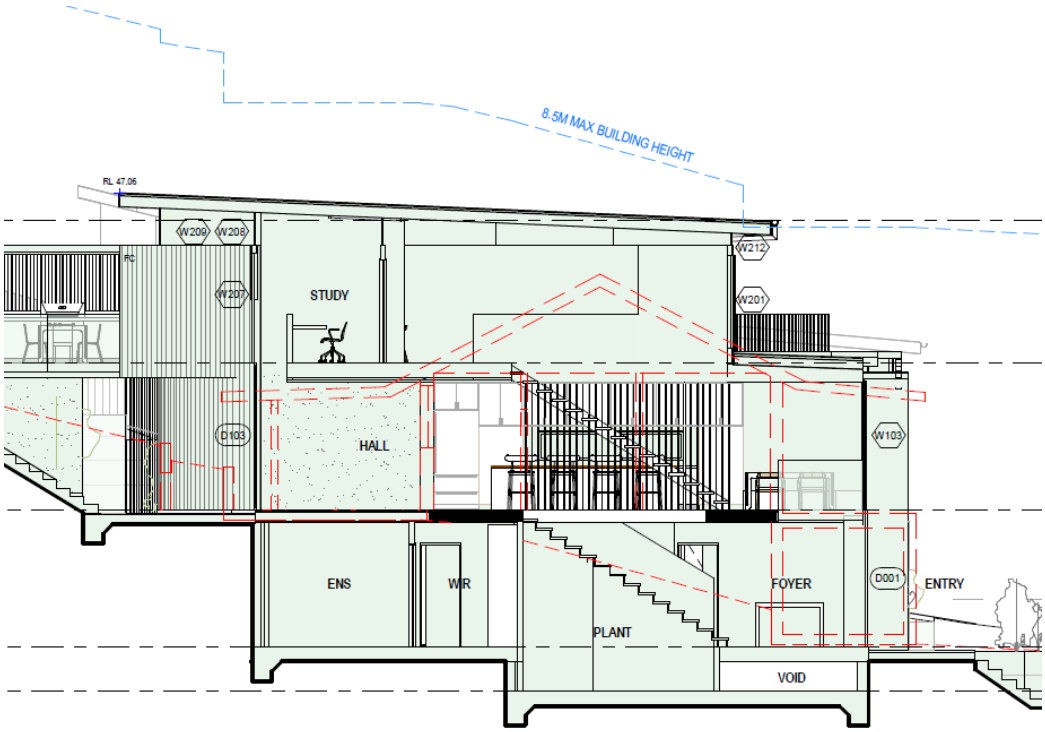


Image 2: Section showing the minor eave encroachment above the 8.5m height standard

2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of PLEP provides:

(1) The objectives of this clause are:

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

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

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

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

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

Clause 4.6(2) of PLEP provides:

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

This clause applies to the clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) of PLEP provides:

> *(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
>
> *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
>
> *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The proposed development does not comply with the height of buildings provision at 4.3 of PLEP which specifies a maximum building height however strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard.

The relevant arguments are set out later in this written request.

3.0 Relevant Case Law

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

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

> 22. *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

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

1. Is clause 4.3 of PLEP a development standard?

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

   (a) compliance is unreasonable or unnecessary; and

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

4.0 Request for variation

4.1 Is clause 4.3 of PLEP a development standard?

The definition of "development standard" at clause 1.4 of the EP&A Act includes:

> *(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*

Clause 4.3 PLEP prescribes a height provision that relates to certain development. Accordingly, clause 4.3 PLEP is a development standard.

4.2A Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in Wehbe v Pittwater Council [2007] NSWLEC 827.

The first option, which has been adopted in this case, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Consistency with objectives of the height of buildings standard

An assessment as to the consistency of the proposal when assessed against the objectives of the standard is as follows:

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

Comment: The subject property is located within the Newport Locality in which dwelling houses with a maximum height of 8.5m and two storeys are anticipated. The sloping nature of the site facilitates a two storey stepped building topology with the overall height and scale of the proposal consistent with that of surrounding and nearby residential development on sloping sites. The minor nature of the building height breaching roof and eave elements are such that they do not contribute to the height and scale of the building to the extent that it will be perceived as inappropriate or jarring having regard to the height and scale of surrounding and nearby residential properties. The proposal is consistent with this objective notwithstanding the building height breaching elements proposed.

b) *to minimise any overshadowing of neighbouring properties*

Comment: Shadow diagrams have been prepared which demonstrate that the minor building height breaching roof and eave elements do not give rise to any unacceptable or non-compliant overshadowing impacts to the adjoining dwellings and their private open space areas. The breaching elements result in a negligible overshadowing impact above that of the complaint building height bult form elements with overshadowing minimised. The proposal is consistent with this objective notwithstanding the building height breaching elements proposed.

c) *to allow for the reasonable sharing of views*

Comment: I have considered potential impacts on public and private views associated with the building height breaching elements and formed the opinion that the breaching elements will have no impact on available public views due to the subject site's location relative to available public view lines.

In relation to potential private view impacts, I am satisfied that the minor nature and location of the building height breaching roof and eave elements ensure that they will not impact on views currently available across the site from surrounding properties including, but not limited to, No's 98, 100, 102 and 104 Binburra Avenue and No. 10 Milga Avenue.

Accordingly, I have formed the considered opinion that notwithstanding the minor building height breaching elements a view sharing scenario is maintained between adjoining properties in accordance with the view sharing provisions at clause C1.3 P21DCP and the principles established in Tenacity Consulting Pty Ltd v Warringah Council [2004] NSWLEC140.

The proposal achieves this objective.

d) to encourage buildings that are designed to respond sensitively to the natural topography,

Comment: In the context of legitimate alterations and additions to the existing dwelling house where the building height breaching elements are located wholly above previously disturbed areas of the site, I am satisfied that this objective is achieved notwithstanding the building height breaching elements proposed.

The proposal is consistent with this objective notwithstanding the building height breaching elements proposed.

e) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

Comment: The minor building height breaching roof form and eave elements do not contribute to the height, bulk and scale of the building to the extent that the resultant dwelling will result in an adverse visual impact as viewed from the public or private domains. The property is not heritage listed or located within the vicinity of any item or heritage conservation area. The proposal is consistent with this objective notwithstanding the building height breaching elements proposed.

Having regard to the above, the non-compliant component of the building will achieve the objectives of the standard to at least an equal degree as would be the case with a development that complied with the building height standard. Given the developments consistency with the objectives of the height of buildings standard strict compliance has been found to be both unreasonable and unnecessary under the circumstances.

4.2B Clause 4.6(4)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

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

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

24. *The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.*

25. *The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see FouC4Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

Sufficient Environmental Planning Grounds

Ground 1 – Prior excavation of the site distorts extent of building height breach

The prior excavation of the site within the footprint of the existing building distorts the height of buildings development standard plane overlaid above the site when compared to the natural undisturbed topography of the land. When the original undisturbed levels of the site are interpolated across the building footprint the proposal is fully compliant with the 8.5m building height standard.

That is, the non-compliance is directly attributed to the excavation that occurred to the natural landform to accommodate the pre-existing garage accommodation over which the breaching elements are located.

Consistent with the finding of O'Neill C at paragraph 73 of *Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582* such circumstance can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2014 as it relates to the extent of building height breach proposed.

Ground 2 – Minor extent of breach and absence of environmental impact

The building height breaching element are quantitively and qualitatively appropriately described as minor and inconsequential in relation to streetscape, residential amenity and broader environmental consequences.

Consistent with the findings in *Eather v Randwick City Council [2021] NSWLEC 1075*, the contravention of the development standard is minor with the small departure from the standard and lack of any material impacts a sufficient environmental planning ground.

Ground 3 - Objectives of the Act

Objective (k) to promote the orderly and economic use and development of land

For the reasons outlined in this submission the variation to the building height standard will promote the orderly development of the land.

Objective (g) to promote good design and amenity of the built environment

For the reasons outlined in this submission, approval of the variation to the building height standard will promote good contextually appropriate design and facilitate enhanced amenity outcomes to and from the development.

Approval of the building height variation will achieve these objectives.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

5.0 Conclusion

Pursuant to clause 4.6(4)(a), the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

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

As such, I have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

Yours Sincerely



Greg Boston
Boston Blyth Fleming Pty Ltd
Director

ITEM 4.3 DA2025/1403 - 12 FRENCHS FOREST ROAD EAST FRENCHS FOREST - CONSTRUCTION OF A MEDICAL CENTRE

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection, and contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of WLEP 2011 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and 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. The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1403 for Construction of a Medical Centre at Lot 2 DP 209752, 12 Frenchs Forest Road East FRENCHS FOREST subject to the conditions set out in the Assessment Report.

Reporting manager	**Steve Findlay**
TRIM file ref	2026/297198
Attachments	⇩1 Assessment Report ⇩2 Site Plan & Elevations ⇩3 Clause 4.6

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1403

Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 2 DP 209752, 12 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Proposed Development:	Construction of a Medical Centre
Zoning:	Warringah LEP2011 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Sharmila Charmarthi Raju

Application Lodged:	02/10/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	16/10/2025 to 30/10/2025
Advertised:	Not Advertised
Submissions Received:	13
Clause 4.6 Variation:	4.3 Height of buildings: 38.59%
Recommendation:	Approval

Estimated Cost of Works:	$ 9,472,498.00

EXECUTIVE SUMMARY

The Development Application seeks consent for the construction and operation of a multi-level medical centre containing six tenancies, 24 car parking spaces, two motorcycle parking spaces, bicycle parking facilities and end of trip facilities. The medical centre would operate between 8.00am to 6.00pm Monday to Saturday, with no operation proposed on Sunday and public holidays. Of all tenancies proposed, the fit-out of Tenancy 4 is only the subject of this application, with the fit-out of the remaining tenancies being the subject of future tenant requirements and future applications.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination because more than 10 submissions objecting to the development were received (11 in total) during the

public exhibition period and due to the development involving a 38.59% variation to Clause 4.3 - Height of buildings of the Warringah Local Environmental Plan 2011 (WLEP 2011), having a maximum building height of 10.81 metres for the parapet level at the rear of the upper floor and 11.78 metres for the roof plant screening.

The applicant has submitted a written request pursuant to Clause 4.6 of the WLEP 2011 to justify a contravention to the height of buildings development standard. The written request argues that the height of the development is commensurate with the adjoining commercial development to the west at 14 Frenchs Forest Road and that the height non-compliance will not cause any adverse impacts to neighbouring properties including the adjoining low density residential development to the east and north of the site.

The assessment has concluded that the applicant's written request has adequately satisfied the jurisdictional matters within Clause 4.6 of the WLEP 2011 and considers that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify a variation to the development standard.

The concerns raised within the 11 resident submissions relate to; inadequate off-street car parking, traffic generation, the building height non-compliance, amenity impacts including privacy, noise and outlook, structural impacts on adjoining properties and site suitability. These concerns have been considered as part of the assessment and do not constitute matters that would warrant refusal of the application. Suitable conditions of consent have been included in the draft consent in relation to issues raised in the submissions.

During the course of the assessment process, the applicant made substantial amendments to the application to address Council's Request for Further Information letter (RFI), including; reducing the building height to correspond with the lower parapet level of the commercial building on the western adjoining property (14 Frenchs Forest Road East), providing a deep soil landscaping strip with planting along the entire eastern boundary to conserve the amenity of the adjacent low density residential development to the east, altering waste collection periods to occur outside of operational hours, increasing the area for waste storage, included privacy attenuation measures along the western side of the building, including end of trip facilities and bicycle parking, clarifying the building materials and addressing potential land contamination.

The assessment finds that the amended development application has adequately resolved the concerns raised on the RFI.

The proposal includes minor variations to the off-street car parking and bicycle parking requirements under Sections C3 and C3(A) of the Warringah Development Control Plan 2011 (WDCP). However, these variations are endorsed by Council's Traffic Engineer due to the availability of nearby public on-street parking, and the assessment concludes that the proposal achieves the underlying objectives of the WDCP, notwithstanding the numerical non-compliances. As such, flexibility should be afforded in the application of these WDCP controls, consistent with Section 4.15(3A)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The assessment also concludes that the site is suitable for a medical centre, given the E1 Local Centre zoning that applies to the land, due to the site being well connected to the regional road network (i.e. Warringah Road) and due to the development being compatible in scale with adjoining development within the E1 zone while also conserving the amenity of the adjacent R2 Low Density Residential zoned land to the east and north by providing suitable building separation, privacy attenuation measures and landscaped buffers to the R2 zoned land.

It is noted that the subject site has sat dormant for many years, and has been used as an informal open

bitumen carpark for customers of the local centre, thus not contributing directly to the economic activity of the centre and benefitting the local community. This revised proposal will see some significant community benefit and enhancement of the streetscape of Frenchs Forest Road East with a modern and well designed commercial building, with adequate parking, setbacks, stormwater and landscaping.

Overall, the development is considered to be consistent with all applicable environmental planning instruments and regulatory provisions. Therefore, the development is in the public interest.

Accordingly, it is recommended that the NBLPP **approve** the Development Application, subject to the recommended conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the construction of a multi-level medical centre.

The site is presently vacant and is used as an open bitumen carpark for other uses within the local centre. In this regard, there is no covenant on the site that requires the car park to be used in association with adjoining properties.

A summary of the proposed development is provided below:

Construction Works

- Construction of a multi-level medical centre with a new vehicle crossing and driveway, including:
    - **Ground Floor:** driveway and access ramp, on-site detention (OSD) tank, grease arrestor, store, pump room, airlock, lobby, lift, fire stairs, 14 car parking spaces (including 2 accessible spaces and 2 staff spaces), and landscaping.
    - **Mezzanine:** driveway and access ramp, waste truck collection area, ambulance zone, Tenancy 1 (cafe which would be subject to a future first use Development Application for the fitout), lobby, mailbox area, end of trip facilities and bicycle parking, motorcycle parking, waste room, electric cupboard, internal fire staircase and egress corridor and 10 staff parking spaces.
    - **First Floor:** Tenancy 2 and 3 (medical consulting rooms), lift, planter, lobby, services rooms, internal fire staircase, courtyard, roof garden, Tenancy 4 (general practitioner consulting rooms) with independent amenities and three WCs (including 2x unisex ambulant WC and 1x unisex accessible WC).
    - **Second Floor:** Lift, atrium, lobby, services rooms, internal fire staircase, Tenancy 5 (medical consulting rooms) and Tenancy 6 (Professional consulting office).
    - **Roof:** Lift overrun and roof plant.

Operational Aspects

- The application does not specify a maximum number of staff at the medical centre; however, the development has provided car parking for 10 staff.
- The proposed hours of operation are 8.00am to 6.00pm Monday to Saturday, with no operation proposed on Sunday and public holidays.
- Waste collection will occur twice weekly outside of the proposed operational hours.

Business Identification Signage

- Illuminated business identification sign on the front facade of the building.

Stormwater Management

- Stormwater is proposed to be discharged downslope into the kerb in gutter at Dareen Parade via an existing drainage easement that benefits the subject site and burdens 87 Dareen Street (rear adjoining property).



Figure 1 - 3D Render of the proposed development as viewed from the street

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

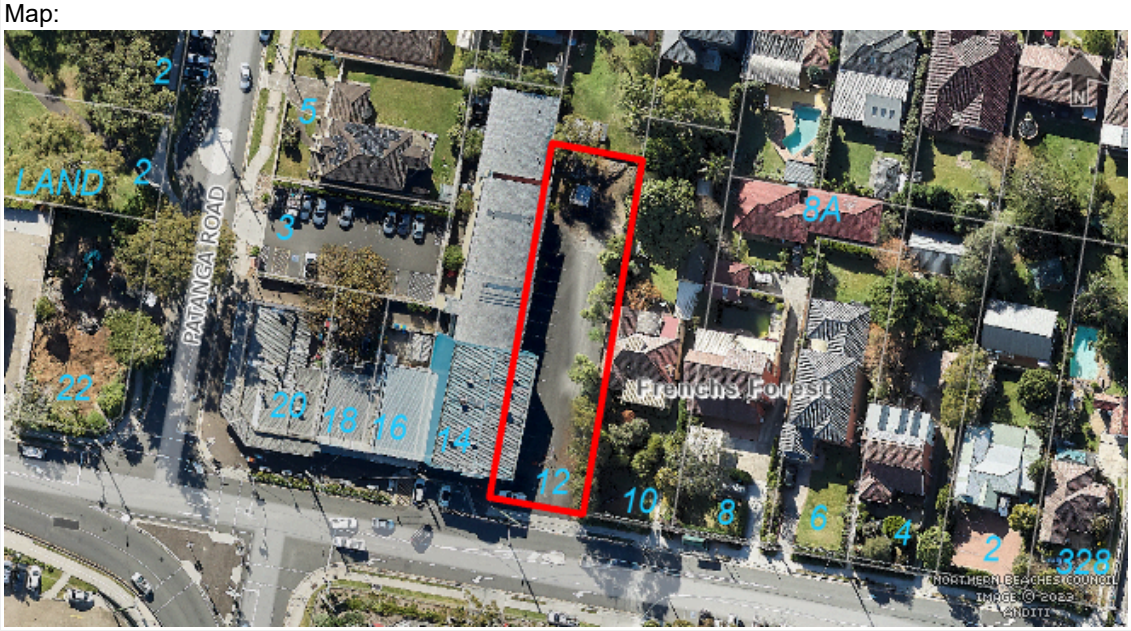
Warringah Local Environmental Plan 2011 - Zone E1 Local Centre
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - C3(A) Bicycle Parking and End of Trip Facilities
Warringah Development Control Plan - D3 Noise

SITE DESCRIPTION

Property Description:	Lot 2 DP 209752 , 12 Frenchs Forest Road East FRENCHS FOREST NSW 2086

Detailed Site Description:	The subject site consists of one allotment located on the northern side of Frenchs Forest Road East within the Frenchs Forest locality. The site is rectangular in shape with a frontage of 16.67 metres (m), a depth of 66.715m and a surveyed area of 1,111.5 square metres (sqm). The site is located within the E1 Local Centre zone and is currently occupied by a car park. However, at present, access to the site is prevented from construction fencing along the front boundary. Vegetation on the site is limited to a 15m tall canopy tree within the front portion of the site, with the truck being located on the eastern boundary and also partially located on 10 Frenchs Forest Road East (eastern adjoining property). An overground landscaped mound is situated within the rear portion of the site behind the car park. The site experiences a gradual fall of approximately 4.4m that slopes away from the front boundary to the rear boundary, representing an approximate slope of 3.8 degrees. The site is not environmentally constrained and is not burdened by any easements or restrictive covenants. The site benefits from a 1m wide drainage easement that permits stormwater drainage through the downslope adjoining property (87 Dareen Street) along the eastern boundary of this downslope property. The subject site is located on the easternmost edge of the E1 Local Centre zone. Development to the west of the site is also within the E1 zone and consists of commercial and retail tenancies that form part of a local centre that is known as the Skyline Shops. To the east and north of the site is land zoned R2 Low Density Residential, which accommodates one to two storey detached low density residential development (i.e. dwelling houses) within landscaped settings. On the opposite side of Frenchs Forest Road East to the south of the site is a KFC restaurant located within the SP4 zone. Northern Beaches Hospital is located approximately 970m to the west of the site. Opposite the site 35m to the south-east are 20 parallel on-street car parking spaces along Frenchs Forest Road East.

Map:



SITE HISTORY

The land has been occupied by an informal carpark for an extended period of time.



Figure 2 - Subject site showing open carpark, with local centre extending to the west

A search of Council's records has revealed no recent or relevant approvals on the site.

PRE-LODGEMENT MEETING PLM2024/0119 WHICH RELATES TO THE PROPOSED DEVELOPMENT

The applicant undertook a Pre-lodgement Meeting (PLM) with Council staff to discuss the re-development of the site (PLM2024/0119) for the purposes of a medical centre.

The medical centre that was the subject of the PLM was taller, bulker and did not step down with the slope of the land as substantially when compared to the current proposed development (see **Figure 3**).

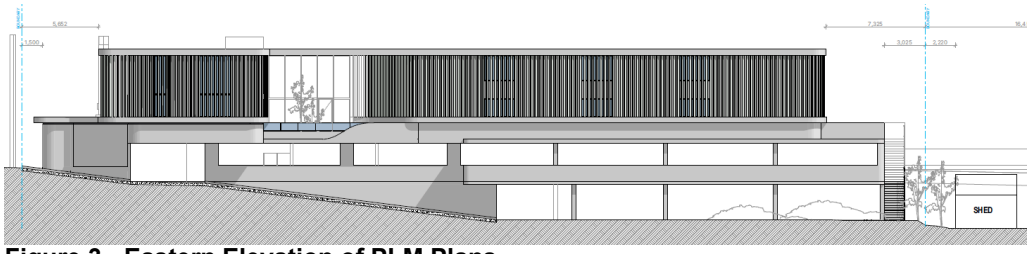


Figure 3 - Eastern Elevation of PLM Plans

The written minutes of the PLM concluded as follows:

"The building has too much floor space that will lead to poor amenity outcomes along the interface with No.14 French Forest Road East, behind the front section where there are open walkways and office outlook toward the existing carpark area. A more suitable design would mirror image this office walkway space to enable sunlight, landscaping and spatial separation between the two buildings.

Additionally, the building bulk and scale will adversely impact No.10 French Forest Road East. Privacy and solar amenity impacts are unsatisfactory with the non-compliant height and building envelope contributing to low of amenity.

In summary, without substantial redesign of the parking, height, reduced floor area and changes that complement the interface with No.14 and No.10 the proposed scheme is not supportable".

The applicant has made substantial amendments to the proposal to respond to the written minutes of the PLM and the Request for Further Information letter for the current Development Application.

CURRENT DEVELOPMENT APPLICATION HISTORY

Following the preliminary assessment of the application, which included a site inspection, Council wrote to the applicant in the form of a Request for Information (RFI) raising the following concerns with the development:

- The extent of the building height non-compliance was not supported as the parapet level, which exceeded the height limit, was taller than the parapet level of the western adjoining commercial building at 14 Frenchs Forest Road East.
- The development did not include an appropriate landscaped buffer along the eastern boundary to maintain adequate residential amenity to the adjoining low density residential development on 10 Frenchs Forest Road East.

- Privacy attenuation measures were not included along the western side of the building to conserve the amenity of commercial development to the west.
- The proposal originally intended to have waste collection during operational hours, which would result in conflicts with patrons and staff of the medical centre. There was also inadequate information in the Operational Waste Management Plan (OWMP) to demonstrate how medical waste would be managed. The waste room was also enlarged.
- The applicant had not provided a schedule of finishes and colours for the external treatment of the building.
- A Preliminary Site Investigation to assess land contamination was requested given the historical use of the site as a car park.

The applicant subsequently amended the Development Application pursuant to Section 37 of the Environmental Planning and Assessment Regulation 2021 as follows:

- The overall building height was reduced to ensure the parapet level was commensurate in height with the commercial development at 14 Frenchs Forest Road East.
- A landscaped buffer between 0.5m and 2.33m wide with planting was proposed along the entire eastern boundary to provide a suitable landscaped buffer between the development and adjoining R2 zoned land to the east. This resulted in a reduction in 2 car parking spaces, which was supported by Council's Traffic Engineer.
- A revised OWMP was submitted to specify what type of waste truck would access the site, specified how medical waste would be managed and collected and the applicant stipulated that waste collection will occur outside of operational hours to minimise traffic conflicts with patrons and staff (this is enforced by a recommended condition of consent).
- Fixed privacy screening was proposed on the western elevations of the courtyards to Tenancy 4 and the applicant confirmed that all west-facing windows on Tenancy 4 have 1.8m high window sills to conserve the amenity of commercial development to the west.
- A Preliminary Site Investigation to assess land contamination was submitted for assessment.
- A schedule of finishes and colours for the external treatment of the building was provided.
- While not requested by Council, end of trip facilities and bicycle parking facilities were included in the development.

The amended application constitutes a reduced environmental impact. As such, re-notification of the proposal was not required pursuant to the Northern Beaches Community Participation Plan. Notwithstanding, all those that made a submission were informed of the amendments via written correspondence.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 (WDCP) applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended Architectural Plans, a revised Operational Waste Management Plan and a Preliminary Site Investigation. The additional information was subsequently received to Council's satisfaction. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the significant 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 Environmental Planning Instruments, WDCP and Referral Bodies sections in this report. The assessment has concluded that the environmental impacts of the development are acceptable and can be appropriately managed in perpetuity by the implementation of the recommended conditions of consent. (ii) **Social Impact** The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. Positive social impacts would be incurred as a result of the provision of a medical centre for residents within the locality to use, hence reducing the demand and waiting periods on the Northern Beaches Hospital. (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. The proposal will result in minor economic impacts on the locality through the provision of construction jobs, operational jobs and a $9.47 million capital investment into the Northern Beaches local government area.
Section 4.15 (1) (c) – the suitability of the site for the development	The site does not have any physical or environmental constraints that would render it unsuitable for the purposes of a medical centre that is of this size, scale and intensity.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 16/10/2025 to 30/10/2025 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 13 submission/s from:

Name:	Address:
Monir Safaee	8 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Ms Ying Sun	83 Dareen Street FRENCHS FOREST NSW 2086
Mrs Nicola Helen Campbell	89 Dareen Street FRENCHS FOREST NSW 2086
Mr Grgo Matana	6 Inverness Avenue FRENCHS FOREST NSW 2086
Mr Michael Paul Atkinson Mrs Katharine Atkinson	96 Irrubel Road NEWPORT NSW 2106
Hanhui Yan	1 / 14 Frenchs Forest Road East FRENCHS FOREST NSW 2086
IH Holdings Pty Ltd	12 / 14 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Skyline Pharmacy	16 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Mr Samir Abagi	2 Bangar Close KILLARNEY HEIGHTS NSW 2087
Mr William Geoffrey John Ryder	77 Bungan Head Road NEWPORT NSW 2106
Mr Joshua Agresta	10 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Withheld	FRENCHS FOREST NSW 2086
Life Property Group Pty Ltd	14 William Street BROOKVALE NSW 2100

Of the 13 submissions received, one (1) submission supported the proposal and 12 submissions objected to the development. One of the objections was received after the public exhibition period and therefore, is not counted as a submission pursuant to Schedule 1, Clause 15 of the EP&A Act. However, the concerns raised have been considered as part of the assessment.

The following concerns were raised in the submissions that objected to the development:

- **Building Height Non-Compliance**

  The submissions raised concerns that the development exceeded the 8.5m height of buildings development standard under Clause 4.3 of the WLEP 2011.

  Comment:

  This matter is discussed in detail within the section of this report relating to the Clause 4.6 of the WLEP 2011. In summary, while the development exceeds the height limit, the applicant's Clause 4.6 variation request has demonstrated that compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify a variation to the height standard. It is important to note that the parapet height of the development is the same height as the lower parapet level of the commercial building that adjoins the site to the west at 14 Frenchs Forest Road West, thereby resulting in a contextually appropriate development in terms of scale.

- **Privacy Impacts**

The submissions raised concerns that the development will result in unacceptable visual privacy impacts.

Comment:

As detailed within the section of this report relating to 'Current Development Application History', the applicant has made amendments to the western elevation of the development to provide suitable amenity to the occupants of the commercial building to the west. Additionally, the glazing on the eastern elevation contains screening along the entire elevation to mitigate privacy impacts to the eastern adjoining property, while the north-facing roof garden is setback 7.325m from the rear boundary and contains a planter box along the rear elevation, which will prevent unacceptable privacy impacts to the rear adjoining property due to the appropriate building separation and use of planter boxes (while not being solely relied upon for maintaining privacy). For these reasons, the development will not result in unacceptable visual privacy impacts.

- **Overshadowing**

The submissions raised concerns that the development will result in unacceptable overshadowing impacts.

Comment:

Council's assessment of solar access and overshadowing is guided by Section D6 of the WDCP, which stipulates that the required private open space (i.e. 30sqm of private open space) on adjoining properties must maintain 3 hours of sunlight between 9am-3pm on June 21. There is no requirement under the WDCP to assess overshadowing of the adjoining commercial development to the west and south of the site.

The shadow diagrams submitted with the application reveal that the private open space on the surrounding residential properties to the north and east will continue to enjoy compliant levels of sunlight in accordance with Section D6 of the WDCP. In this regard, the overshadowing impacts are acceptable.

- **Operational Noise Impacts**

The submissions raised concerns that the proposal will result in unacceptable operational noise impacts.

Comment:

This is discussed in detail within the section of this report relating to Section D3 of the WDCP. In summary, the predicted noise levels from the development complies with the noise criteria under the Noise Policy for Industry 2017. Suitable conditions are recommended to ensure that compliance is maintained. In this regard, the operational noise impacts are acceptable.

- **Loss of Vegetation**

The submissions raised concerns regarding the loss of vegetation.

Comment:

The Arborist Report submitted with this application confirms that all trees within the proximity of the development can be retained. Council's Landscape Officer concurs with the conclusions of the Arborist Report. Vegetation on the site will also be enhanced through the provision of new tree and shrub planting on the site, as detailed on the Landscape Plans.

- **Traffic Impacts**

  The submissions raised concerns that the development will result in unacceptable traffic impacts.

  Comment:

  The assessment of the likely traffic volumes caused by the proposal is guided by the NSW Government's documented title 'Guide to Transport Impact Assessment: Technical guidance for transport practitioners (2024)' (GTIA).

  Based on surveyed data of other medical centres in NSW across both metropolitan Sydney and regional NSW, the GTIA assumes that the proposed development will generate a peak traffic load of 94 vehicle trips per hour (i.e. 47 trips in and 47 trips out of the site) during the peak hour. Council's Traffic Engineer has noted that this is an assumed maximum rate based off the gross floor area of the development and that the likely volumes will be less when all consulting rooms are not operating concurrently will be much less than 94 vehicle trips. Council's Traffic Engineer has not raised any concerns in relation to the traffic generation and is satisfied that the road network has adequate capacity to cater for the predicted traffic volumes.

  It is important to note that the site is very well connected to the regional road network, with Warringah Road being in very close proximity to the site.

- **Inadequate Off-Street Car Parking**

  The submissions raised concerns that the development does not provide adequate off-street car parking to service the development.

  Comment:

  This matter is discussed in detail within the section of this report relating to Section C3 of the WDCP. In summary, while there is a 7 space shortfall in off-street car parking, the shortfall is assessed as being acceptable by Council's Traffic Engineer given the site is located in close proximity to various parallel public car parking spaces (total of 32 spaces) within Frenchs Forest Road East and Patanga Road, all of which are located within 100m walking distance from the site.

- **Structural Impacts on Adjoining Buildings**

  The submissions raised concerns that the development will impact upon the structural integrity of adjoining buildings.

  Comment:

  To safeguard this issue, suitable conditions are recommended requiring dilapidation reports to be prepared prior to and post construction on the properties that adjoin the excavation. Dilapidation reports will assist should there be any structural impacts on adjoining buildings.

- **Site Suitability**

  The submissions raised concerns that the site is not suitable for the proposed development.

  Comment:

  The site does not contain any significant constraints that would preclude the carrying out of the development. Moreover, the use of the land for a medical centre is permissible with consent in the E1 Local Centre zone and the development has been designed with a suitable landscaped buffer along the eastern and northern boundaries to provide suitable amenity to the adjoining detached dwelling house development that adjoins the site to the east and north. Overall, the assessment concludes that the site is suitable for the proposed development.

- **Loss of Outlook**

  The submissions raised concerns that the development will obstruct existing outlooks from the adjoining commercial building at 14 Frenchs Forest Road East.

  Comment:

  As discussed within the section of this report relating to Clause 4.3 of the WLEP 2011, the proposal does not result in adverse view loss.

The concerns raised within the submissions have been addressed above and resolved by the recommended conditions of consent where appropriate. The concerns do not warrant refusal of the application or further amendments to the application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	***RECOMMENDED CONDITIONS PROVIDED*** **General Comments** This application is seeking consent for the construction of a commercial building to include a medical centre, ancillary tenancies, cafe, landscaping and associated carparking. Excavation is proposed to a depth of 4.1m approx., below ground level. A Preliminary Site Investigation was undertaken and a report prepared by Assessment Corp dated 3/3/2026. The report concluded the site is suitable for its intended use subject to conditions. Environmental Health has provided suitable conditions of consent to cover relevant issues. **Recommendation** Conditions provided.

Internal Referral Body	Comments
Environmental Health (General)	***RECOMMENDED CONDITIONS PROVIDED*** **General Comments** An acoustic report accompanies the proposal and outlines how the development with comply with required noise level. The proposal is supported with relevant conditions of consent **Recommendation** APPROVAL - subject to conditions
Landscape Officer	***RECOMMENDED CONDITIONS PROVIDED*** The application seeks consent for: Construction of a Medical Centre. The Landscape Plans prepared by Eco Design and Arborist's Report prepared by Tree Management Strategies are noted. The Arborist's Report assess impacts on 16 trees located on adjoining properties. The Report concludes that due to existing site conditions and proposed levels, the tree can be retained with an acceptable level of impact, subject to Arboricultural supervision: Extensive correspondence, meetings and design changes have occurred to ensure neighbouring trees are not affected by the proposed development. The current theoretical root systems of neighbouring trees are covered with asphalt from an existing unused carpark. The new design is built above the existing ground level to ensure no tree impact until the excavation for the basement commences outside the root systems of assessed trees, refer to the Tree Impact Plan (Appendix 2) and the Elevations Plan (Appendix 3). The stormwater design was also aligned to outside of tree root systems. The Landscape Plans indicate provision of screen planting trees (*Waterhousea floribunda* 'Sweeper') to 10m height along the eastern boundary. Due to the proposed entry drive and carparking arrangement, a continuous screen along the boundary is not able to be accommodated. Additional screening could only be accommodated in the rear portion of the site if carparking along the eastern boundary were deleted. The proposed trees however, provide dense foliage and height along the boundary. The rear of the site contains other screening trees, *Elaeocarpus eumundi*, which also grow to around 10m height. If the proposal is to be approved based on the submitted plans, conditions have been provided for inclusion.

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***RECOMMENDED CONDITIONS PROVIDED*** The comments in this referral relate to the following applicable controls and provisions: • NSW Biodiversity Conservation Act 2016 • Biosecurity Act 2015 The proposed development would take place on a highly disturbed lot with no remnant vegetation. Impacts to native flora and fauna are unlikely. As a landscaping planting schedule has been provided, conditions will be recommended to ensure that no plants identified as weeds are introduced to the site. The development is designed, sited and will be managed to avoid any significant adverse environmental impact.
NECC (Development Engineering)	***RECOMMENDED CONDITIONS PROVIDED*** The proposal is for the construction of a Medical Centre. The stormwater plan proposing discharge to an easement benefiting the site with the provision of OSD and treatment measures are acceptable subject to conditions. It is noted Council's Traffic Team have provided conditions for the proposed vehicle crossing and public domain works. No objections to approval subject to conditions as recommended.
NECC (Water Management)	***RECOMMENDED CONDITIONS PROVIDED*** The application has been assessed with reference to the following: • Supplied plans and supporting documentation • Northern Beaches Water Management for Development Policy (WMD Policy) • Relevant provisions of the Local Environmental Plan (LEP) and Development Control Plan (DCP) • State Environmental Planning Policy (Resilience and Hazards) 2021 The proposed stormwater management strategy, which incorporates principles of stormwater conservation and filtration, is considered satisfactory. The Environment and Resilience team has reviewed the proposal and raises no objection on water management grounds.

Internal Referral Body	Comments
Strategic and Place Planning (Urban Design)	***NO CONDITIONS PROVIDED*** This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment. The site is currently a car parking area within the E1 Local Centre zone under the Warringah LEP. The site is bordered by detached residential dwellings to the north and east, while to the west, it adjoins Skyline Shops, with adjacent development extending to the rear boundary. The proposal seeks approval for the construction of a three-storey medical centre with undercroft parking and an integrated café. Urban Design has no objection to the proposal. **Previous Urban Design comments:** Urban Design may be in a position to support the proposal if the following issues are addressed: 1. Provide a schedule of finishes and colour for the external treatment of the building (not an indicative version as submitted). Provide detail description of the privacy screen proposed on the eastern and southern facades of the building. 2. Address privacy issues to neighbouring properties on the west boundary along the boundary parapet wall and fire rating requirements to the area that is set back 1.5m on the first floor plan. A suggested solution could be increasing the fire rated parapet wall to resolve the privacy and fire rating issues. **Previous Pre-lodgement Meeting comments:** 1. Height: The proposal exceeds the 8.5m height limit, creating several challenges, particularly in terms of reducing the amenity of the adjoining residential property to the east. This conflicts with the Warringah DCP (F1 Development requirement), which mandates that developments adjacent to residential land should not diminish the amenity enjoyed by neighbouring residents. 2. Bulk and Scale: The proposal's reduced setbacks exacerbate the building's bulk, resulting in a long, three-storey development that significantly overshadows and overlooks the adjacent residential properties to the north and east. To mitigate these impacts, the upper floor should be substantially reduced from the north side to approximately halfway to remain within the height limit. Additionally, the setbacks need to be re-evaluated to ensure appropriate separation, reduce visual bulk, and minimise impacts on neighbouring areas. (WDCP D9, Building Bulk) 3. Setbacks: The proposal includes setbacks to the adjoining residential properties to the north and east; however, the 2.3m deep soil zone area should be increased to 3m to accommodate proper planting for enhanced privacy. Furthermore, the rear 3m setback from the boundary should remain free of any structures. Currently, the west boundary features 0m setbacks adjacent to the skyline shops, which results in a loss of amenity in these areas. It is recommended that the development reconfigure its layouts to minimise impacts on neighbouring properties. (WDCP D8, privacy) **Please note:** Regarding any view impacts and any impacts on solar amenity and overshadowing these matters will be dealt with under the evaluation of Council Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the

Internal Referral Body	Comments
	evaluation of Council Heritage Officer, and any Landscape non-compliances will be dealt with under the evaluation of Council Landscape Officer.

Internal Referral Body	Comments
Traffic Engineer	***RECOMMENDED CONDITIONS PROVIDED*** The proposal for the construction of a multi-storey building to be used for medical practice and with an ancillary cafe in Tenancy 1. The medical practice component of the proposal is for a full fit out and use of Tenancy 4 with 6 consulting rooms, Managers Office, Nurses room and waiting area. The remaining tenancies 2,3,5, and 6 show a core fit out and subject to future requirements, which indicates these will be sub let in future and their end use could potentially change subject to the commercial agreement of the lease. A prelodgement was held for this proposal on 29 October 2024 with comments provided on the requirements to comply with the Traffic and Transport component of the development. There are several components to the design that has been submitted for approval that differ from the prelodgement package that need to be considered as part of this assessment. **Parking** The proposed development comprises multiple tenancies that need to be assessed based on the proposed use shown on the plans at the time of submission. The assessment has been undertaken based on all the nominated GFA being classified medical centre and the proposed future cafe being an ancillary use to the primary use of the medical centre. Two scenarios were considered as part of the initial assessment using the various parking rates in the Warringah 2011 DCP as follows: 1. Tenancy 1 Cafe - 27m² needing 5 spaces Tenancy 2 Consulting rooms 3+reception 129m² needing 9 spaces Tenancy 3 Consulting room 1 self contained needing 3 spaces Tenancy 4 Medical Centre (Proposed) 226m² needing 10 spaces Tenancy 5 Consulting rooms 3+reception 148m² needing 9 spaces Tenancy 6 Professional Office 40m² needing 1 space This approach shows a requirement of 37 parking spaces for the development. 2. The whole development was assessed as medical centre under the Warringah 2011 DCP, requiring 31 parking spaces to be provided. The development is proposing to provide 26 parking spaces in total split between 10 medical centre staff spaces (Mezzanine Floor), 2 cafe staff spaces and 14 patient parking spaces (Ground Floor), across two levels of parking beneath the proposed building. This still has a deficiency of 5 spaces on the conservative assessment model or 11 on the varied use option model. Additional public domain works will be conditioned to allow safe access across Frenchs Forest Road East to the closest available public parking. It is noted that the proposal provides 2 marked motorcycle bays on the ground floor plan with the potential for two more near the turning bay on the same level. An ambulance bay is provided adjacent to Tenancy 1 on the access ramp to the mezzanine carpark with direct access to the lift well.

Internal Referral Body	Comments
	There is no bicycle parking shown on the plans submitted, with the development required to provide 6 bicycle parking spaces to comply with the requirement of the Warringah 2011 DCP. There may be an option to include these across the major tenancies for staff and to have a suitable number of public accessible bike racks provided within the public domain at the frontage of the subject property. **Traffic Generation** The Transport Impact Assessment provided to support the application does not provide any proposed traffic generation for the development. By default the proposal can be considered on its merit based on the information contained in the TfNSW Guide and the plans provided. Based on the potential for a minimum of 14 consulting room equivalent spaces across all tenancies and still using the cafe space as an ancillary use the development is likely to generate a peak trip load of 94 VTPH in the peak hour. It should be noted that this is the maximum based on the floorspace calculation and is likely to be higher than operational use as stated in the TIA provided that not all consulting rooms will be operational at all times. **Network Impact** The impact on the adjoining road network has been considered and assessed based on the available data held by Council as there is no information included in the TIA to address the increase in traffic and transport demand generated by the proposed development. It has been estimated based on the Transport for NSW calculation method that the development would generate 94 trips in the peak hour if operating at peak capacity. There are safety concerns that the turning movements out of the proposed development may increase the likelihood of accidents at this location, given the number of conflicting vehicle movements the applicant will be required to install central median on Frenchs Forest Road East to create a left in left out only regime for vehicles using the proposed driveway. **Active Transport** The applicant has not proposed any end of trip facilities for staff using active transport to travel to work, however it is noted that Tenancy 4 has an internal capability for staff to shower and change, however there is no detail in the other tenancies or in the common space. Bicycle parking is dealt with above in the Parking section. The applicant is to provide a raised pedestrian crossing immediately to the east of the existing pedestrian refuge (to be demolished and removed) to allow customers to park in the public parking on the southern side of Frenchs Forest Road East and safely access the subject property. **Access** The application is supported by an access report, which covers off the pedestrian accessibility issues, and the actions contained within it need to also be taken into account for works within the road reserve.

Internal Referral Body	Comments
	Vehicle access to the proposed development has bee assessed to comply with the intent of AS2890, however the turning path assessment for the MRV service vehicle is not accepted as safe and will need to be submitted once the changes to the public domain have been designed and considered in how the vehicle can achieve safe access, especially when the volume of passing traffic is taken into account. The proposed development is supported subject to changes in the provision of public domain infrastructure and consent conditions provided. **Assessment Officer Comment:** The plans have since been amended to include end of trip facilities and bicycle parking following the issuance of the Traffic Engineering referral comments.

Internal Referral Body	Comments
Waste Officer	***RECOMMENDED CONDITIONS PROVIDED*** **20/4/2026 Updated Waste Referral Response** Updated plans and letter from Wastefree, a commercial waste and recycling collection company confirm that the site can be serviced by a 6.4m long, 2.2m high small rigid vehicle. A turning bay has been allocated on the plans for waste and ambulance vehicle turning. Bin sizes have been reduced to 660l and the waste room is sufficient to house the bins for the development. Waste rooms should be free of any services or pipes other than a tap to facilitate washing of bins. A sink is not to be included in the waste room. **14/10/2025** More detailed information is required to assess this DA2025/1403 in relation to commercial waste collection for a medical centre. The Elephants Foot Operational Waste Management Plan dated 18/07/2025 Report No. 6293 Revision C states that- 5.4 WASTE COLLECTION PROCEDURES A private waste contractor will be engaged to service the general waste and recycling bins as per an agreed collection schedule. This report assumes that general waste is collected twice weekly and recycling is collected twice weekly. On the day of service, a private waste collection vehicle will enter the site from Frenchs Forest Road East and park in the loading bay. The building manager/caretaker will provide the driver with access to the commercial/retail bin room. Once the bins are serviced, the collection vehicle will exit the site onto Frenchs Forest Road East in a forward direction. This conflicts with the site plans showing a waste truck parking in the waste dedicated loading bay which is the same entry/exit driveway to the basement carparking level with the waste bin room located on the mezzanine level. There is no provision to turn around if the truck drives into the driveway in a forward direction, to then be able to drive back out in a forward direction, the waste truck will either have to reverse in and drive out, or drive in and reverse out, neither is a good outcome due to traffic travelling on Frenchs Forest Road East and vehicles entering/exiting the basement carpark at this development with a conflicting parked waste truck and vehicles entering exiting the driveway. It is unknown if there is any height restrictions of the building at this loading bay area to be able to service 1100L waste bins with a front lift waste truck. Require the height dimensions at this location if there is any overhang of the building to ensure clearance. The site plans attached for DA2025/1403 show a waste bin room on the mezzanine level, however there are no dimensions to ensure that 4 x 1100L bins will fit in this room with space around the bins to manoeuvre the bins in and out to service the bins. It states the door width is 1500mm wide and is required for large bins. Further as per the Elephants Foot OWMP Medical waste must be managed and disposed of in accordance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 2005.

Internal Referral Body	Comments
	If a medical waste room is provided with a development, the medical waste room should strive for best practice waste room storage as outlined in Waste Management Association of Australia, Biohazardous Waste Industry Group's Manual for the Management of Biohazardous Waste, 6th edition 2010, which is as follows: • Storage area base is an impervious surface surround by a bund appropriate to • contain any spill •All loading/unloading takes place within the bunded area in such a manner to ensure • any spills are appropriately managed • The base and walls of bunded areas are free of gaps or cracks • Where vehicular access to the bunded area is required, bunds are constructed to • prevent them from being damage by vehicles • Signage is posted with the biohazard symbol and other labelling appropriate to the • types of waste stored in that area • The bunded area drains to a sump or sewer to collect spills and wash water. • If any refrigerator facilities are provided, they shall be contained within a secure area As this development proposes medical rooms, pathology and a GP practice as well as a café, the medical waste as above will require compliance and adequate disposal of sharps, bio-hazardous material and photo-imaging x-rays etc in separate bins which are clearly labelled and collected by a commercial waste contractor, there is no provision in the current waste bin room for these types of waste bins and collection, please provide this information and detail as per above medical waste requirements for a bin room.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	***RECOMMENDED CONDITIONS PROVIDED*** 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)

Housing and Productivity Contribution

The Housing and Productivity Contribution Order (HPCO) applies as the proposal is located within the Greater Sydney Area.

The HPCO indexed rates specify that $32.44 per sqm of gross floor area shall be levied for commercial development. The proposal has 778.7sqm of gross floor area and therefore, a condition is recommended requiring $25,261.03 to be paid pursuant to the HPCO.

SEPP (Sustainable Buildings) 2022

Chapter 3 - Standards for non-residential development

Chapter 3 of State Environmental Planning Policy (Sustainable Buildings) 2022 (SB SEPP) applies as the proposal involves the erection of a new building with a capital investment value of over $5 million and the development is not expressively excluded from the application of Chapter 3 as specified in Section 3.1(2) of the SB SEPP.

As assessment against the relevant provisions of Chapter 3 of the SB SEPP is provided below as follows:

(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—
(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,
(b) a reduction in peak demand for electricity, including through the use of energy efficient technology,
(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,
(d) the generation and storage of renewable energy,
(e) the metering and monitoring of energy consumption,
(f) the minimisation of the consumption of potable water.

Comment:

The assessment has considered the matters (a) to (f) above and concludes that the development has been designed to incorporate these matters, as annotated on the plans and described within the OWMP, Construction and Demolition Waste Management Plan and NABERS Embodied Emissions Material Form submitted with this application.

(2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

Comment:

As detailed above, the NABERS Embodied Emissions Material Form has quantified the embodied emissions attributable to the development.

3.3 Other considerations for large commercial development
(1) In deciding whether to grant development consent to large commercial development, the consent

authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.

Comment:

The application is not a 'large commercial development' as defined by the SB SEPP.

Conclusion

The development complies with the relevant provisions of the SB SEPP.

SEPP (Transport and Infrastructure) 2021

Division 5 - Electricity transmission or distribution

Section 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP) requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Given the proximity to electricity power lines, the proposal was referred to Ausgrid. Ausgrid have reviewed the application and raised no objections to approval, subject to conditions of concurrence which have been included in the recommendation of this report.

Division 10 - Health services facility

Section 2.60 of the TI SEPP states that a health services facility, which includes a medical centre as per the Standard Instrument definition, may be carried out within the E1 Local Centre zone. A medical centre use is also permitted with consent within the E1 Local Centre zone under the WLEP 2011.

There are no other applicable provisions under Division 10 of the TI SEPP to consider as part of this assessment.

SEPP (Industry and Employment) 2021

Chapter 3 – Advertising and Signage

Chapter 3 of State Environmental Planning Policy (Industry and Employment) 2021 (IE SEPP) applies as the proposal includes new signage on the front facade (see **Figure 4**).

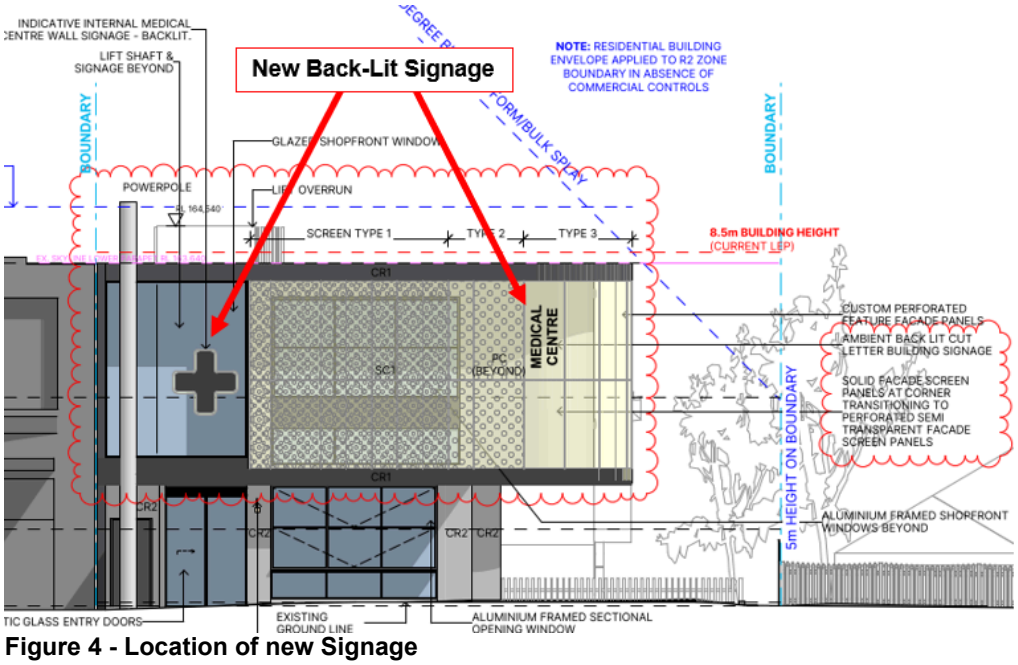


Figure 4 - Location of new Signage

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the IE SEPP and to assess the proposal against the assessment criteria of Schedule 5.

The objectives of this chapter aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 5 of Chapter 3, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is consistent with the theme of a medical centre and consistent with what could be expected within the E1 Local Centre zone.	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is no prevalent theme of signage in the locality; however, the signage is consistent with the theme of a medical centre and consistent with what could be expected within the E1 Local Centre zone.	Yes
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The signage does not protrude above the building facade and integrates well into the facade, such that it will not detract from the visual amenity of the locality.	Yes

3. Views and vistas Does the proposal obscure or compromise important views?	The signage does not obscure view corridors.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	The signage does not dominate the skyline.	Yes
Does the proposal respect the viewing rights of other advertisers?	The signage respects the viewing rights of other advertisers within the Skyline Shops.	Yes
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the signage is appropriate within the streetscape and the illuminated components are acceptable as they are minor in the context of the overall facade and orientated towards the south, which is away from the adjoining residential zoned land to the east and north.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage will provide visual interest to the building, while not resulting in adverse impacts to residential receivers due to its location, modest size and orientation being away from residential receivers.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	N/A	N/A
Does the proposal screen unsightliness?	N/A	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage does not protrude above the building facade.	Yes
Does the proposal require ongoing vegetation management?	No.	Yes
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The signage is appropriate in the context of a medical centre in the E1 Local Centre zone and has been designed to have regard to the amenity of the adjacent residential receivers to the east and south.	Yes
Does the proposal respect important features of the site or building, or both?	The signage integrates well into the facade of the building.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is consistent with what could be expected for a medical centre in the E1 Local Centre zone.	Yes
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The signage identifies the building as a medical centre.	Yes

7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The signs are back-lit but do not contain significant illuminated components. A condition is recommended to require the illumination to cease when the medical centre is not in operation.	Yes
Can the intensity of the illumination be adjusted, if necessary?	The signs are back-lit but do not contain significant illuminated components. A condition is recommended to require the illumination to cease when the medical centre is not in operation.	Yes
Is the illumination subject to a curfew?	Yes, see above.	Yes
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	Subject to compliance with the above-mentioned condition, the illuminated components will be acceptable.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage does not reduce sightlines from public areas.	Yes

Accordingly, the proposed signage is consistent with Chapter 3 of the IE SEPP including its underlying objectives.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP) applies to the site pursuant to Clause 4.4 and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 4.6 of the RH SEPP requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.

A Preliminary Site Investigation (PSI) prepared by Assessment Corp Pty Ltd, dated 3 March 2026 was submitted for assessment. The PSI undertook soil sampling across various locations on the site including the car park location via boreholes and via the vegetated mound/stockpile at the rear of the site.

The PSI identified low levels of total recoverable hydrocarbons, polycyclic aromatic hydrocarbons and heavy metals in the soils, with all results being below the relevant human health and ecological criteria. Therefore, the PSI concluded that the concentrations identified do not present human health or ecological risk and that the site is suitable for the proposed medical centre land use.

The PSI recommends that the following be carried out during construction works:

- An unexcepted finds contingency plan / protocol be undertaken that undertakes further assessment in the event that material with visual and / or olfactory indications of contamination are identified.

- Further waste classification sampling by a suitable environmental scientists and analysis be undertaken prior to any material in-situ being taken off-site.

Council's Environmental Health Officer (EHO) has reviewed the application and is satisfied that the PSI has appropriately assessed contamination and that no remediation works are required as the site is suitable for the proposed medical centre. The EHO has recommended conditions which reflect the recommendations of the PSI.

Therefore, the proposed development meets the relevant considerations under Chapter 4 of the RH SEPP, subject to conditions.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.81m (parapet) - 11.78m (roof plant screening)	38.59%	**No**

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone E1 Local Centre

The medical centre land use is permissible with consent in the E1 Local Centre zone. The proposal is also consistent with the objectives of the E1 zone, as demonstrated below as follows:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*

  Comment:

The proposal provides a medical centre land use that will provide medical services to meet the needs of people who live, work in or visit the area.

- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

  Comment:

  The medical centre will provide on-going employment opportunities, consistent with this objective.

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

  Comment:

  N/A - the proposal relates to a commercial development.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

  Comment:

  In addition to the medical centre, the proposal provides a tenancy (Tenancy 1) for a future cafe located adjacent to the front boundary to provide an appropriate ancillary retail use in addition to the primary use of the land for a medical centre.

- *To ensure new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

  Comment:

  The cafe tenancy adjacent to the front boundary will provide suitable street activation to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public places.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

  Comment:

  The height of the building is commensurate with the commercial development adjoining the site to the west at 14 Frenchs Forest Road East, and a suitable deep soil landscaped buffer with planting is provided along the eastern and northern (rear) boundaries to provide an appropriate vegetated buffer is provided between the development and the sensitive residential receivers that adjoin the site to the east and north.

4.6 Exceptions to development standards

Clause 4.3 of the WLEP 2011 limits development to a maximum height of 8.5m above the existing ground level.

The proposed development has a maximum height of 10.81m for the parapet level at the rear of the upper floor and 11.78m for the roof plant screening. This represents a 38.59% variation to Clause 4.3 of the WLEP 2011.

The extent of non-compliance is depicted in **Figure 5**.

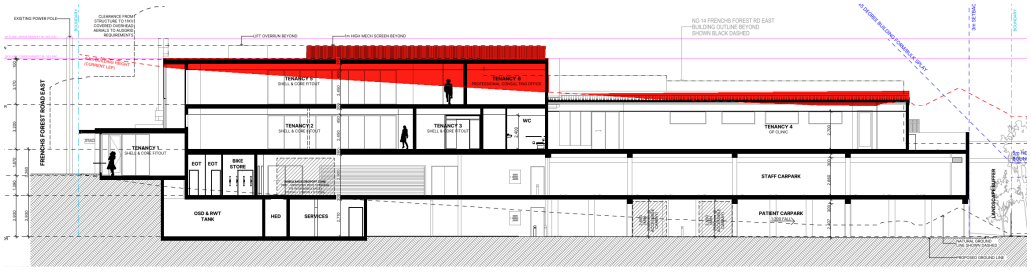


Figure 5 - Long Section showing Building Height Non-Compliance

It is important to note that when the height plane is taken from the levels of the site at the front boundary that the parapet level has a maximum height of 8.4m, which is compliant with Clause 4.3 of the WLEP 2011 (see **Figure 6**).

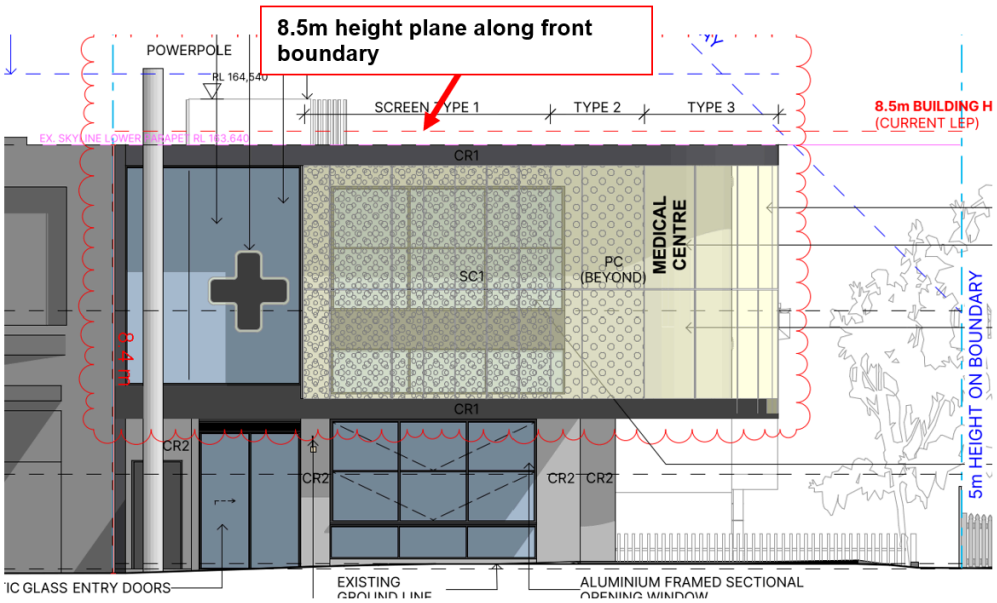


Figure 6 - Height Plane at the front of the site

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 WLEP 2011 (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 of the WLEP 2011 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:

As outlined within the matter of *Wehbe v Pittwater Council [2007] NSWLEC 827*, it was established that in order to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, an applicant must demonstrate either of the following:

- the objectives of the development standard are achieved notwithstanding non-compliance with the standard; or
- the underlying objective or purpose of the standard is not relevant to the development; or
- the underlying objective or purpose would be defeated or thwarted if compliance was required; or
- the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
- the zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.

The applicant's written request seeks to satisfy this requirement by demonstrating that the objectives of the development standard are achieved, notwithstanding the non-compliance.

The applicant's justification can be summarised as follows:

- *"The primary elevation aligns with the adjoining Skyline shops, maintaining a cohesive built form and a height and scale consistent with surrounding commercial development. The built form presenting to the street, is based on organic cues, to soften the bulk and scale presenting to Frenchs Forest Road. The heigh fronting Frenchs Forest Road has been intentionally designed to match the neighbouring commercial building.*
- *The proposed development presents with an appropriate scale for a new commercial premises and the design incorporates a number of measures to alleviate bulk including articulation, a reduced scale to the second floor, a variety of building materials and landscaped areas, resulting in an appropriate transition of scale between the commercial and residential buildings.*
- *The design incorporates a number of privacy measures including an increased side setback to the residential dwelling (east) mirroring the residential building envelope control, a reduced scale on the second floor to retain an appropriate setback to the commercial premises (west) and residential property (north), landscape buffer zones (including planters and roof gardens on the upper levels) and privacy screening.*
- *The subject site and neighbouring properties enjoy a north to rear aspect, ensuring excellent solar access. The solar access assessment provided above, demonstrates that the proposed development will not increase showing to neighbouring properties between 9am and 12pm. No. 10 Frenchs Forest Road will experience an increase in shadowing from 1pm to 3pm and there will be no increase in shadowing to No. 14 on 21 June.*
- *The proposed development is located within an existing commercial area (E1 – Local centre) and in close proximity to the nearby SP4 – Enterprise zoned land. The proposed medical centre remains consistent with surrounding commercial premises and will not adversely impact on the scenic qualities of the surrounding natural environment.*
- *The site and the development are not visible from any significant public places other than Frenchs Forest Road East, from which it will be an attractive addition, providing much needed medical consulting rooms for the locality".*

Assessment Officer Comments:

The assessment officer concurs with the justification provided by the applicant and is satisfied that the objectives of Clause 4.3 of the WLEP 2011 are achieved, notwithstanding the contravention to the height standard. As such, the applicant has demonstrated that compliance with Clause 4.3 of the WLEP 2011 is unreasonable or unnecessary in the circumstances of this application.

For completeness, an assessment against the objectives of Clause 4.3 of the WLEP 2011 is provided below as follows:

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

Comment:

The applicant has amended the proposal during the course of the assessment process to provide a parapet height that is commensurate with the parapet level of the adjoining commercial building on the western adjoining site at 14 Frenchs Forest Road West (**Figures 7-8**).

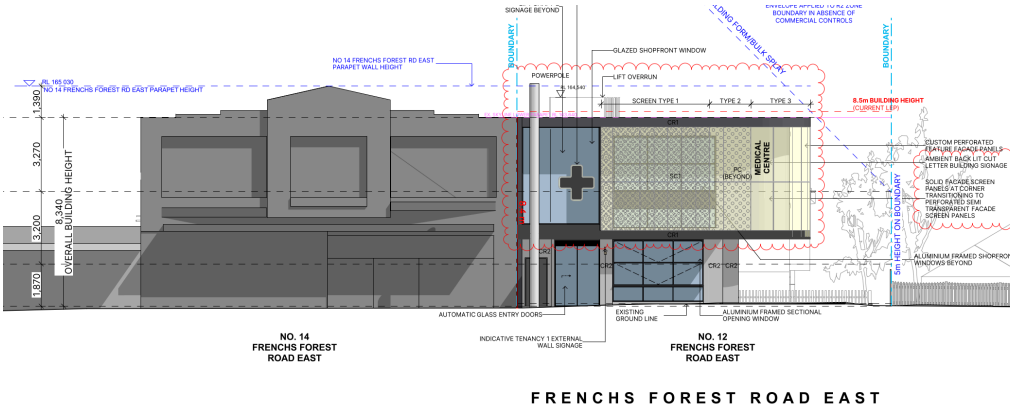


Figure 7 - Street Elevation of the Development and 14 Frenchs Forest Road East



Figure 8 - 3D Streetscape Render of the Development and Adjoining Properties

As demonstrated in **Figures 7-8**, the proposed building will be compatible with the height is scale of the adjoining commercial building and will not be jarring when observed within the streetscape.

In this regard, this objective is satisfied.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The proposal has been designed to minimise visual impacts on the streetscape and adjoining sensitive receivers through providing a building height that is compatible in scale with adjoining commercial development, providing a built form that steps down in height with the slope of the land, providing appropriate building articulation and a mix of external materials to minimise visual bulk, and providing suitable deep soil landscaped zones with planting along the eastern and northern elevations to provide a suitable buffer between the commercial development and adjoining residential development to the north and east.

The proposal also presents with a compliant building height when measured from the levels of the site along the front boundary.

The adjoining residential properties will maintain the required 3 hours of sunlight to 50% of the required private open space (i.e. 30sqm of the private open space), which complies with Section D6 of the Warringah Development Control Plan 2011 (WDCP). As such, the height breach will not cause an unreasonable loss of solar access.

There are also no significant view corridors on surrounding properties (i.e. iconic views, water views, coastline views or headland views), as observed from the site inspection, thereby ensuring that the height breach will not cause unreasonable view disruption.

The privacy of adjoining properties has also been conserved through the provision of privacy screening along the eastern side of the building's glazing, the use of screening to the roof gardens on the western elevation, the use of large building setbacks to the north from the roof garden areas including the use of planter box screening and the use of highline windows on the western elevation.

For these reasons, this objective is achieved.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The subject site does not adjoin any coastal, public open space or bushland conservation zones. In this regard, no adverse impacts are anticipated on these areas, consistent with this objective.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

Comment:

As detailed within the analysis above, the assessment has concluded that the visual impact of the development has been appropriately minimised and that the proposal will not be jarring when viewed within the streetscape.

(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 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.'

Applicants Environmental Planning Grounds

The Clause 4.6 Request argues, in part:

"There are sufficient grounds to permit the variation of the development standard. The development has been considered below with particular reference to the Objects of the Environmental Planning and Assessment Act 1979, which are accepted as the best gauge of environmental planning grounds. In particular:

Detail of Variation

- *The numeric value of the building height proposed is 11.78 metres (lift overrun and roof plant screening) and 10.81 metres (central portion of the building).*
- *The development proposes a variation of 3.28 metres or 38.5% (measured against the current Warringah LEP 8.5 metre height control) and 2.28 metres or 24.5% (measured against the imminent Northern Beaches LEP 9.5 metre height control).*
- *The medical centre will present with a height consistent with the adjoining neighbours, with the overall building height matching the lowered portion of the roofline of the neighbouring Skyline Shops.*

Neighbour Amenity

Fulfillment of each of the criteria below demonstrates a development satisfying Cl1.3(g).

- *The proposed medical centre is appropriately located on land zoned E1 – Local Centre and will provide much needed medical consulting rooms, in a central location, to service the residents of the Northern Beaches.*
- *The building will present with a similar scale to the adjoining commercial building and the design incorporates increased setbacks, a stepped design, a variety of building materials, roof gardens and landscaping, providing a comfortable transition to the adjoining residential dwellings.*
- *The subject site and adjoining properties have a north to rear aspect, ensuring compliant solar access is retained for neighbouring properties, accordingly, compliance with the development standard based on this would be unreasonable.*
- *The proposed height variation has no impact on privacy for neighbours, as the design incorporates a number of privacy measures including an increased side setback to the residential dwelling (east), a reduced scale on the second floor to retain an appropriate setback to the commercial premises (west) and residential dwelling (north), landscape buffer zones (including planters and roof gardens on the upper levels) and privacy screening. As privacy is retained, the variation is reasonable in the circumstances of the case.*
- *The variation is only for a limited portion of the building with a lesser height provided for much of the lengthy site.*
- *A numerically compliant building height would have no material impact to neighbours, accordingly compliance with the development standard in this instance is unreasonable.*

Site Constraints

- *The commercial site is constrained by the existing built form of the neighbouring Skyline shops, a staggered front boundary and a long narrow shape.*
- *The site is constrained by other factors including:*
    - *existing service pits (SW).*
    - *existing forecourt (SW).*

- *natural site grade.*
- *Skyline shops and offices built on boundary and facing boundary.*
- *existing driveway crossover.*
- *existing pram ramp and refuge crossing area.*
- *existing Sydney water main (NE).*
- *existing easement (NE) Dareen St.*
- *Site zoning borders E1 & residential zoning.*

- *The design proposed has carefully considered these site constraints against the need to provide a commercially viable premises in a central location, along with the retention of amenity for the adjoining residential properties.*

Design and Streetscape Appeal

- *The primary building elevation is setback and aligned with the frontage of the existing adjacent Skyline shops, which ties in with the wider urban domain and scale. Tenancy 1 (future café or similar), juts out to activate the street and enhance the overall utility of the street frontage.*
- *The primary building entrance is intentionally setback into the building form and located off an external forecourt area, connecting to the Skyline shops, providing activation to the street and promoting passive surveillance.*
- *The driveway entry ramp is located to ensure a safe interface with the pedestrian crossing point, located to the south east of the site. It has also been designed to ensure a landscape buffer to the neighbouring residential premises.*
- *The design of the building façade is based on organic cues, to soften the bulk and scale whilst employing a sense of movement and wayfinding throughout the building form, leading users towards the primary building entrance.*
- *Edge treatments and incorporating a skin/façade, adds a unique and interesting architectural language, as well as visual relief through light and shade to articulate and reduce perceived building bulk and scale.*
- *The proposed development will not present with excessive bulk from the public domain and remains consistent with surrounding commercial development.*

Consistent with Zone Objectives

- *The extent of the variation is considered to be in the public interest, as the proposal remains consistent with the objectives of the zone, ensuring medical services can be provided for the local community. Compliance with the development standard based on this would be unreasonable.*

Natural Environment

- *The natural environment is unaffected by the proposed building height departure and it would be unreasonable for the development to be refused on this basis*

Environmentally Sustainable Development

- *The proposal represents an environmentally sustainable design allowing and will comply with the relevant constructions standards of the Building Code of Australia, satisfying Cl1.3(f).*

Social and economic welfare

- *The proposed variation to the height, will have a positive social impact, as it will allow for the provision of much needed specialist and medical services for the local area, satisfying*

Cl1.3(b)and accordingly refusal of the development based on this reason would be unreasonable.

- *The variation to the height control will have a positive economic impact, as the resulting building will provide a medical centre and medical consulting rooms, stimulating the economy in the locality, accordingly refusal of the development based on this reason would be unreasonable.*

Appropriate Environmental Planning Outcome

- *The proposed works are not an overdevelopment of the site, as the development satisfies the objectives of the development standard and the scale remains consistent with the adjoining commercial premises.*
- *The variation does not result in a built form or height, beyond that which is found in the locality. The proposed variation will be compatible within the context in which it sits and is reasonable in the circumstances of the case satisfying Cl1.3(c).*
- *Removal of the non-compliance would not substantially alter the perceived bulk and scale due to the thoughtful building design, surrounding buildings and the broader context.*

The environmental planning ground set out above, reflect the unique circumstances for the subject site and proposed development, including an assurance of reasonable bulk and scale and retention of amenity.

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

Assessment Officers Comments:

The environmental planning grounds advanced by the applicant, particularly those that detail how the building will maintain an appropriate visual relationship in scale with the adjoining commercial development to the west, how the non-compliant elements of the building will not cause adverse amenity impacts to surrounding properties, and how the site constraints being the narrow allotment width and adjoining R2 zoned land have required increased setbacks from the R2 land and therefore a taller building to provide a commercially viable development in the E1 zone, are site-specific environmental planning grounds that are appropriately justified and are concurred with.

In this regard, the applicant has demonstrated that there are sufficient environmental planning grounds to justify a variation to the height standard.

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 EP&A Act.

Conclusion

As demonstrated above, the proposed development satisfies the relevant considerations under Clause 4.6 of the WLEP 2011.

Therefore, the contravention to Clause 4.3 of the WLEP 2011 is supported in this instance.

6.2 Earthworks

The development includes significant excavation works to provide the basement components of the development, car parking areas and the vehicular access ramp. Filling within the site is also proposed. As such, Clause 6.2 of the WLEP 2011 is applicable to the assessment.

The assessment finds that the development is consistent with Clause 6.2 of the WLEP 2011 for the following reasons:

- The Geotechnical Assessment (GA) prepared by AscentGeo, dated 2 June 2025 submitted with this application has assessed the geotechnical risk associated with the development. The GIR has concluded that the development will not result in unacceptable geotechnical risk to property and life. The GA has provided engineering recommendations to mitigate geotechnical risk, which are included in the recommended conditions of consent.

- The GA stipulated that no groundwater was encountered during soil testing. As such, the earthworks will not affect subsurface flow conditions.

- Suitable conditions of consent have been recommended to mitigate temporary impacts associated with excavation and construction, namely in relation to noise mitigation, water management and sediment control.

- Suitable conditions of consent are recommended requiring Dilapidation Reports to be carried out on the immediately adjoining properties. This will ensure that any structural damage to properties as a result of earthworks is accounted for, thereby enabling a due process for any rectification works if required.

- The site is not mapped within an area known for containing Aboriginal heritage significance or items of environmental heritage significance. As such, the proposal will not impact upon relics.

- The development is not located in close proximity to any watercourse, drinking water catchment or environmentally sensitive area and therefore, will not adversely impact upon these matters.

6.4 Development on sloping land

The site is located within Area A on the WLEP 2011 Landslip Risk Map. This area represents the lowest risk of geotechnical risk within the locality as it involves sites with a slope that are less than 5 degrees.

An assessment has been carried out against Clause 6.4 of the WLEP 2011 and the assessment has concluded that the development is consistent with Clause 6.4 for the following reasons:

- The GA submitted with this application has concluded that the development will not result in unacceptable geotechnical risk to property and life. The GA has provided engineering recommendations to mitigate geotechnical risk, which are included in the recommended conditions of consent.

- Council's Development Engineer and Water Management Officer are satisfied that the stormwater management system complies with Council's Water Management for Development Policy and therefore, it can be concluded that the development is not likely to cause any adverse off-site impacts as a result of stormwater being discharged from the site.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B6 Merit Assessment of Side Boundary Setbacks	Merit Assessment (east)	2.53m (car park) - 3.38m - 6.2m (building setback)	-	Yes - acceptable on merit as a suitable building setback with a landscape buffer as been provided to the R2 zoned land to the east
	Merit Assessment (west)	Nil Setback	-	Yes - acceptable on merit as it adjoins commercial development
B7 Front Boundary Setbacks	Nil Setback (0m)	1.065m	-	Yes - compatible with adjoining development in the local centre
B10 Merit Assessment of Rear Boundary Setbacks	6.0m	3.0m	-	Yes - acceptable on merit as greater than adjoining commercial development and residential amenity of property to the rear is protected
F1 Local and Neighbourhood Centres	Floor to Ceiling Height - minimum 3.0m at ground level and 2.7m at upper levels	3.26m (ground floor) and > 2.7m at upper levels	-	Yes
	Top Floor Setbacks - buildings over 2 storeys are to be stepped back at the upper floors from the street facade	The upper two storeys are stepped back from the ground floor front facade	-	Yes
Appendix 1 Car Parking	Total space required: 31 spaces required (refer to Traffic Engineering referral which establishes this)	24 spaces	22.58%	**No**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C3(A) Bicycle Parking and End of Trip Facilities	No	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Description of non-compliance

Section C3 of the WDCP requires a total of 31 off-street car parking spaces to be provided for the proposed development. The proposal provides 24 off-street car parking spaces for the development, which does not satisfy the prescribed requirement.

Merit Assessment

Having regard to the numerical non-compliance, a merit assessment has been undertaken against the objectives of the control below as follows:

- *To provide adequate off street carparking.*

  Comment:

  The application has been accompanied by Traffic Impact Assessment (TIA) prepared by Traffic Pro Design, dated 25 July 2025. The TIA notes that while there is a shortfall of off-street car parking, there are 20 available parallel on-street car parking spaces opposite the site along Frenchs Forest Road East and also 12 available parallel on-street car parking spaces along Patanga Road, which is approximately 100m walking distance from the subject site. While these parking spaces are limited to 1 hour, they will assist in providing appropriate available car parking for patrons of the medical centre in the event all off-street car parking spaces are occupied.

  Council's Traffic Engineer has reviewed the proposal and not raised any concerns in relation to car parking.

  In this regard, the assessment concludes that the proposal provides adequate off-street car parking, consistent with this objective.

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

  Comment:

  The car parking areas are located well behind the front facade of the building and will have a minimal impact on the street frontage, consistent with this objective.

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

  Comment:

  For the reasons outlined above, this objective is achieved.

Having regard to the above assessment, it is concluded that the objectives of Section C3 are achieved. Therefore, flexibility is afforded to the numerical requirements of the control, consistent with Section 4.15(3A)(b) of the EP&A Act.

C3(A) Bicycle Parking and End of Trip Facilities

Description of non-compliance

Section C3(A) of the WDCP requires 6 bicycle parking spaces to be provided within the development. The proposal provides 4 bicycle spaces, which does not satisfy the numerical requirement.

Merit Assessment

Having regard to the numerical non-compliance, a merit assessment has been undertaken against the objectives of the control below as follows:

- *To help meet the transport needs of the Warringah community.*

  Comment:

  While only 4 designated spaces are provided, Council's Traffic Engineer has not raised any concerns in relation to the provision of bicycle parking. The assessment considers that the proposal provides adequate bicycle parking and end of trip facilities to meet active transport needs of staff.

- *To encourage healthy active lifestyles and help reduce reliance on private motor vehicles.*

  Comment:

  The 4 spaces provided will meet active transport needs of staff and help reduce the reliance on private motor vehicles.

- *To provide convenience and safety for bicycle users.*

  Comment:

  The bicycle parking spaces are located within a designated room on the ground floor adjacent to the end of trip facilities and provide convenience and safety for bicycle users.

Having regard to the above assessment, it is concluded that the objectives of Section C3(A) are achieved. Therefore, flexibility is afforded to the numerical requirements of the control, consistent with Section 4.15(3A)(b) of the EP&A Act.

D3 Noise

The operation of the medical centre has the potential to generate noise that would impact upon the amenity of nearby sensitive receivers.

The application has been accompanied by an Acoustic Assessment (AA) prepared by Marshall Day Acoustics Pty Ltd, dated 19 May 2025. The NIA has assessed operational noise impacts in accordance with the EPA's Noise Policy for Industry 2017 (NPFI), which is the appropriate guideline that guides consent authorities in the assessment of operational noise.

The AA noted that mechanical plant has not yet been selected for the proposal and has assumed that the mechanical plant will have an overall noise level of 70dBA.

With this noise assessment assumption in place, the AA conclude that the development would comply with the NPFI noise criteria at all surrounding receiver locations.

Council's Environmental Health Officer (EHO) has reviewed the application with respect to operational noise impacts and has not raised any concerns. A condition is recommended to ensure that the mechanical plant selection does not have have an overall noise level that exceeds 70dBA.

The assessment concludes that the development complies with the NPFI and that the operational noise

impacts of the development are acceptable, subject to recommended conditions.

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 $94,725 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $9,472,498.

CONCLUSION

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

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

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

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

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

Council is satisfied that the Applicant’s written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 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 Development Application seeks consent for the construction and operation of a multi-level medical centre containing six tenancies, 24 car parking spaces, two motorcycle parking spaces, bicycle parking facilities and end of trip facilities. The medical centre would operate between 8.00am to 6.00pm Monday to Saturday, with no operation proposed on Sunday and public holidays.

While the development involves a 38.59% variation to the height of buildings standard under Clause 4.3 of the WLEP 2011, which requires development to be no more than 8.5m above the existing ground level, the applicant's Clause 4.6 variation request has adequately addressed the jurisdictional matters within Clause 4.6 of the WLEP 2011 and the assessment has concluded that compliance with the development standard is unreasonable, and that there are sufficient environmental planning grounds to justify the variation. Furthermore, the building will remain visually compatible in scale with the adjoining commercial development to the west and the elements of the building that exceed the height standard will not result in any adverse visual impacts or residential amenity impacts to neighbouring properties.

A total of 11 submissions objecting to the development were received during the public exhibition period. The concerns raised within the submissions relate to; inadequate off-street car parking, traffic generation, the building height non-compliance, amenity impacts including privacy, noise and outlook, structural impacts on adjoining properties and site suitability. These concerns have been considered as part of the assessment and do not constitute matters that would warrant refusal of the application. Suitable conditions of consent have been included in the draft consent in relation to issues raised in the submissions.

During the course of the assessment process the applicant made substantial amendments to the application to address Council's Request for Further Information letter (RFI); including but not limiting to reducing the building height to correspond with the lower parapet level of the commercial building on the western adjoining property (14 Frenchs Forest Road East), providing a deep soil landscaping strip with planting along the entire eastern boundary to conserve the amenity of the adjacent low density residential development to the east, altered waste collection periods to occur outside of operational hours, included privacy attenuation measures along the western side of the building, include end of trip facilities and bicycle parking, clarify the building materials and address potential land contamination. The assessment finds that the amended development application has adequately resolved the concerns raised on the RFI.

The assessment has concluded that the development is acceptable for the following reasons:

- The proposal will result in positive social impacts through the provision of a medical centre that is well-connected to the regional road network (i.e. Warringah Road) and within close proximity to the Northern Beaches Hospital and future Frenchs Forest town centre, which will assist in reducing the

demand and waiting periods at the Northern Beaches Hospital.

- The development is consistent with Council's Local Strategic Planning Statement, which aims to provide social infrastructure such as medical centres near strategic and local centres within the local government area.

- The medical centre is a permissible land use within the E1 Local Centre zone, and the proposal achieves the objectives of the E1 zone through providing an employment generating use on the site that provides an active street frontage and creates an urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring commercial development.

- The development has been designed to adequately conserve the amenity of the adjoining R2 Low Density Residential zoned land to the north and east by providing suitable building separation, privacy attenuation measures and landscaped buffers to the R2 zoned land, thereby resulting in a site that is suitable for this development.

- The development would deliver local economic benefits through the generation of construction and operational jobs and direct $9.47 million in capital investment into the Northern Beaches local government area.

- The residual impacts associated with the demolition, construction and operation of the development can be appropriately managed and mitigated by the recommended conditions of consent.

On balance, the proposal, as revised, represents a good infill development at this commercial-residential boundary/interface, affording a reasonable level of protection of residential amenity, compatible streetscape, adequate landscaping, adequate parking, properly managed stormwater disposal, suitable signage and a well designed building. The proposal will complete the long standing "hole" in the streetscape, which has been in existence for more than 30 years, and will formalise the use of the site as a modern commercial development and will positively contribute to the local community.

The application is therefore, recommended for **approval**, with suitable conditions of consent provided.

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, as the consent authority, vary the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Warringah Local Environmental Plan 2011 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/1403 for Construction of a Medical Centre on land at Lot 2 DP 209752, 12 Frenchs Forest Road East, FRENCHS FOREST, 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**
DA020	C	SITE PLAN	ELK Architecture	15 April 2026
DA100	C	GROUND FLOOR PLAN	ELK Architecture	15 April 2026
DA101	C	MEZZANINE FLOOR PLAN	ELK Architecture	15 April 2026
DA102	C	FIRST FLOOR PLAN	ELK Architecture	15 April 2026
DA103	C	SECOND FLOOR PLAN	ELK Architecture	15 April 2026
DA104	C	ROOF PLAN	ELK Architecture	15 April 2026
DA105	C	GP CLINIC LAYOUT	ELK Architecture	15 April 2026
DA200	C	STREET VIEW	ELK Architecture	15 April 2026
DA201	C	ELEVATIONS	ELK Architecture	15 April 2026
DA202	C	ELEVATIONS	ELK Architecture	15 April 2026
DA250	C	EXTERNAL FINISHES	ELK Architecture	15 April 2026
DA300	C	SECTIONS	ELK Architecture	15 April 2026

Approved Reports and Documentation	

Document Title	Version Number	Prepared By	Date of Document
Stormwater Management Plans Drawing Numbers D01 - D31	Job No. 2408087, Revision C	NB Consulting Engineers	10 April 2026
Operational Waste Management Plan	Report No. 6293, Revision E	Elephants Foot Consulting	7 April 2026
Construction & Demolition Waste Management Plan	Revision B	Elephants Foot Consulting	7 April 2026
Landscape Plan Drawing Number L-01	Revision E	ecodesign Pty Ltd	14 April 2026
Preliminary Site Investigation	Reference A-3859-01-PSI, Revision 0	Assessment Corp.	3 March 2026
Driveway Civil Plans Drawing Numbers C01-C51	Job No. 2408087, Revision C	NB Consulting Engineers	9 April 2026
Sediment and Erosion Control Plan Drawing Numbers D30 and D31	Job No. 2408087, Revision A	NB Consulting Engineers	31 August 2025
Acoustic Assessment	Rp 001 20250224	Marshall Day Acoustics Pty Ltd	19 May 2025
Disability Access Compliance Report	BAJ-FF-0624-DAA	Essential Access	6 August 2025
BCA Assessment Report	241137C-BCA-DA-r2	Credwell	25 July 2025
Arboricultural Impact Assessment	-	Tree Management Strategies Pty Ltd	10 September 2025
Geotechnical Assessment	AG 25229	AscentGeo	2 June 2025

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

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

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

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

requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	20 October 2025 (as dated on Council's website)

(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 Removal of Shared Boundary Fencing**
This Development Consent does not permit the removal of any shared boundary fencing that encroaches onto adjoining land.

Reason: Owner's consent has not been provided from adjoining landowner's to remove existing shared boundary fencing.

Note: This condition would not preclude the erection of boundary fencing under the Dividing Fences Act 1991.

4. **Approved Land Use**
Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies (excluding Tenancy 1) as detailed on the approved plans for any land use of the site beyond the definition of a medical centre. The Warringah Local Environmental Plan 2011 (WLEP 2011) defines this land use as follows:

- ***medical centre*** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

  Note.

  Medical centres are a type of ***health services facility***—see the definition of that term in this Dictionary.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definitions will require the submission to Council of a new Development Application.

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

5. **No Approval Granted for Food Premises**
No approval for any food premises within the development forms part of this approval. Any food premises within the development will requires a separate approval.

Reason: To ensure compliance with the Food Act 2003 is achieved.

6. **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.

7. **No approval for fit-out of Tenancies 1, 2, 3, 5 and 6**
The fit-out of Tenancies 1, 2, 3, 5 and 6 is not approved by this Development Consent.

Reason: To ensure that the fit-out works are consistent with the scope of the Development Application.

Note: This condition would not preclude the carrying out of the fit-out works pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

8. **No Consent for Subdivision of Land**
This Development Consent does not permit subdivision of land, including Strata subdivision.

Reason: The applicant has not sought consent for subdivision of land including Strata subdivision of the tenancies.

Note: This condition would not preclude the carrying out of subdivision works pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

9. **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 directly to the Long Service Corporation. 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.

10. **Existing Bus Stop**
The location of existing bus stop on Frenchs Forest Road East adjacent to frontage of the site

must remain in its current location. Approval of Council and TfNSW is required to relocate any Bus Stops.

Reason: To ensure certain services are not relocated at any stage during the project.

FEES / CHARGES / CONTRIBUTIONS

11. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $94,724.98 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 $9,472,498.00.

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.

12. **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.

13. **Housing and productivity contribution - Development consents**

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Contribution Type	Amount
Housing and Productivity Contribution	$ 25,261.03
Total:	**$ 25,261.03**

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

$$\frac{highest\ PPI\ number}{consent\ PPI\ number}$$

where—

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted.

June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (https://pp.planningportal.nsw.gov.au/).

5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
   a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
   b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

   If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

14. **Cumulative Noise Impact Assessment for Mechanical Plant Selection**
A Cumulative Noise Impact Assessment of both plant noise with other noise sources is required to be undertaken by the acoustic engineer that prepared the Acoustic Assessment referenced in Condition 1.

The Cumulative Noise Impact Assessment must ensure that the sound power levels / noise levels of the mechanical plant do not exceed those specified within Section 5.1.3, Table 7 of the Acoustic Assessment referenced in Condition 1.

The Cumulative Noise Impact Assessment must demonstrate that the predicted operational noise levels do not exceed those that were modelled within Section 5.1.3, Table 8 of the Acoustic Assessment referenced in Condition 1.

The Cumulative Noise Impact Assessment must be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure noise impacts of plant are mitigated by design.

15. **On Slab Landscape Works**
Details shall be submitted to the 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 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.

16. **On-Site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by NB Consulting Engineers, job number 2408087, drawing number D01 to D12 referenced in Condition 1.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- Site discharge to kerb and gutter in Dareen Street shall be via an interallotment easement that benefits the site.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

17. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**
The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

18. **Off Street Parking Design**
The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

issue of the Construction Certificate.

Reason: Compliance with this consent.

19. **Detailed Design of Stormwater Treatment Measures - Major**
A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the NB Consulting Stormwater Drainage Plans referenced in Condition 1 and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

20. **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 car parking bays and aisle widths in the car park 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.

21. **Vehicular Swept Paths**
Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the construction Certificate.

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

22. **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.
    - 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 Safe Work NSW 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 practicing Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any site based crane.

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

23. **Service Vehicle Access**
Minimum dimensions for services areas are to comply with AS2890.2:2002 with regards to length, width and vertical clearance. Heavy vehicles are to be able to access driveways with only one reverse manoeuvre. Plans showing compliance with the distances and the swept path diagrams are to be submitted to the Principal Certifier prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards.

24. **Submission of Engineering Plans**
The submission is to include four (4) copies of Civil Engineering plans for the design of:

1. The Raised Pedestrian crossing in Frenchs Forest Road East.
2. The reconstructed/regraded driveway crossover.
3. The mountable central median in Frenchs Forest Road East to restrict turning movements into and out of the development to left in/left out only for light vehicles.
4. The public domain works along the frontage of the subject site to match in with the adjoining footpath pavement works to link with the remainder of the neighbourhood centre.

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Transport Forum consideration.

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

25. **Pedestrian sight distance at property boundary**
A pedestrian sight triangle of 2.0 metres by 2.5 metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

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

Reason: To maintain pedestrian safety.

26. **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.

27. **External Finishes to Roof**
The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

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

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

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

28. **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.

29. **Waste and Recycling Requirements**
Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

30. **Project Arborist**
A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with the Arboricultural Impact Assessment dated September 10 2025 prepared by Tree Management Strategies and AS4970-2025 Protection of trees on development sites, and any recommendations of an approved .

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment.

All tree protection measures specified must:

a) be in place before work commences on the site, and

b) be maintained in good condition during the construction period, and

c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Principal Certifier that all tree protection measures under AS4970-2025 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.

31. **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 and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

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

32. **Road Occupancy Licence**
Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

33. **Pre-Construction Dilapidation Report**
Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties:

- 10 Frenchs Forest Road East, Frenchs Forest
- 14 Frenchs Forest Road East, Frenchs Forest
- 87 Dareen Street, Frenchs Forest

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.

DURING BUILDING WORK

34. **Unexpected Finds Protocol**

In the event that construction works cause the generation of odours or uncovering of previously unidentified contaminants, works must immediately cease, Council and the Principal Certifying Authority must be notified in writing within 2 days and an appropriately qualified and certified environmental consultant appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm.

Reason: To protect human health and the environment.

35. **Tree and Vegetation Protection**

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

i) all trees and vegetation located on adjoining properties,

ii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

i) tree protection shall be in accordance with the Arboricultural Impact Assessment dated September 10 2025 prepared by Tree Management Strategies and AS4970-2025 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 the Project Arborist,

iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,

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 the Project Arborist on site,

vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with the Project Arborist including advice on root protection measures,

vii) should either or all of v) or vi) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the 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 AS4970-2025 Protection of trees on development sites,

ix) the activities listed in section 4.2 of AS4970-2025 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 certified by the Project Arborist as complaint to AS4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

36. **Condition of Trees**

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

In this regard all protected trees shall not exhibit:

i) a general decline in health and vigour,

ii) damaged, crushed or dying roots due to poor pruning techniques,

iii) more than 10% loss or dieback of roots, branches and foliage,

iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,

v) yellowing of foliage or a thinning of the canopy untypical of its species,

vi) an increase in the amount of deadwood not associated with normal growth,

vii) an increase in kino or gum exudation,

viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,

ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the 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.

37. **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.

38. **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.

39. **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.

40. **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.

41. **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.

42. **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.

43. **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.

44. **Requirement to Notify about New Contamination Evidence**
Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

45. **Off-site Disposal of Soil - Waste Classification**
All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the Protection of the Environment (Waste) Regulation 2014 and related guidelines, in particular NSW EPA Waste Classification Guidelines (2014), prior to off-site disposal.

A waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to the Principal Certifier within 7 days of transport. All waste must be taken to a suitable waste disposal facility that can lawfully accept the waste types and disposal dockets kept and attached to the Notice of Completion.

Reason: For protection of environment.

46. **Staff and Contractor Parking**
The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

47. **Service Vehicle Area**
The area designated as manoeuvring areas must be kept clear of obstructions at all times. Vehicles must not be required to queue on public roads at any time.

Reason: To ensure compliance with Australian Standards and prevent obstructions to traffic flows.

48. **Waste/Recycling Requirements (Waste Plan Submitted)**
During demolition and/or construction the proposal/works shall be generally consistent with the submitted Construction and Demolition Waste Management Plan Revision B prepared by Elephants Foot Consulting dated 7/4/2026.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

49. **Waste/Recycling Requirements (Materials)**
During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

50. **Landscape Completion**
Landscape works are to be implemented in accordance with Landscape Plan referenced in Condition 1 and inclusive of the following conditions:

a) landscape works are to be contained within the legal property boundaries,

b) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and located either within garden bed or within a prepared bed within lawn, and

c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan.

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

Reason: Environmental amenity.

51. **Native Landscaping**
Any new landscaping is to incorporate a minimum 60% 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.

52. **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.

53. **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.

54. **Certification for the Installation of Stormwater Treatment Measures**
A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the construction certificate approved plans. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

55. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**
A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures,

restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

56. **Stormwater Treatment Measures Operation and Maintenance Plan**
An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
    a) Work as executed drawings
    b) Intent of the stormwater treatment measures including modelled pollutant removal rates
    c) Site detail showing catchment for each device
    d) Vegetation species list associated with each type of vegetated stormwater treatment measure
    e) Impervious area restrictions to maintain the water balance for the site
    f) Funding arrangements for the maintenance of all stormwater treatment measures
    g) Identification of maintenance and management responsibilities
    h) Maintenance and emergency contact information

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
    a) Activity description, and duration and frequency of visits

    Additionally for vegetated devices:
    b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
    c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing

a) Activity description, and duration and frequency of visits
b) Routine maintenance requirements
c) Work Health and Safety requirements
d) Waste management and disposal
e) Traffic control (if required)
f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

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

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

Reason: Protection of the receiving environment.

58. **Disabled Parking Spaces**
Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

59. **Shared Zone Bollard**
A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

60. **Operational Management Plan**
An Operational Management Plan (OMP) is required to be prepared and submitted to Council detailing the operation of the development. The OMP shall include, but not be limited to the following:

- Vehicle access and egress.

- Through-site circulation of vehicle movements.
- Management of car parking areas.
- The location and content of directional signage.
- Complaints management.
- Noise management.
- Truck delivery times and methods of control to manage the sequencing of the loading docks.
- Waste management.

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

Reason: To ensure that the development operates with minimum disruption to the surrounding area.

61. **Convex Mirror at Ramps**
One (1) convex mirror is to be installed and maintained at the ramp leading from access driveway to the mezzanine floor. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps.

62. **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.

63. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link:
https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2023-12/guide-for-submitting-legal-documents.pdf?1756256223

The form for the application can be found on Council's website using the following link:
https://applications.northernbeaches.nsw.gov.au/T1PRProd/WebApps/eProperty/P1/eSubmit/T

r=WC.WEBGUEST&f=%24P1.ESB.TERMS.VIW&ReturnUrl=%2fT1PRProd%2fWebApps%2fe

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

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered

64. **Certification of Off Street Parking Works**
The Applicant shall submit a certificate from a suitably qualified person certifiying 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.

65. **Environmental Reports Certification**
Written certification from a suitably qualified person(s) shall submit to the Principal Certifier, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports referenced in Condition 1 of this consent have been completed:

(a) Preliminary Site Investigation
(b) Acoustic Assessment
(c) BCA Assessment Report
(d) Arboricultural Impact Assessment
(e) Geotechnical Assessment
(f) Disability Access Compliance Report

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

Reason: To ensure compliance with standards.

66. **Removal of All Temporary Structures/Material and Construction Rubbish**
Once construction has been completed all silt and sediment fences, silt, rubbish, building

debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

67. **Garbage and Recycling Facilities**
All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

68. **Waste and Recycling Facilities Certificate of Compliance**
The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

69. **Waste/Recycling Compliance Documentation**
Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

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

70. **Acoustic Requirements - On-going**
The noise management controls outlined within Section 6 of Acoustic Assessment referenced in Condition 1 must be complied with at all times during operation of the development in perpetuity.

Reason: To prevent a noise nuisance to any neighbouring receivers.

71. **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.

A maintenance activity schedule for on-going maintenance of planters on slab shall be

incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

72. **Maintenance of Stormwater Treatment Measures - Major**
Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

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

Reason: Protection of the receiving environment.

73. **Waste Collection and Deliveries**
Waste collection and deliveries of goods and services is only permitted to occur between 6.00pm - 9.00pm on weekdays (Monday to Friday) and is not to occur during the approved operational hours.

Reason: Information to ensure that amenity of the surrounding locality is maintained and to minimise traffic conflicts.

74. **Sight lines within carparks**
The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

76. **Graffiti removal**
During ongoing use of the premises, ensure graffiti is removed from the exterior of the building or associated structures, including any fences, site services and retaining/planter bed walls.

Reason: To ensure the safe operation of the premises and to protect the amenity of adjoining premises and the surrounding area.

77. **Mechanical Plant Noise**
Mechanical plant 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.

78. **Illumination Signage Restriction**
All illuminated signage must cease between the hours of 6.00pm - 8.00am Monday to Saturday and on Sundays and Public Holidays at all times.

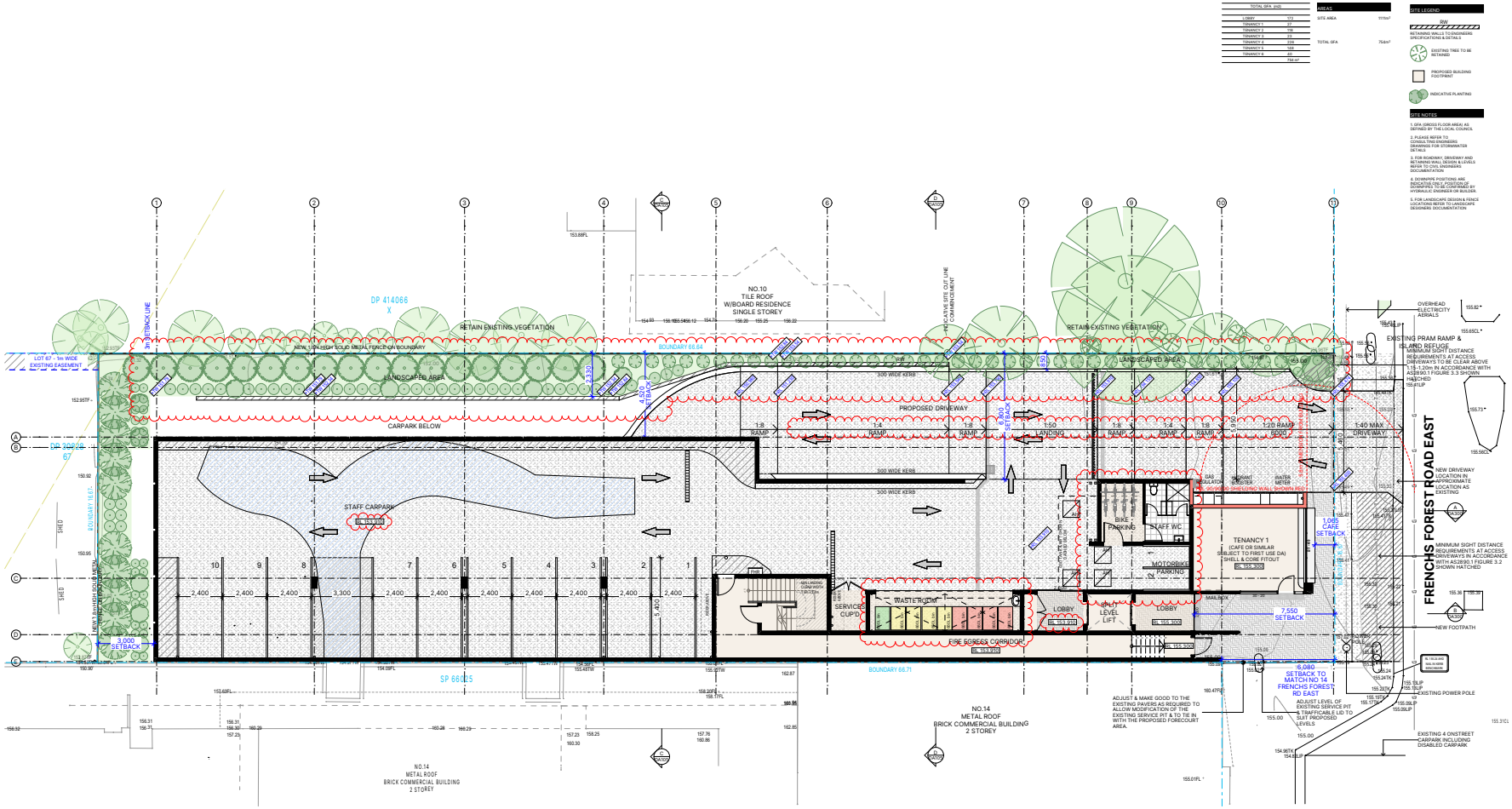
Reason: To protect local amenity.

79. **Hours of Operation**
The hours of operation are to be restricted to:

- Monday to Saturday – 8.00am to 6.00pm.
- Sunday and Public Holidays – no operation.

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.



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NOMINATED ARCHITECT Daniel Hadley 8209

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CONSULTANTS

Surveyor
Total Surveying Solutions
p: 1300 877 000
e: info@totalsurveying.com.au

Town Planner
Watermark Planning - Sarah McNeilly
p: 0410 340 584
e: sarah@watermarkplanning.com.au

Civil Engineer
NB Consulting Engineers
p: 02 9984 7000
e: cameronjones@nbconsulting.com.au

Geo-tech
Ascent Geotech
p: 02 9972 3779
e: admin@ascentgeo.com.au

Landscape Consultant
Eco Design
p: 02 9980 7712
e: gavin@ecodesign.com.au

BCA Consultant
Credwell
p: 0424 688 970
e: jeremy.nicholson@credwell.com.au

Traffic Engineer
Traffic Pro Design
p: 0431 199 694
e: plans@protrafficdesign.com.au

Arborist
TreeManagement Strategies
p: 0447 359 059
e: leigh@treems.com.au

Access Consultant
Essential Access
p: 0420 312 737
e: info@essentialaccess.com.au

Waste Consultant
Elephants Foot
p: 02 9760 2036
e: ruban.jayaratnam@elephantsfoot.com.au

Acoustic Consultant
Marshall Day Acoustics Pty Ltd
p: +612 9282 9422
e: thudson@marshallday.com

Crime Prevention Consultant
Planning Direction
p: 0416 644 604
e: nigel@planningdirection.com.au

Sydney Water Coordinator
MGP
p: 02 9451 7555
e: hgaudry@mgp.com.au

Quantity Surveyor
MCG QS
p: 1300 795 170
e: estimating@mcgqs.com.au

ISSUE	DESCRIPTION	DATE
P5	For Coordination	12/12/2024
P6	For Consultant Coordination	20/12/2024
P7	For Consultant Coordination	5/03/2025
P8	For Consultant Coordination	24/06/2025
P9	For Consultant Coordination - DA	30/06/2025
A	For Development Application	6/08/2025
B	Revised For Development Application	20/03/2026
C	Revised Development Application For RFI	15/04/2026

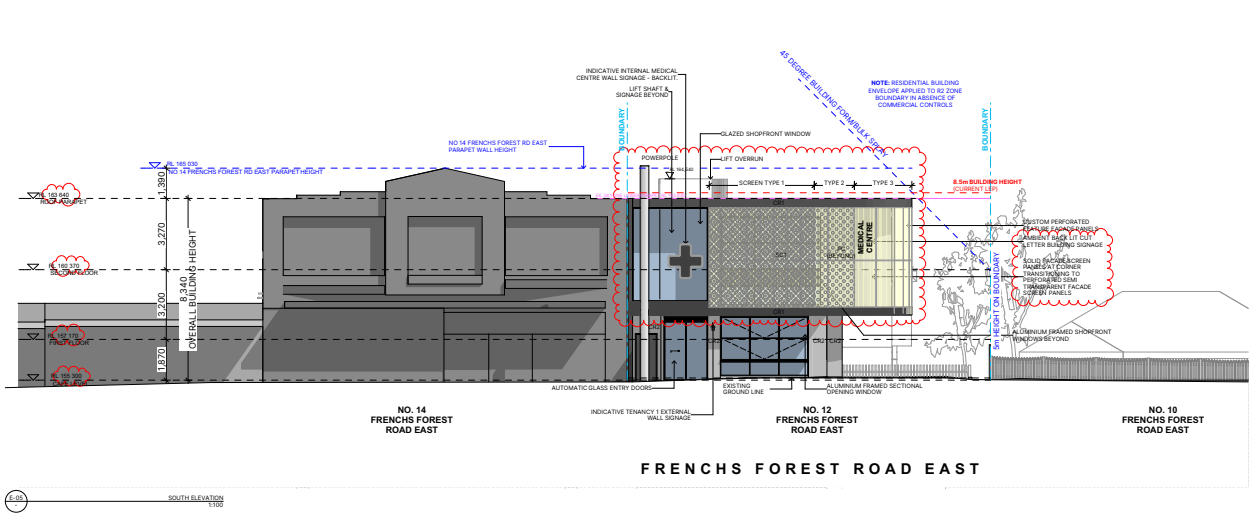
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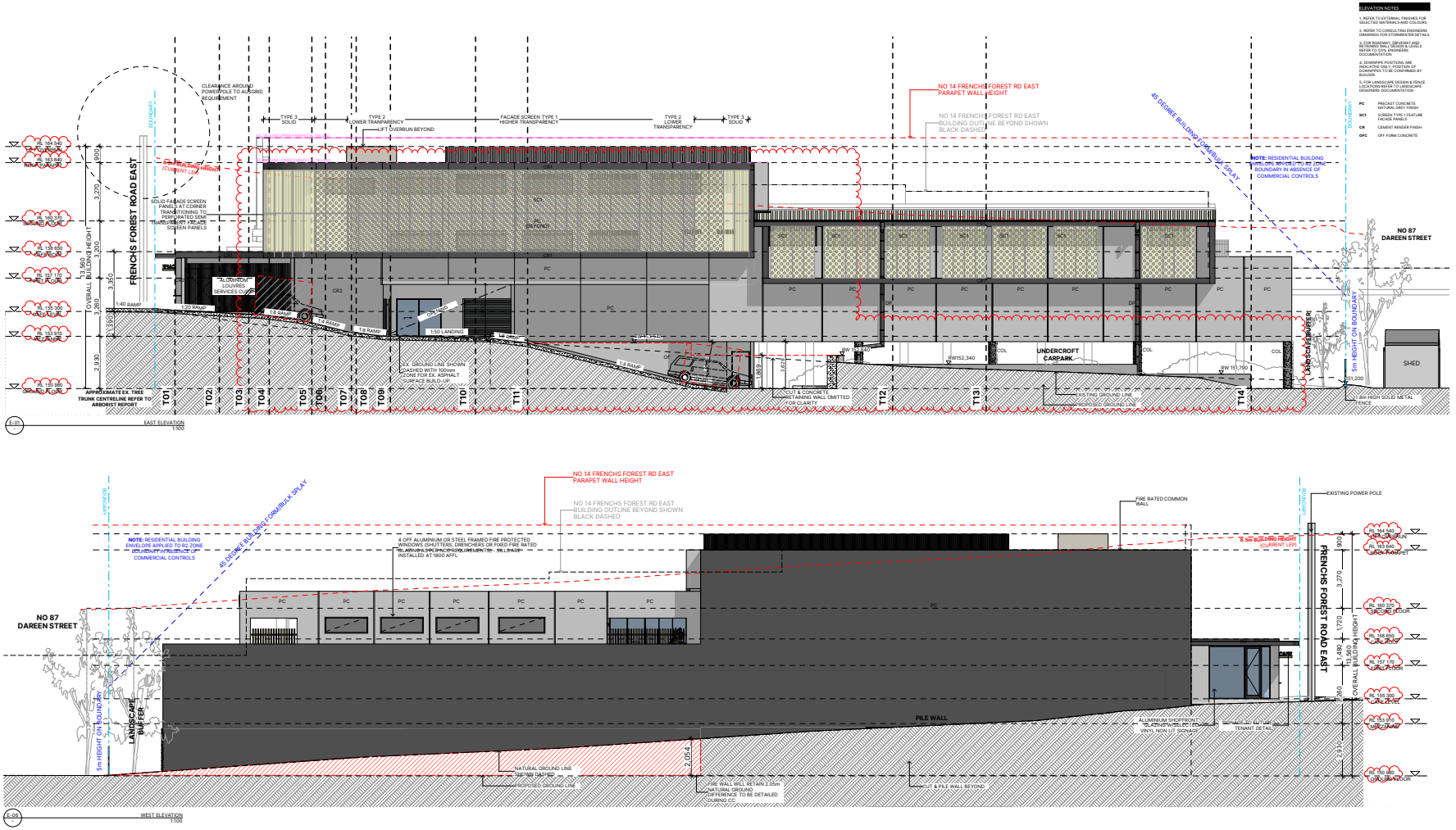
PROJECT
Medical Centre
LOCATION
12 Frenchs Foresh Rd East
Frenchs Forest
CLIENT
SHARMILA RAJU AND JAGADISH KALLUR

DRAWING
SITE PLAN
SCALE
1:100 @ A1
DRAWN
ML, KN, TH
QA CHECKED
TH

DRAWING NO.
DA020
ISSUE
C
PROJECT NO.
24077

ELK


INDICATIVE INTERNAL MEDICAL CENTRE WALL SIGNAGE - BACKLIT
LIFT SHAFT & SIGNAGE BEYOND
45 DEGREE BUILDING FORM/BULK SPLAY
NOTE: RESIDENTIAL BUILDING ENVELOPE APPLIED TO R2 ZONE BOUNDARY IN ABSENCE OF COMMERCIAL CONTROLS
BOUNDARY
NO 14 FRENCHS FOREST RD EAST PARAPET WALL HEIGHT
GLAZED SHOPFRONT WINDOW
POWERPOLE
LIFT OVERRUN
SCREEN TYPE 1
TYPE 2
TYPE 3
8.5m BUILDING HEIGHT (CURRENT LEP)
RL 165 030
NO 14 FRENCHS FOREST RD EAST PARAPET HEIGHT
RL 163 640 ROOF PARAPET
RL 160 370 BALCONY FLOOR
RL 157 170 FIRST FLOOR
RL 153 900 GROUND FLOOR
3900
3,270
3,200
1,870
8,340
OVERALL BUILDING HEIGHT
SC1
MEDICAL CENTRE
BALCONY
CARPORT
CARPORT
CARPORT



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NOMINATED ARCHITECT Daniel Hadley 8209

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CONSULTANTS

Surveyor
Total Surveying Solutions
p: 1300 877 000
e: info@totalsurveying.com.au

Town Planner
Watermark Planning - Sarah McNeilly
p: 0410 340 584
e: sarah@watermarkplanning.com.au

Civil Engineer
NB Consulting Engineers
p: 02 9984 7000
e: cameronjones@nbconsulting.com.au

Geo-tech
Ascent Geotech
p: 02 9972 3779
e: admin@ascentgeo.com.au

Landscape Consultant
Eco Design
p: 02 9980 7712
e: gavin@ecodesign.com.au

BCA Consultant
Credwell
p: 0424 688 970
e: jeremy.nicholson@credwell.com.au

Traffic Engineer
Traffic Pro Design
p: 0431 709 684
e: plans@protrafficdesign.com.au

Arborist
TreeManagement Strategies
p: 0447 359 059
e: leigh@treems.com.au

Access Consultant
Essential Access
p: 0420 312 737
e: info@essentialaccess.com.au

Waste Consultant
Elephants Foot
p: 02 9760 2036
e: ruban.jayaratnam@elephantsfoot.com.au

Acoustic Consultant
Marshall Day Acoustics Pty Ltd
p: +612 9282 9422
e: thudson@marshallday.com

Crime Prevention Consultant
Planning Direction
p: 0416 644 604
e: nigel@planningdirection.com.au

Sydney Water Coordinator
MEP
p: 02 9451 7555
e: hgaudry@mgp.com.au

Quantity Surveyor
MCG QS
p: 1300 795 170
e: estimating@mcgqs.com.au

ISSUE	DESCRIPTION	DATE
P5	For Coordination	10/12/2024
P6	For Consultant Coordination	20/12/2024
P7	For Consultant Coordination	5/03/2025
P8	For Consultant Coordination	24/06/2025
P9	For Consultant Coordination - DA	30/06/2025
A	For Development Application	6/08/2025
B	Revised For Development Application	20/03/2026
C	Revised Development Application For RFI	15/04/2026

FOR AUTHORITY APPROVAL ONLY
NOT FOR CONSTRUCTION

PROJECT
Medical Centre

LOCATION
12 Frenchs Foresh Rd East
Frenchs Forest

CLIENT
SHARMILA RAJU AND JAGADISH KALLUR

DRAWING
ELEVATIONS

SCALE
1:100, 1:1 @ A1

DRAWN
ML, KN, TH

QA CHECKED
TH

DRAWING NO.
DA202

ISSUE
C

PROJECT NO.
24077

ELK

Clause 4.6 Exception to Development Standard - Height of Buildings (V2)
12 Frenchs Forest Road, Frenchs Forest

Clause 4.6 of the Warringah Local Environmental Plan 2011 (WLEP 2011) permits departures from development standards in certain circumstances. In this case, it is necessary to consider if compliance with the development standard is consistent with the aims of the policy and, in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in section 1.3 of the *Environmental Planning and Assessment Act 1979 (EP&A Act) being:*

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

(c) to promote the orderly and economic use and development of land,

(d) to promote the delivery and maintenance of affordable housing,

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

(g) to promote good design and amenity of the built environment,

(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

The aims and objectives of the Warringah LEP 2011 Clause 4.6 are as follows:

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

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

Commencing on 1 November 2023 *Clause 4.6(3) and (4) of the WLEP 2011, state that development consent, that contravenes a development standard, must not be granted 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

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

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

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

1. Environmental Planning Instrument Details (Warringah LEP 2011)

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

Warringah Local Environmental Plan 2011

1.2 What is the zoning of the land?

E1 – Local Centre

1.3 What are the objectives of the zone?

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

• *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

1.4 What is the development standard being varied?

Clause 4.3 – Height of Buildings

1.5 Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3 – Height of Buildings of the Warringah LEP 2011

1.6 What are the objectives of the development standard?

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

(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,
(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

1.7 What is proposed numeric value of the development standard in the environmental planning instrument?

The numeric value of the height of buildings development standard applicable to the subject site is a maximum of 8.5m under the current Warringah LEP 2011.

It is noted that the imminent Draft Northern Beaches LEP (currently awaiting gateway determination), will permit a maximum building height of 9.5 metres on the subject site.

1.8 What is the numeric value of the development standard in your development application?

The numeric value of the building height proposed is 11.78 metres (lift overrun and roof plant screening) and 10.81 metres (central portion of the building).

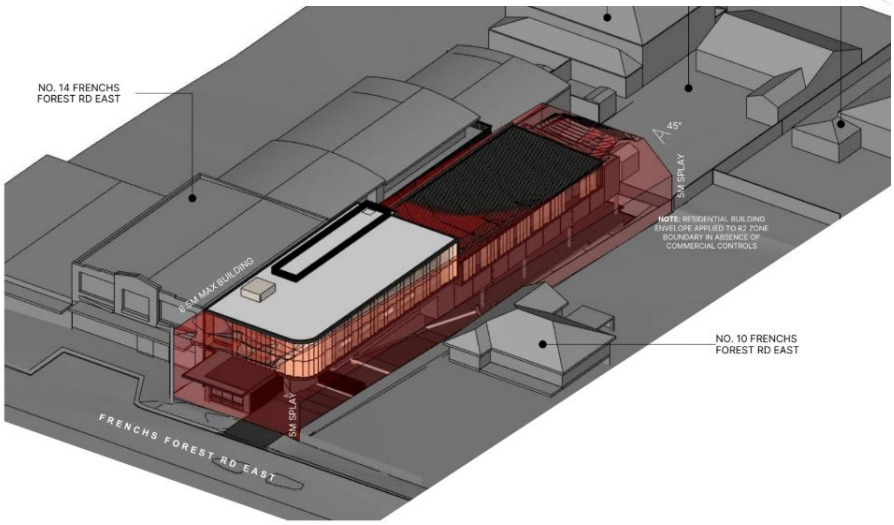


Figure 1. Plan Extract: Perspective

1.9 What is the percentage variation (between your proposal and the environmental planning instrument)?

The development proposes a variation for the lift shaft of 3.28 metres or 38.5% (measured against the current Warringah LEP 8.5 metre height control) and 2.28 metres or 24% (measured against the imminent Northern Beaches LEP 9.5 metre height control).

The development proposes a variation for the stair well/centre of building of 2.31 metres or 27.1% (measured against the current Warringah LEP 8.5 metre height control) and 1.31 metres or 13.7% (measured against the imminent Northern Beaches LEP 9.5 metre height control).

2. NSW Land and Environment Court Case Law

Several key Land and Environment Court (NSW LEC) judgements have refined the manner in which variations to development standards are required to be approached. The key findings and direction of each of these matters are outlined in the following discussion.

2.1 *Wehbe* v Pittwater [2007] NSW LEC 827

The decision of Justice Preston in *Wehbe v Pittwater [2007] NSW LEC 827, (*expanded on the findings in *Winten v North Sydney Council),* identified 5 ways in which the applicant might establish that compliance with a development standard is unreasonable or unnecessary. It was not suggested that the five ways were the only ways that a development standard could be shown to be unreasonable or unnecessary.

The five ways outlined in *Wehbe* include:

*1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Way**).*

*2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Way**).*

*3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Way**).*

*4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Way**).*

*5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Way**).*

In the Micaul decision Preston CJ confirmed that the requirements mandated by SEPP 1 (as discussed in Wehbe) are only relevant in demonstrating that compliance with a development standard is unreasonable or unnecessary for the purpose of Clause 4.6(3)(a).

2.2 Four2Five Pty Ltd v Ashfield Council [2015] NSW LE

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, initially heard by Commissioner Pearson, upheld on appeal by Justice Pain, it was found that an application under Clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

1. Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP;
2. That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
3. That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs;
4. All three elements of clause 4.6 have to be met and it is best to have different reasons for each but it is not essential.

2.3 Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7

In Randwick City Council v Micaul Holdings, the Court allowed a departure from development standards, provided the processes required by clause 4.6 are followed, a consent authority has a broad discretion as to whether to allow a departure from development standards under clause 4.6, even where the variation is not justified for site or development specific reasons.

Preston CJ noted that *the Commissioner did not have to be satisfied directly that compliance with each development standard was unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the appellant's written request had adequately addressed the matter in clause 4.6(3)(a) that compliance with each development standard was unreasonable or unnecessary.*

2.4 Zhang v City of Ryde

Commissioner Brown reiterated that clause 4.6 imposes three preconditions which must be satisfied before the application could be approved:

1. The consent authority must be satisfied that the proposed development will be consistent with the objectives of the zone;

2. The consent authority must be satisfied that the proposed development will be consistent with the objects of the standard which is not met; and

3. The consent authority must be satisfied that the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.

It is only if all of these conditions are met that consent can be granted to the application, subject to an assessment of the merits of the application.

The Commissioner applied the now familiar approach to determining consistency with zone

objectives by considering whether the development was antipathetic to the objectives.

In contrast to four2five, the reasons relied on to justify the departure from the standards in this case were not necessarily site specific.

2.5 Action Pty Ltd v Woollahra Municipal Council [2018]

In Action Pty Ltd v Woollahra Municipal Council, the court demonstrated the correct approach to the consideration of clause 4.6 requests, including that the clause does not require that a development that contravenes a development standard, must have a neutral or better environmental planning outcome than one that does not.

3. Consideration

The following section addresses the provisions of clause 4.6 of the WLEP 2011 together with principles established in the NSW Land and Environment Court Case Law outlined above.

Clause 4.6(3)(A) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case (and is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case)?

In order to demonstrate that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, the Five (5) Part Test established in Winten v North Sydney Council and expanded by Justice Preston in Wehbe v Pittwater [2007] NSW LEC 827 is considered:

The five ways outlined in *Wehbe* include:

3.1 Five (5) Part Test - Wehbe v Pittwater

1. ***The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).***

The Objectives of the standard are:

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

Comment

The subject site is surrounded by commercial premises to the west (Skyline Shops) and residential properties to the north and east. The development site is located in close proximity to Northern Beaches Hospital and will assist in resolving a shortage of medical centres and specialist consulting rooms for the Northern Beaches.

The primary elevation aligns with the adjoining Skyline shops, maintaining a cohesive built form and a height and scale consistent with surrounding commercial development. The built form presenting to the street, is based on organic cues, to soften the bulk and scale presenting to Frenchs Forest Road. The heigh fronting Frenchs Forest Road has been intentionally designed to match the neighbouring commercial building.

The central building design incorporates articulation, a stepped second floor design, landscape buffers, planters, a courtyard, roof garden and a variety of building materials and colours to alleviate bulk. Ample setback and landscape soften the impact on the neighbouring residential development.

Edge treatments and incorporating a skin/façade, adds a unique and interesting architectural language, as well as visual relief through light and shade to articulate and reduce perceived building bulk and scale.

The stepped profile to the rear further lowers the perceived bulk and ensures respectful integration.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

The proposed development presents with an appropriate scale for a new commercial premises and the design incorporates a number of measures to alleviate bulk including articulation, a reduced scale to the second floor, a variety of building materials and landscaped areas, resulting in an appropriate transition of scale between the commercial and residential buildings.

A site visit has been undertaken and it is concluded the proposed development will have no impact on views, as no views are obtained across the subject site.

The design incorporates a number of privacy measures including an increased side setback to the residential dwelling (east) mirroring the residential building envelope control, a reduced scale on the second floor to retain an appropriate setback to the commercial premises (west) and residential property (north), landscape buffer zones (including planters and roof gardens on the upper levels) and privacy screening.

The subject site and neighbouring properties enjoy a north to rear aspect, ensuring excellent solar access. The solar access assessment provided above, demonstrates that the proposed development will not increase showing to neighbouring properties between 9am and 12pm. No. 10 Frenchs Forest Road will experience an increase in shadowing from 1pm to 3pm and there will be no increase in shadowing to No. 14 on 21 June.

It is therefore considered this objective is met, despite the numerical variation.

(c) to minimise any adverse impact of development on the scenic quality of Warringah' s coastal and bush environments,

The proposed development is located within an existing commercial area (*E1 – Local centre*) and in close proximity to the nearby *SP4 – Enterprise* zoned land. The proposed medical centre remains consistent with surrounding commercial premises and will not adversely impact on the scenic qualities of the surrounding natural environment.

It is therefore considered this objective is met, despite the numerical variation.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

The site and the development are not visible from any significant public places other than Frenchs Forest Road East, from which it will be an attractive addition, providing much needed medical consulting rooms for the locality.

It is therefore considered this objective is met, despite the numerical variation.

2. ***The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way).***

This exception to development standards request does not rely on this reason.

3. ***The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way).***

This exception to development standards request does not rely on this reason.

4. ***The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way).***

This exception to development standards request does not rely on this reason.

5. ***The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).***

This exception to development standards request does not rely on this reason.

This clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and accordingly justifies the variation to the height of buildings control pursuant to the First Way outlined in Wehbe.

Thus it is considered that compliance with Clause 4.6(3)(a) is satisfied.

4.2 Clause 4.6(3)(B) – Are there sufficient environmental planning grounds to justify contravening the development standard?

There are sufficient grounds to permit the variation of the development standard. The development has been considered below with particular reference to the Objects of the Environmental Planning and Assessment Act 1979, which are accepted as the best gauge of *environmental planning grounds*. In particular:

Detail of Variation

- The numeric value of the building height proposed is 11.78 metres (lift overrun and roof plant screening) and 10.81 metres (central portion of the building).
- The development proposes a variation of 3.28 metres or 38.5% (measured against the current Warringah LEP 8.5 metre height control) and 2.28 metres or 24.5% (measured against the imminent Northern Beaches LEP 9.5 metre height control).
- The medical centre will present with a height consistent with the adjoining neighbours, with the overall building height matching the lowered portion of the roofline of the neighbouring Skyline Shops.

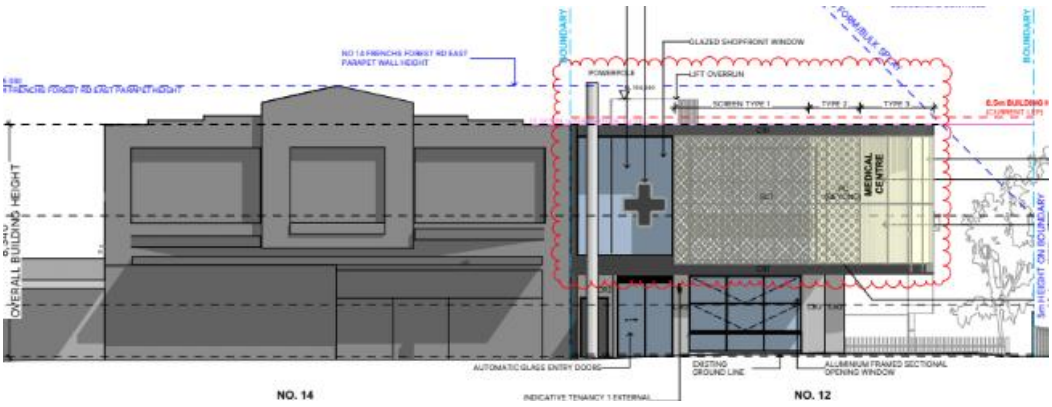


Figure 2. Plan Extract: South Elevation

Neighbour Amenity

Fulfillment of each of the criteria below demonstrates a development satisfying Cl1.3(g).

- The proposed medical centre is appropriately located on land zoned E1 – Local Centre and will provide much needed medical consulting rooms, in a central location, to service the residents of the Northern Beaches.

- The building will present with a similar scale to the adjoining commercial building and the design incorporates increased setbacks, a stepped design, a variety of building materials, roof gardens and landscaping, providing a comfortable transition to the adjoining residential dwellings.

- The subject site and adjoining properties have a north to rear aspect, ensuring compliant solar access is retained for neighbouring properties, accordingly, compliance with the development standard based on this would be unreasonable.

- The proposed height variation has no impact on privacy for neighbours, as the design incorporates a number of privacy measures including an increased side setback to the residential dwelling (east), a reduced scale on the second floor to retain an appropriate setback to the commercial premises (west) and residential dwelling (north), landscape buffer zones (including planters and roof gardens on the upper levels) and privacy screening. As privacy is retained, the variation is reasonable in the circumstances of the case.

- The variation is only for a limited portion of the building with a lesser height provided for much of the lengthy site.

- A numerically compliant building height would have no material impact to neighbours, accordingly compliance with the development standard in this instance is unreasonable.

Site Constraints

- The commercial site is constrained by the existing built form of the neighbouring Skyline shops, a staggered front boundary and a long narrow shape.

- The site is constrained by other factors including:
    - existing service pits (SW).
    - existing forecourt (SW).
    - natural site grade.
    - Skyline shops and offices built on boundary and facing boundary.
    - existing driveway crossover.

- existing pram ramp and refuge crossing area.
- existing Sydney water main (NE).
- existing easement (NE) Dareen St.
- Site zoning borders E1 & residential zoning.

The design proposed has carefully considered these site constraints against the need to provide a commercially viable premises in a central location, along with the retention of amenity for the adjoining residential properties.

Design and Streetscape Appeal

- The primary building elevation is setback and aligned with the frontage of the existing adjacent Skyline shops, which ties in with the wider urban domain and scale. Tenancy 1 (future café or similar), juts out to activate the street and enhance the overall utility of the street frontage.

- The primary building entrance is intentionally setback into the building form and located off an external forecourt area, connecting to the Skyline shops, providing activation to the street and promoting passive surveillance.

- The driveway entry ramp is located to ensure a safe interface with the pedestrian crossing point, located to the south east of the site. It has also been designed to ensure a landscape buffer to the neighbouring residential premises.

- The design of the building façade is based on organic cues, to soften the bulk and scale whilst employing a sense of movement and wayfinding throughout the building form, leading users towards the primary building entrance.

- Edge treatments and incorporating a skin/façade, adds a unique and interesting architectural language, as well as visual relief through light and shade to articulate and reduce perceived building bulk and scale.

- The proposed development will not present with excessive bulk from the public domain and remains consistent with surrounding commercial development.

Consistent with Zone Objectives

- The extent of the variation is considered to be in the public interest, as the proposal remains consistent with the objectives of the zone, ensuring medical services can be provided for the local community. Compliance with the development standard based on this would be unreasonable.

Natural Environment

- The natural environment is unaffected by the proposed building height departure and it would be unreasonable for the development to be refused on this basis.

Environmentally Sustainable Development

- The proposal represents an environmentally sustainable design allowing and will comply with the relevant constructions standards of the Building Code of Australia, satisfying Cl1.3(f).

Social and economic welfare

- The proposed variation to the height, will have a positive social impact, as it will allow for the provision of much needed specialist and medical services for the local area, satisfying Cl1.3(b)and accordingly refusal of the development based on this reason would be unreasonable.

- The variation to the height control will have a positive economic impact, as the resulting building will provide a medical centre and medical consulting rooms, stimulating the economy in the locality, accordingly refusal of the development based on this reason would be unreasonable.

Appropriate Environmental Planning Outcome

- The proposed works are not an overdevelopment of the site, as the development satisfies the objectives of the development standard and the scale remains consistent with the adjoining commercial premises.

- The variation does not result in a built form or height, beyond that which is found in the locality. The proposed variation will be compatible within the context in which it sits and is reasonable in the circumstances of the case satisfying Cl1.3(c).

- Removal of the non-compliance would not substantially alter the perceived bulk and scale due to the thoughtful building design, surrounding buildings and the broader context.

The environmental planning ground set out above, reflect the unique circumstances for the subject site and proposed development, including an assurance of reasonable bulk and scale and retention of amenity.

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

Clause 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*

Will the proposed development be in the public interest?

It is considered that a new medical centre, consistent with the built form of surrounding commercial premises, does not raise any matters contrary to the public interest.

How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Act.

Strict compliance with the standard would hinder the attainment of the objects specified in section 1.3 of the Act

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

(c) to promote the orderly and economic use and development of land,

(d) to promote the delivery and maintenance of affordable housing,

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

(g) to promote good design and amenity of the built environment,

(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

Strict compliance with the 8.5 metre height development standard would hinder the development for the purpose of *promoting the orderly and economic use and development of land, promoting good design and amenity of the built environment* and *promoting the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.*

Conclusion

The proposed development is for a new medical centre on land zoned E1 – Local Centre.

As described above, the development proposes a variation at its highest point of 3.28 metres or 38.5% (measured against the current Warringah LEP 8.5 metre height control) and 2.28 metres or 24% (measured against the imminent Northern Beaches LEP 9.5 metre height control).

The development site is located in close proximity to Northern Beaches Hospital and will assist in resolving a shortage of medical centres and specialist consulting rooms for the Northern Beaches.

The variation does not result in any unreasonable impacts in regards to view loss, loss of privacy or increase in shadowing for neighbouring properties and will result in development of a similar scale to the adjoining Skyline shops.

The variation is only for a limited portion of the building with a lesser height provided for much of the lengthy site.

Strict numerical compliance is considered to be unnecessary and unreasonable given that the proposed variation sought is consistent with the underlying objectives of the control despite the numerical variation, of which have been reasonably satisfied under the provisions of Clause 4.6.

The proposed variation satisfies the objectives of the zone, underlying intent of Clause 4.6 and Clause 4.3, and therefore the merits of the proposed variation are considered to be worthy of approval.

Planner Declaration

Document Control Table

Document Purpose:	**Statement of Environmental Effects**	
Date	**Prepared by**	**Approved by**
15 April 2026	Naomi Lyons Senior Planner	Sarah McNeilly Director

Disclaimer

This report has been prepared by Watermark Planning with input from a number of other expert consultants (if relevant). Watermark Planning has prepared this document for the sole use of the Client and for a specific purpose, each as expressly stated in the document. No other party should rely on this document without the prior written consent of Watermark Planning.

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5.0 NON PUBLIC MEETING ITEMS

ITEM 5.1 DA2025/1911 - 20 CABARITA ROAD AVALON BEACH - DEMOLITION WORKS AND ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Limited Development on Foreshore Area of Clause 7.8 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 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. The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1911 for Demolition works and alterations and additions to a dwelling house at Lot 7 DP 17704, 20 Cabarita Road AVALON BEACH subject to the conditions set out in the Assessment Report.

Reporting manager	**Adam Richardson**
TRIM file ref	2026/297290
Attachments	⇩1 Assessment Report ⇩2 Site Plans & Elevations ⇩3 Clause 4.6 - Foreshore

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1911

Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 7 DP 17704, 20 Cabarita Road AVALON BEACH NSW 2107
Proposed Development:	Demolition works and alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Scott Jarvis Hetherington

Application Lodged:	24/12/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	30/04/2026 to 14/05/2026
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	7.8 Limited development on foreshore area
Recommendation:	Approval

Estimated Cost of Works:	$ 2,489,685.00

EXECUTIVE SUMMARY

Development Application DA2025/1911 seeks consent for demolition works including the alterations and additions to a dwelling house.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to a portion of works located within the foreshore building area, thereby contravening the non-numerical development standard of Clause 7.8 of the *Pittwater Local Environmental Plan 2014 (*PLEP 2014).

In support of the variation is a detailed written Clause 4.6 variation request which justifies that compliance with the development standard is considered unreasonable in the circumstances of this

case. The deviation from Clause 7.8 arises from the upgrade works to the terraced garden within the foreshore area which includes new landscaped retaining walls, excavation/fill and a new landing to an existing inclinator. The landscaped retaining walls provide for extensive garden beds to be situated in front of the built form, which will allow vegetation (upon maturity) to visually soften the built form, from the waterway. These walls will form part of the proposed landscaping. The character of the eastern side of the Avalon Beach Peninsula ("Stokes Point") include various forms of development within this foreshore area, when compared to the western side. It is noted that properties within the immediate vicinity include dwelling houses that encroach heavily and are located close to the MHWM. Therefore, the aspects that encroach under this application are considered to be minimal and will not result in a detriment to the character when viewed from the waterway, but rather "blend in".

The proposal includes several variations to the built form controls under the Pittwater 21 Development Control Plan (P21DCP), these being Clause D1.8 Front building line, D1.9 Side and rear building line, D1.11 Building envelope and D1.14 Landscaped Area - Environmentally Sensitive Land. The proposal in regard to these variations and based on the context of the site do not result in adverse environment and/or amenity impacts, with the development achieving the relevant objectives, subject to recommended conditions. A further assessment in relation to privacy and view loss was also undertaken, detailed discussions have been provided in this report.

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for fourteen (14) days, with two (2) submissions received. Amendments were requested on the 17 March 2026 through the issue of a 'Request for Information' letter, in light of several concerns raised in the submissions as well as additional planning issues. Further amendments and revised reports were undertaken during the assessment process to best alleviate issues that were identified, a set of amendments were received on the 17 April 2026. These plans were formally re-notified, resulting in one (1) additional submission, which totaled the submissions to three (3).The concerns raised in the submissions are addressed under the 'submissions' section of this report. Further plans were submitted on the 15 May 2026 to correct a typographical/calculation error.

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

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

PROPOSED DEVELOPMENT IN DETAIL

This development application seeks consent for demolition works and the alterations/additions to a dwelling house.

Specifically, the works comprise of the following:

- Demolition works to portions of the dwelling, existing retaining walls, stairs/pathway, roofing and carport.
- Removal of various trees (conditioned by Landscape Team).
- Excavation works to support the extensions to dwelling, courtyards and landscaped/retaining walls.

- Alterations and additions to an existing three (3) storey dwelling to comprise:

  Lower Ground
  • Wine Cellar
  • Sauna / Wine Cellar
  • Stairs/ walkway areas
  • Bedroom 3 with balcony
  • Bedroom 4 with balcony
  • Bathroom
  • Bathroom

  Ground Floor
  • Laundry / Art Space
  • Foyer
  • Lift
  • Stairs/ walkways
  • Guest bedroom
  • Master bedroom with WIR and ensuite
  • Bathroom
  • Living Room
  • Balcony

  First Floor
  • Double garage
  • Entry foyer and stairs
  • Lift
  • Toilet
  • Open plan kitchen with pantry, living and dining room
  • Balcony

- Construction of a double garage with vehicular access via Cabarita Road, including widening of cross over.
- Site landscaping including plants native to Pittwater Ward and “Pittwater Spotted Gum Endangered Ecological Community (conditioned by Landscape/Biodiversity).
- Stormwater drainage and other ancillary works including new landing for inclinator and waterway access stairs.

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

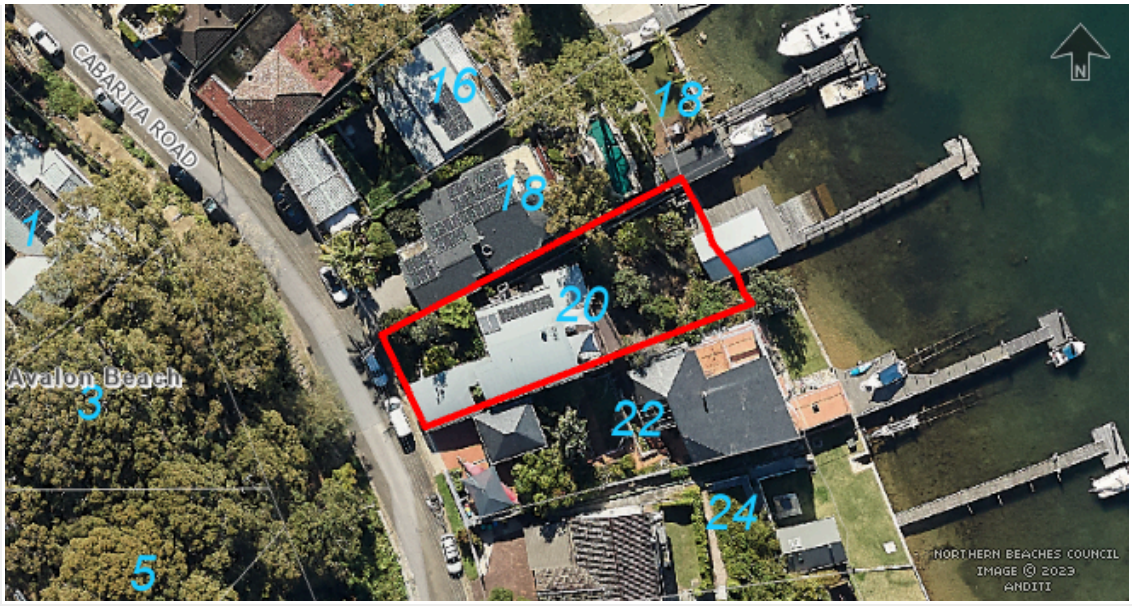
Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan - B4.16 Seagrass Conservation
Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways
Pittwater 21 Development Control Plan - C1.23 Eaves
Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place
Pittwater 21 Development Control Plan - D1.5 Building colours and materials
Pittwater 21 Development Control Plan - D1.8 Front building line
Pittwater 21 Development Control Plan - D1.9 Side and rear building line
Pittwater 21 Development Control Plan - D1.11 Building envelope
Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land
Pittwater 21 Development Control Plan - D1.15 Fences - General

SITE DESCRIPTION

Property Description:	Lot 7 DP 17704 , 20 Cabarita Road AVALON BEACH NSW 2107

Detailed Site Description:	The subject site consists of one (1) allotment located on the north-eastern side of Cabarita Road. The site is regular in shape with a frontage of 12.192 metres and a depth of 41.13 metres. The site has a surveyed area of 596.4m². The site is located within the C4 Environmental Living zone pursuant to the *Pittwater Local Environmental Plan 2014* and accommodates a dwelling house, carport, boatshed, jetty and inclinator. The site topography is relatively steep with a fall from the street toward the waterway of approximately 19.3 metres. The site consists of garden beds and trees toward the lower half of the site supported by dilapidated retaining walls. The upper portion of the site includes landscaped areas within a courtyard. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by low density dwelling houses situated within a landscaped setting including ancillary development such as swimming pools, boatsheds and jetties. It is noted that the foreshore area in the immediate vicinity consists of elevated lawn areas retained by seawalls, terraced landscaped areas and built form i.e. dwelling houses located close to the MHWM.

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:

N0437/01
Development Application for the erection of a boatshed, ramp and decking.
Determined on 20 November 2022.

N0619/06
Development Application for the additions and alterations to the dwelling and new carport.
Determined on 18 January 2007.

PLM2021/0004
Pre-lodgement Meeting for the alterations and additions to an existing dwelling and reclamation of land wall through the construction of a seawall.
Held on 28 January 2021.

DA2022/0880
Development Application for the seawall and reclamation.
Determined on 8 February 2022.

CC2026/0269
Construction Certificate for the construction of a new seawall within the Crown Land below the MHWM, alterations to the existing timber decking to the boatshed including part demolition/reduction in area of the decking and boatshed skid, and provision of associated filling and turfing of that space created by the new seawall.
Obtained by private certifier on 9 April 2026.

DA2025/1911 - Current Application
This application was formally notified in accordance with Council's current Community Participation Plan (CPP) which was for a period of fourteen (14) days. Two (2) submissions were received during the assessment of the application.

A *Request for Further Information* letter (RFI) was sent to the Applicant on the 17 March 2026 to address concerns relating to built form, works on the boundary, issues raised by objectors and clarification on the extent of excavation proposed.

Amended plans and relevant supporting information were received on 17 April 2026 in response to the RFI. Such information was formally notified for a period of fourteen (14) days. An additional submission was receievded.

Plans were later submitted on the 15 May 2026 to correct a typographical/calculation error - clarification purposes.

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 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested, refer to 'Site History'. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the significant 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 application has been publicly exhibited from 30/04/2026 to 14/05/2026 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 3 submission/s from:

Name:	Address:
Mr Evan Turner-Schiller	6 Joseph Street AVALON BEACH NSW 2107
Mrs Margaret Harders Mr Christian Gustav Harders	18 Cabarita Road AVALON BEACH NSW 2107
Mr Kim John William Marsh	22 Cabarita Road AVALON BEACH NSW 2107

Two (2) submissions were received during the initial notification period. The concerns raised are summarised and addressed below.

- ***Landscape Plan - incorrectly classified as 'Native to the Pittwater Ward' despite not being locally native, nor appearing on council's Native Planting Guide - Pittwater Ward:***

  Alpinia caerulea
  Buckinghamia celsissima
  Cyathea cooperi
  Dicksonia antarctica

  These species should be substituted with locally native alternatives

  Comment
  The above concern is noted. Council's Landscape and Bushland/Biodiversity Team have reviewed the proposal and recommended conditions of consent. This includes a condition to amend the landscape plan in accordance with the following requirement:

  *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 species listed under the **Pittwater Spotted Gum Forest Endangered Ecological Community** listing.*

- ***Visual Bulk***

  P21DCP requires that development respond to the natural environment and minimise the bulk and scale of buildings. The unarticulated plane of the north facade at its highest point adds to the visual dominance of the proposal.

  Comment
  The proposal was amended during the assessment process, this resulted in a change to the northern facade to add articulation through different design and architectural elements. Refer

to C*lause D1.11 Building Envelope* for further discussion.

- ***Amenity - Visual and Aural Privacy***

  The proposed development will result in unacceptable overlooking of the adjoining dwelling and associated private open space, resulting in inconsistency with the provisions of the P21DCP. The proximity and orientation of the windows on the first floor and the balconies on all levels are of concern. Request for greater spatial separation and/or privacy screens.

  Comment
  The proposal was amended during the assessment process, this resulted in greater separation to the upper level balcony, which is now similar to the existing balcony on this level. Further discussion in regard to this matter can be viewed under Clause C1.5 Visual Privacy, elsewhere in this report.

One (1) new objection was received during the re-notification period, the concerns raised are summarised and addressed below.

- ***View Loss***

  The proposed planting has the potential to completely block the views from our lounge room and partially block views from our dining room and living room balcony. There is also some potential to lose views from our main bedroom balcony. These are the areas of our premises where we spend most of our time. These views are the major asset of our home in regard to well-being, lifestyle and value. All plant species introduced to the Rear Garden area should be less than 4 metres high when mature. This area is directly adjacent to our house.

  Comment
  The proposed works will not result in adverse impact to view corridors obtained by No. 22 Cabarita Road due to the location and orientation of both properties/dwellings. The main concern stems from the proposed planting in the foreshore area and their future heights at maturity stage. Whilst this can be generally considered at assessment stage, and conditions recommended for trees to be be positioned to minimise any significant loss of views from neighbouring and nearby dwellings, as prescribed in *Clause C1.3 View Sharing* - Views are not to be obtained at the expense of native vegetation, refer to this clause for further discussion, elsewhere in this report.

- **Demolition/ construction works on boundary**

  Amended plans indicate only a 50mm setback. a 1.8m high lapped and capped timber fence (painted charcoal) to follow existing grade along some of our boundary. On the drawing it is difficult to determine the extent of the proposed fence or how it will be stabilised. There is no indication whether the existing brush fence is proposed to be replaced

  Comment
  The amended plans have removed any demolition works off the boundary, and confirm that only structures within the property boundaries will be removed. In terms of construction, the property requires replacement retaining walls due to the sloped nature of the topography. These walls are permitted in setback areas. These walls have been shifted off the boundary, to ensure that no structures encroach past the boundary lines. A further condition is recommended to ensure that the retaining walls are constructed wholly within property boundary lines as demonstrated on the plans.

No boundary fencing is proposed under this application (in exception to the front boundary). Notations for fencing may be shown on the Landscape Plan, however, this plan will not form part of the "Stamped Plans" set. A condition is included to ensure no fencing is constructed. This matter is to be dealt with under the *Dividing Fencing Act 1991*.

- ***Solar Access***

  The proposed planting will also have a major shading impact on our property. Council requires submission of sun shading diagrams of proposed structures in relation to adjoining properties. The same sun shading requirements do not appear to apply to proposed large trees such as those listed on the planting schedule of 25 and 15 metre heights with 12 and 10 metre spreads. These proposed tree plantings also represent potential danger to nearby structures including our home.

  Comment
  The proposed works comply with the requirements under *Clause C1.4 Solar Access*. Landscape Conditions have been recommended in relation to location of trees.

- ***Landscape Plan***

  Various concerns raised in relation to the species of vegetation to be planted and their mature heights and locations. Request for the below condition:

  Conditions to be Satisfied Prior to the Issue of the Construction Certificate – Amended Landscape Plans (e) all proposed tree planting shall be positioned in locations to minimize 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 minimize any significant loss of views from neighbouring and nearby dwellings and from public spaces.

  Comment
  The condition noted above has been included as part of the recommended conditions of consent. No issues raised from Landscaping and biodoverosty Teams.

- ***Sea Wall Works***

  Some of the current DA2025/1911 documentation incorporates DA2022/0880 seawall / foreshore works and some does not.

  Comment
  The sea wall works are noted on some documentation/plans for documentative purposes only. These works do not form part of this consent and were approved under the Land and Environment Court. No further comment on the sea wall or its construction is required. If the sea wall works are not being constructed in accordance with the consent, then such matter is for Council's Compliance Team.

- ***Compliance of construction works with Development Approval documentation and conditions.***

  How does Council ensures that the documentation provided by an applicant with a Development Application and subsequent Council Development Approval Conditions are

addressed at the construction stage.

Comment
This is a matter for the appointed Certifier. If it is made aware that the works are not being constructed in accordance with the relevant consent, then Council's Compliance Team must be notified.

- ***General construction period comment***

  Objector notes the concern around construction stage impacts. Further concern that surrounding properties do not have a detailed list of the construction activities to be taken on site.

  Comment
  Conditions are included around construction hours etc. (standard conditions), dilapidation and excavation/geotechnical conditions are also included. The works must be constructed in accordance with these conditions. If any queries arise during construction, it is advised to contact the appointed Certifier.

- ***Excavation/Fill and Geotechnical Matters***

  Not able to ascertain the impact on our property of proposed structural ground works (including retaining walls), particularly adjacent to our house. Nor can we determine the depth or nature of excavation 2 and fill adjacent to our house.

  The Geotechnical Report supporting DA2025/1911 appears to be the same report submitted with DA2024/0660 on which we previously commented. There appears to have been no further site examination.

  Require substantial excavation; possibly piling works and substantial retaining walls with footings needed to be founded on adequate bedrock. The nature and impact of such works on our property at No. 22 do not appear to be addressed in the Development Application or its amendments.

  How are the Geotechnical recommendations enforced.

  Comment
  The proposal was accompanied by both a Geotechnical Assessment Report (revised 09 December 2025) and Coastal Engineering Report (dated 4 December 2025), 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".

  As noted in the Geotechnical Report: *Crozier Geotechnical Consultants cannot sign Form: 3 of the Policy if it has not been called to site to undertake the required inspections.*

  It is considered that these reports and conditions are in accordance with Council's controls, subject to recommended conditions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	***Referral completed - conditions recommended.*** The proposal is supported with regard to landscape issues. Council's Landscape Referral section have assessed the application against the Pittwater Local Environment Plan (PLEP), and the following Pittwater 21 DCP controls (but not limited to): • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1 Avalon Beach Locality The Arboricultural Impact Assessment (AIA) identified seven trees. Of these seven trees two are proposed to be removed, trees 5 and 6. Trees 5 and 6 are exempt by height and as such may be managed or removed at the discretion of the applicant without consent. All other trees are shown to be retained which is supported. As recommended in the AIA a Project Arborist will be required to supervise works in the tree protection zone of trees to be retained. The property is located within the Scenic Protection Category One Area. Some significant works are proposed in the rear setback including high retaining walls. Of note is the outcome "*...the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component*" and as such retaining walls shall be sufficiently screened by planting. The control "*Canopy trees are required between dwellings and boundaries facing waterways...*" is also noted and at minimum one native tree shall be installed within the rear setback to help satisfy this control. The planting scheme is indicatively only and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. A planter box is shown on the first floor balcony and all planters on slab shall meet Council's minimum soil depth requirements. It is suggested the front fence, to the north of the proposed driveway, be lowered in height to better integrate into the streetscape.

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	***Referral completed - conditions recommended.*** The comments in this referral relate to the following applicable controls and provisions: • Pittwater LEP – Clause 7.6 Biodiversity Protection • Pittwater DCP – Clause B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community • SEPP (Resilience and Hazards) 2021 – Coastal Environment Area According to the Arborist Report (Bluegum Tree Care and Consultancy, October 2025), 2 trees are proposed for removal, both of which are exempt and therefore may be managed or removed at the discretion of the applicant without consent. As per the Pittwater DCP Clause B4.7, 80% of any new planting is required to be locally native species listed under the Pittwater Spotted Gum Forest Endangered Ecological Community listing. The Landscape Plan does not satisfy this requirement and therefore a condition of approval is the amendment of the Landscape Plan to include 80% locally native species as a proportion of the total number of plants. Locally native species are to be consistent with the species listed under the Pittwater Spotted Gum Forest Endangered Ecological Community listing. No objections in relation to biodiversity subject to conditions.

Internal Referral Body	Comments
NECC (Coast and Catchments)	***Referral completed - conditions recommended.*** This proposed development is for demolition works and alterations and additions to a dwelling house. **Coastal Management Act 2016** The subject site is located within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the proposed development. <u>Comment</u> On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by dfp planning consultants dated December 2025 the proposed development does generally comply with the objectives of the Coastal Management Act 2016 with respect to matters related to coastal processes and hazards. As such the application is generally consistent with the objects of the Coastal Management Act 2016. This referral has not assessed the compliance of the proposed development, for any potential impact on the scenic value of the area in accordance with the objectives of section 3(a) of the Coastal Management Act 2016 that relate to scenic impact. Assessment of compliance with section 3(a) of the Coastal Management Act 2016 will be by the development assessment officer assessing this development application. **State Environmental Planning Policy (Resilience & Hazards) 2021** The subject site is located on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, section 2.10, section 2.11 and section 2.12 of the State Environmental Planning Policy (Resilience & Hazards) 2021 apply for this DA. <u>Comment</u> On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by dfp Planning Consultants dated December 2020, the DA satisfies requirements under section 2.10, section 2.11 and section 2.12 of the State Environmental Planning Policy (Resilience & Hazards) 2021. This referral has not assessed the compliance of the proposed development, against any potential impact on the visual amenity or scenic qualities of the coast in accordance with section 2.11(1)(a)(ii) and section 2.11(1)(a)(iii) of the State Environmental Planning Policy (Resilience & Hazards) 2021. Assessment of compliance with these sections of the State Environmental Planning Policy (Resilience & Hazards) 2021 will be by the development assessment officer assessing this development application.

Internal Referral Body	Comments
	Comment As such, it is considered that the application generally complies with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021. **Estuarine Risk Management & Subdivision** The subject site is also identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP), the relevant section B3.7 Estuarine Hazard Controls in Pittwater 21 DCP will apply to any proposed development of the site. Comment On internal assessment and as assessed in the Coastal Engineering Risk Assessment Report prepared by Stantec dated December 2025, the ground floor level for the proposed additions and alterations are above the applicable EPL for the site. The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of Pittwater 21 DCP.
NECC (Development Engineering)	***Referral completed - conditions recommended.*** The proposal is for alterations and additions to a dwelling house. No objections to approval subject to conditions as recommended.
NECC (Water Management)	***Referral completed - conditions recommended.*** The proposed Stormwater drainage works are considered acceptable from a water management standpoint, with no objections relating to water quality or water balance impacts.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	***Referral completed - conditions recommended.*** 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.

External Referral Body	Comments
Aboriginal Heritage Office	***Referral completed - conditions recommended.*** 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1378471_06 dated 21 April 2026).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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

SEPP (Transport and Infrastructure) 2021

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

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

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management
The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area
2.10 Development on land within the coastal environment area

1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
   a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
   b) coastal environmental values and natural coastal processes,
   c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
   d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
   e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
   f) Aboriginal cultural heritage, practices and places,
   g) the use of the surf zone.

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

Council's relevant referral officers have reviewed the proposal and are in support, subject to recommended conditions. It is considered that the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1) above.

Division 4 Coastal use area
2.11 Development on land within the coastal use area

1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
   a) has considered whether the proposed development is likely to cause an adverse impact on the following:
      i) existing, safe access to and along the foreshore, beach, headland or rock
      ii) platform for members of the public, including persons with a disability,
      iii) overshadowing, wind funnelling and the loss of views from public places to
      iv) foreshores,
      v) the visual amenity and scenic qualities of the coast, including coastal headlands,
      Aboriginal cultural heritage, practices and places,
      cultural and built environment heritage, and
   b) is satisfied that:
      i) the development is designed, sited and will be managed to avoid an adverse
      ii) impact referred to in paragraph (a), or
      iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
      if that impact cannot be minimised—the development will be managed to mitigate that impact, and
   c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment
Council's relevant referral officers have reviewed the proposal and are in support, subject to recommended conditions. It is considered that the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a) above. The surrounding coastal and built environment, and the bulk, scale and size of the proposed development has been considered and assessment against the relevant controls, which has found to be acceptable.

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
Council's Coastal Team is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

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

Chapter 4 – Remediation of Land

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

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 (10.0m*)	Balcony Balustrade: 10.0m Dwelling: 10.0m	-	Yes *Refer to Clause 4.3*

Note:
* In accordance with subclause (2D):

*Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than **10.0 metres** if—*

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and
(b) the objectives of this clause are achieved, and
(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and
(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes

Clause	Compliance with Requirements
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	No
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

The objectives of the C4 Environmental Living zone are addressed below.

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

Comment
The proposal is for the alterations and additions to a dwelling house which is of low density use. The generated impacts of the development will be mitigated through the adherence of the recommended conditions. The proposal is considered to be consistent with new development within the locality, compatible in terms of the surrounding context and will provide an acceptable outcome for the reasons set out within this report.

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

Comment
The application has been reviewed by the relevant referral units and supported by technical report such as; Geotechnical, Arboricultural and Coastal Engineering. The recommendations made in those reports have been included/referred to as conditions to ensure mitigation of impact.

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

Comment
For the reasons set out in this report, it is considered that the variations to the built form controls can be supported on merit. It is concluded that the development will not result in adverse impacts, subject to the adherence of conditions. It is determined that the overall extent of cut/fill is relative to the site area, with the assessment considering the topography of the site (excess of 30.0% slope). The landscaped area on site has increased when compared to the existing arrangement, with the terraced garden being consistent with surrounding properties in particular those to the north-eastern side of "Stokes Point."

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

Comment
Council's Biodiversity, Landscape and Riparian Lands Officers have reviewed the proposal and are in support, subject to conditions (where relevant).

4.3 Height of buildings

Detailed Assessment

The subject site is located within Area I on the PLEP 2014 Height of Buildings Map. Within this area, the maximum building height permitted is 8.5 metres, which is measured from existing ground level.

Notwithstanding, Clause 4.3(2D) of PLEP 2014, consists of an exemption provision that stipulates that the maximum building height within Area I can be increased to 10.0 metres, subject to achieving relevant requirements, which are discussed below.

The amended proposal will result in a maximum building height of 10.0 metres (balcony balustrade) and 10.0 metres (dwelling house) - refer to figures below.

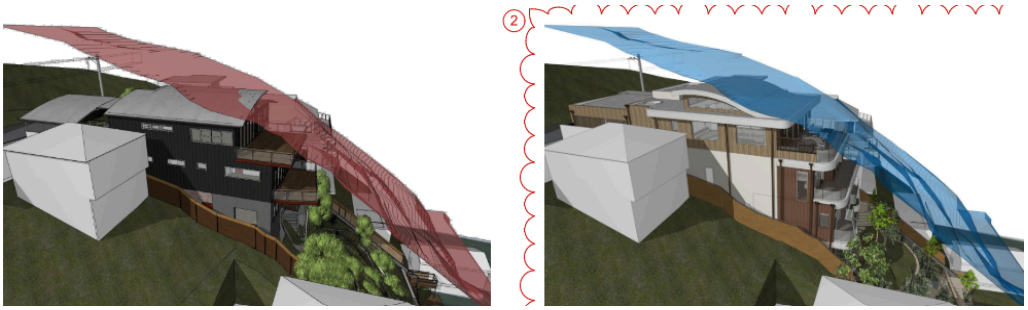


Figure 1: *10.0m Height Blanket - Existing shown in red (height over 10.0m), proposed shown in blue (below 10.0m)*

Note: The existing design and initial proposed design both protruded outside of the 10.0 metre height blanket. The amended proposal revised the roof design to ensure compliance with Clause 4.3 (2D) and now presents a design with a lesser overall height. The revised roof design allows for an addition of a curved architectural element which aids in reducing visual bulk and provides visual interest when viewed from the public domain.

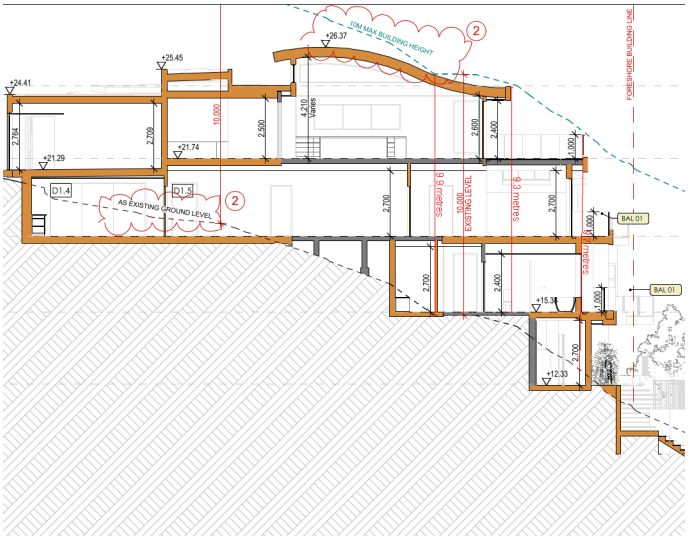


Figure 2: *Section A*

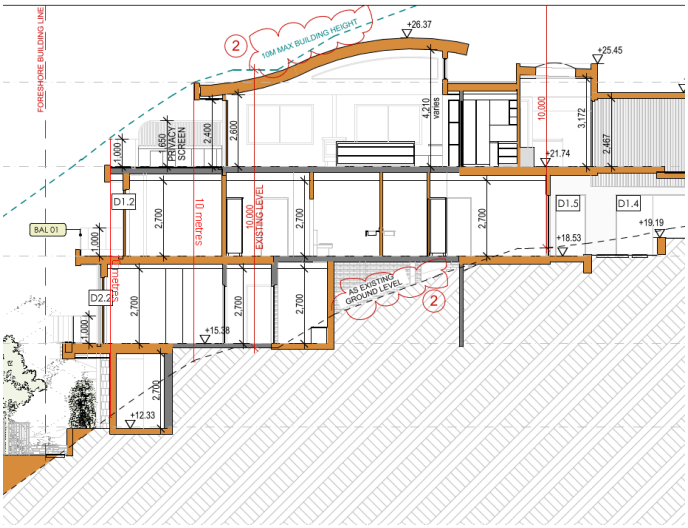


Figure 3: Section B

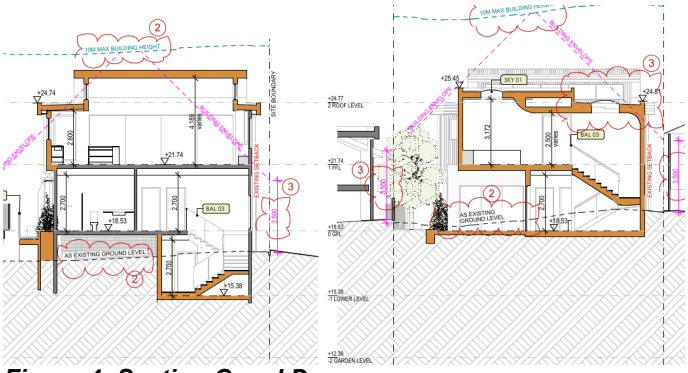


Figure 4: Section C and D.

(a) the consent authority is satisfied that the portion of the building above the maximum building height is minor, and

Comment

The works above the 8.5 metre building line and below the 10.0 metre dispensation are generally limited to the curved roof form of the first floor and the upper floor balcony. It is noted that this balcony is situated in a similar location to the existing. Majority of the remaining works and internal habitable areas are generally contained below 8.5 metres. As such, the portions of development described above, are considered to be minor in nature.

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

Comment

The bulk and scale of the dwelling is considered to be consistent with surrounding new development that responds to and steps down slope, subject to conditions. The overall bulk is not dissimilar to the existing dwelling, with variations to new/modified extensions to maximise potential. The design is considered to achieve view sharing outcomes and complies with solar access requirements. Visual privacy levels will be acceptable for properties located along a waterway, subject to conditions.

Furthermore, the dwelling will present a landscaped foreshore that is terraced, which is compatible with the character of the area, with minimal "built form". This vegetated foreshore will allow for an effective softening of development and demonstrate an appropriate response to the natural environment.

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

Comment
The **building footprint** is located on a slope in excess of 16.7 degrees - 20.48 degrees (37.0%).

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

Comment
Notwithstanding the multiple levels, the design does step down the slope. The excavation is proportionate given the overall size and topography of the site, with majority restricted to the footprint of the dwelling to allow for extensions. The earthworks to the foreshore are not excessive and will form part of the landscaping works. Further consideration of excavation impacts is provided under *Clause B8.1 – Construction and Demolition: Excavation and Landfill.*

Conclusion
In this instance, Council can be satisfied that the proposed development achieves compliance with the objectives of subclause 2D of Clause 4.3. Therefore, the 10. metre dispensation is applied to the site.

4.6 Exceptions to development standards

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

Development standard: Clause 7.8 Limited development on foreshore area
Requirement: Landward of Foreshore Building Line
Proposed: Inclinator landing and landscaping retaining walls including excavation seaward of the foreshore building line
Percentage of variation: N/A - non numerical standard



Figure 5: *Pink solid line indicates foreshore building line. Red Circle notes inclinator stop within the foreshore building line area.*

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 7.8 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 7.8 is unreasonable or unnecessary in the circumstances of this application for the following reasons (excerpt from submitted Clause 4.6 Request):

- *The proposed landscaping works within the foreshore area will not disrupt any views from neighbouring properties of the foreshore or waterway, as the works are low in scale, follow the natural topography, and involve soft landscaping elements that blend with the surrounding environment.*
- *The proposed landscaping within the foreshore area is not visible from the street due to the steep topography of the site. The proposal will therefore have no impact on the existing streetscape.*
- *The proposed landscaping within the foreshore building area will enhance visual privacy for adjoining properties by introducing layered screen planting and strategically positioned trees. These plantings will soften sightlines, provide natural screening, and assist in concealing existing boundary fencing, thereby improving the overall sense of privacy and visual separation between properties.*
- *The works are low-level comprising of ground level changes including stairs and paths and a new inclinator area.*
- *The proposed landscaping works within the foreshore area is not expected to obstruct any views of the foreshore from adjoining neighbours. The natural descending topography towards the water and the low-growing, carefully selected vegetation ensure that existing view corridors are preserved and that the development integrates seamlessly with the visual landscape.*
- *No built structures, or modifications to the foreshore edge or waterway are proposed as part of this development. The proposed works involve low-impact works such as planting, minor ground-level adjustments, and the use of permeable materials, all of which will help stabilise the soil, reduce erosion risk, and enhance the ecological condition of the site.*
- *The proposed landscaping within the foreshore building area maintains existing accessways to the waterway including via an existing Council approved inclinator at the site.*
- *Private accessways are enhanced within the foreshore building area through the construction of an upgraded path and stairs from the dwelling house to the waterway. Additionally, private access is enhanced through the construction of a new inclinator landing platform.*

(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 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 (excerpt of submitted Clause 4.6 Request):

- *Development proposed within the foreshore building line area is to comprise of landscaping including paving, sandstone retaining walls, and planting. With reference to the proposed Landscape Plans and Stormwater Management Plan the development effectively minimises pollution or siltation of the waterway through adequate mitigation and management methods.*

- *Neighbouring properties to the site's south at 22 Cabarita Road include structures that are within the foreshore building line area. Considering this the extent to which the proposed development encroaches within the foreshore building line area through landscaping may be seen as compliant with surrounding existing built and landscaped form.*

- *The proposed landscaping works within the foreshore building line area will result in a clear improvement to the overall amenity of the site. By upgrading a previously underutilised area with high-quality landscaping, including native planting and improved access pathways and an inclinator landing area towards the waterway, the proposal enhances both visual and recreational amenity.*

- *In Micaul and Initial Action, Preston CJ clarified that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. As summarised earlier, the proposal satisfactorily avoids, manages or mitigates adverse amenity impacts.*

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 7.8 for the following reasons:

The justification provided as to why compliance with Clause 7.8 Limited development on foreshore area is unreasonable or unnecessary in the circumstances are noted. It is established that the context of the foreshore area in the immediate vicinity consist of buildings that have been built to the waters edge, this is evident in the adjoining properties which include a dwelling house (No. 22 Cabarita Road). Refer to ***Image 1*** below.



Image 1: *Aerial view of immediate area, providing visual aid into the foreshore area of the eastern side of "Stokes Point".*

The landscaped retaining walls are to support the land and built form behind the foreshore building line, but will also accommodate for new landscape garden beds which will replace the existing. The number of terraced levels will be similar to that of existing with around four (4) to five (5) levels, due to the slope of the land. The plantings within these garden beds, upon maturity will contribute to visual softening and a presence of a landscaped rear yard when viewed from the waterway. Such landscaping will contribute to the mitigation of the proposed built form on site and screen the new walls, and will be consistent with surrounding built form (located in the foreshore area). As earlier indicated the site in its existing arrangement include landscaped retaining walls (heights between approx. 1.0m - 2.0m) and garden beds within the foreshore building area, this proposal will not alter this characteristic but rather provide an upgrade with incorporated waterway access stairs and areas for recreation. The new walls will range in height (1.0m - 3.0m) due to the curvature nature of the landscaped design, as the stairs wrap around and gradually follow the sloped topography.

In terms of the new lower landing, this area is minimal, discrete (behind landscaping), integrated within the waterway access stairs/pathway and to service an **existing** inclinator structure.

The areas that contravene this standard are considered to be minimal, ancillary development that holistically form part of the landscaped design for the site and has relation to the existing inclinator and new waterway access stairs. These elements are not as excessive, and will be acceptably screened by vegetation, when compared to neighbouring development that is located in whole, or in part within the foreshore area, that

consist of dwelling houses or other larger building structures. Therefore, these works will not be dominating nor significantly alter the existing terraced garden character. Under these circumstances the landscaping and access structures within the foreshore are considered reasonable.

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 as described above, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

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.

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

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

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

Comment
The excavated material will be processed according to the Waste Management Plan for the development.

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

Comment
The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions

have been included in the recommendation of this report to limit impacts during excavation/construction.

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

Comment
The excavated material will be processed according to the Waste Management Plan for the development.

(f) the likelihood of disturbing relics

Comment
The subject site does not contain any known relics.

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

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

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

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

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

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

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

7.6 Biodiversity protection

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

(a) whether the development is likely to have:
(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the

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

Comment
The development has been assessed by Council's Biodiversity Team. It is considered that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land - subject to conditions.

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

Comment
The development has been assessed by Council's Biodiversity Team, it is considered that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development - subject to conditions.

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

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment
The development has been assessed by Council's Biodiversity Team, it is considered that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

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

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

Comment
The proposed development is supported by a geotechnical risk assessment. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to recommended conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:
(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and

Comment
The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to recommended conditions of consent.

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

Comment
It is 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, subject to recommended conditions.

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment
The proposed development consists of works to the existing dwelling and landscaped area to the eastern portion of the site. The works will include new waterway access stairs and planting of vegetation which is permissible within the foreshore area.

Despite the above, the proposal will include various retaining walls to replace the existing walls of the terraced garden, these walls will also support the waterway access stairs and new vegetation. In addition, a new inclinator lower landing will be constructed. Such development contravenes the requirements of Clause 7.8. The development however is found to be acceptable for the reasons as set out in *Clause 4.6 Exceptions to development standards*, elsewhere in this report.

It is noted that the dwelling itself is located landward of the foreshore building line, and the inclinator is an existing structure.

The proposed development is assessed against the controls of 7.8 below.

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
    - *pollution or siltation of the waterway, or*
    - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
    - *an adverse effect on drainage patterns, or*
    - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment

The proposed development is consistent with the objectives of the C4 Environmental Living zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants,agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed development is acceptable in relation to

the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m *Western Boundary*	Garage: 0.2m - 0.7m Entry Foyer: 7.2m - 7.4m Laundry (underneath): 0.3m - 1.4m Entry/Stairs: 1.3 - 2.2 metres	96.9% - 95.4% 80.0%	**No** Yes **No** **No**
Rear Building Line (MHWM)	Foreshore Building Line (FSBL)	Dwelling: Landward of FSBL Retaining Wall/Inclinator Landing: Seaward of FSBL	-	*Refer to Clause 4.6*
Side Building Line	2.5m *Northern Boundary*	First Floor: 2.5m - 5.8m Ground Floor: 2.7m - 6.4m Lower Ground Floor: 3.2m - 3.4m Garden Level: 3.3m Access Stairs/Pathways: 1.3m - 2.5m (variable)	- 48.0%	Yes **No**
	1.0m *Southern Boundary*	First Floor: 0.9m (new walls) First Floor Balcony: 0.8m Ground Floor: 0.9m (new walls) Ground Floor Balcony: 1.0m Lower Ground Floor: 0.9m - 1.0m Garden Level: 0.9m	10.0% 20.0% 10.0% - 10.0% 10.0%	**No** **"** **"** Yes **No** **No**
Building Envelope	3.5m *Northern Elevation*	Outside Envelope	-	*Merit Assessment*
	3.5m *Southern Elevation*	Outside Envelope	-	*Merit Assessment*
Landscaped Area	60.0% *357.84m²*	Approx. 58.4% 348.184m² *(including 6.0%)*	2.7% 9.656m²	**No**

NOTE:
1. Retaining walls are permitted within side setback areas as specified under P21DCP.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	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
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	No	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	No	Yes
D1.5 Building colours and materials	No	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.15 Fences - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B4.16 Seagrass Conservation

The proposed works are located landward of the MHWM.

B8.1 Construction and Demolition - Excavation and Landfill

Assessment

The proposed development will necessitate excavation to support the new works to the dwelling and terraced garden area (the figures below indicate the areas of excavation/fill). The plans indicate that the total extent of excavation will be approximately 210.11m³, with 40.32m³ of fill, therefore resulting in a net value of approximately 169.79m³.

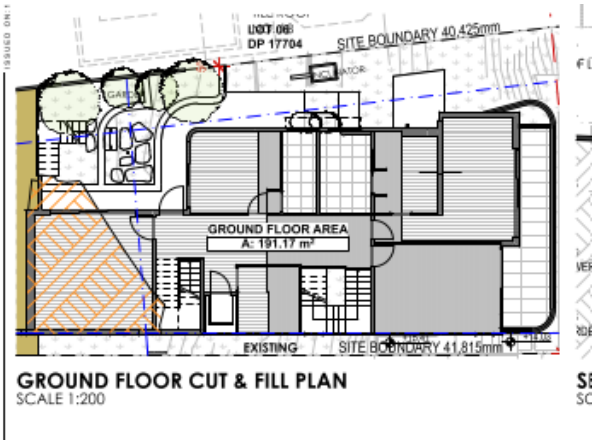


Figure 6: *Indicative location - excavation to upper ground floor area.*

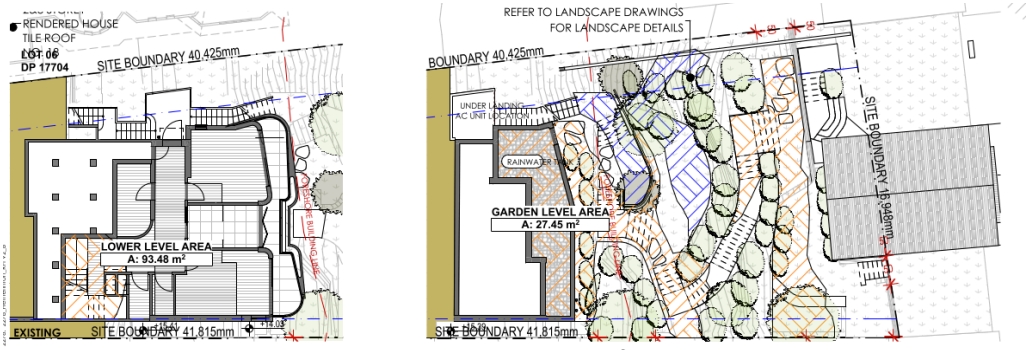


Figure 7: *Indicative location - excavation to lower level floor area + garden area.*

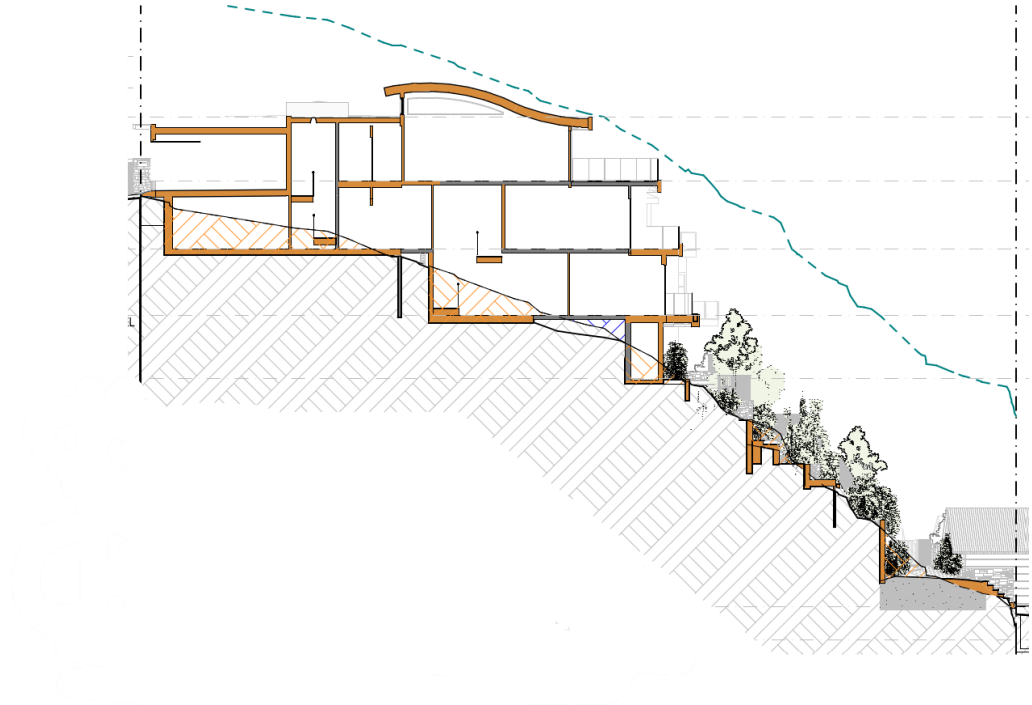


Figure 8: *Indicative location - excavations on section plan.*

The application is supported by a Geotechnical Assessment and Certified Forms prepared by Crozier, dated 9 December 2025. It is conditioned that the recommendation of that report are adhered to, to ensure mitigation of impact.

The outcomes of the control are:

- ***Site disturbance is minimised.***
- ***Excavation, landfill and construction not to have an adverse impact.***
- ***Excavation and landfill operations not to cause damage on the development or adjoining property.***

Comment
Conditions have been recommended in relation to the recommendations made in the submitted Geotechnical Report to ensure mitigation of adverse impact. Further conditions for Dilapidation Reports (both pre and post construction) are also included, to document the conditions of the two (2) directly adjoining properties. The extent of excavation is primarily isolated to the dwelling footprint to provide extensions to the lower levels of the dwelling as shown in the section plan above. Excavation and fill will occur to the terraced garden to allow for new retaining walls to replace the existing walls that are in disrepair. However, it is determined that the extent of excavation is relative to the overall size of the allotment and is not considered to be overly excessive.

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

View Loss Analysis
One (1) submission was received from the following property which included concerns regarding view loss:

- No. 22 Cabarita Road, Avalon Beach.

The submission identifies that the primary concern relates to the placement of vegetation within the foreshore area, specifically the location of trees and shrubbery which, upon reaching maturity, may affect an existing northward view corridor, of the Western Foreshore Area. This view corridor, as illustrated in photographs previously obtained by Council in relation to Development Application DA2024/0660 (since withdrawn), is currently available from both internal and external areas of No. 22 Cabarita Road. These views are achieved by looking across the side boundary of the subject site, as well as over its boatshed and foreshore area.

The only works to this area under this application will be the replacement of retaining walls, stairway access and landscaping works. The overall built form and dwelling house will be located landward of the foreshore building line, which is further upslope to the west of the dwelling at No. 22 Cabarita Road.

It is also noted that No. 22 Cabarita Road is itself located within the foreshore area, in close proximity to the Mean High Water Mark (MHWM). Given the existing siting of this dwelling, the proposal is not expected to disrupt the overall views currently enjoyed from that property to the north, east or south.

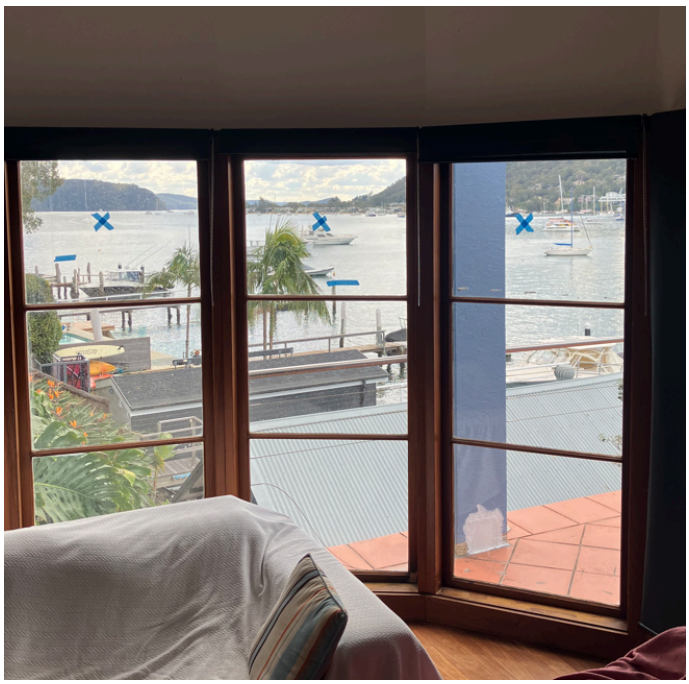


Image 2: *View toward the north-east from No. 22 Cabarita Road over the subject site's boatshed.*



Image 3: *View toward the north-east from No. 22 Cabarita Road over the subject site's boatshed.*

Note: The photos used above for this assessment were deemed to be sufficient in forming the above conclusion.

Clause C1.3 View Sharing notes that views are not to be obtained at the expense of native vegetation. However, a standard landscaping condition is recommended that notes the following:

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.

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 relevantly stipulates:

(a) 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.
(b) elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.
(c) direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

An assessment on privacy is conducted below.

First Floor
The first floor level will consist of a balcony to the eastern elevation toward the waterway, of similar dimensions and location of the existing. The new balcony will be pushed out further toward the north by approximately 0.8 metres, with a side setback of 5.2 - 5.7 metres from the boundary. Such increase is not substantial and will not alter the current visual privacy levels to warrant the strict need for a privacy screen to the northern edge. Both balconies (existing and proposed) are associated with the main living quarters of the dwelling, therefore the usage of this balcony will remain the same. This balcony retains the existing setback to the southern boundary of 0.8 metres, however has added a 1.65 metre privacy screen due to the addition of a fixed outdoor kitchen. The screen is of louvered construction and is to reduce direct overlooking to No. 22 Cabarita Road.

Windows to this level on the northern elevation are in similar locations to existing, however the size has been altered. These windows are associated with the kitchen, dining and pantry. The kitchen window is adjacent to the neighbouring frosted windows (to a stairwell). Due to the neighbouring dwelling's frosted windows, it is not considered that this kitchen window will create adverse impact. The dining room however, will be frosted from the bottom half up, to allow for privacy to the subject site and northern neighbour. The southern windows to this level are also in similar locations, and have altered slightly in size, whist not directly adjacent to main open space areas nor the neighbouring dwelling, these windows have an increased probability of overlooking into the below southern courtyard of No 22 Cabarita Road. These windows are associated with a living room and have minimal setback and as such will be conditioned with a privacy element.

Ground Floor
The balconies to the ground floor are associated with both the master bedroom and a second living area space, these uses are similar to the existing arrangement on this level. The balcony will be positioned closer to the northern boundary, when compared to the existing, however will be shallower in depth (1.5 metres), with the addition of a corner planer box. A condition is recommended for plantings that reach at least 1.5 metres in height to act as a vegetative screen and enhance privacy. This balcony maintains a similar location toward the south with a shallower depth. It is considered that the overall privacy impact to the south will not be significantly altered. These balconies are projected out toward the east to obtain water views, rather than along the side elevations of the dwelling.

The windows to this level along the northern elevation are associated with bathrooms and considered to be acceptably placed. The master-bedroom window was amended to present as a skylight window to limit over-looking. Two (2) windows to the south are associated with the laundry and stairwell, and are modest in size. The final window on this level is associated with the second living room and floor to ceiling in length. This window is recommended to be conditioned with a privacy element such as frosted glazing, or louvred screen.

Lower Ground Floor
The balconies to the lower ground floor are shallow in depth and associated with low usage rooms i.e. bedrooms and a bathroom. The southern return of the balcony is 1.0 metre from the boundary, however is not directly adjacent to No. 20 Cabarita Road's balconies (which are located further down slope). Due to this neighbouring dwelling being located within the foreshore area, their associated private open space is toward the east in proximity to the MHWM. The balcony is located 3.4 metres from the northern boundary, with a curvature element oriented slightly toward No. 18 Cabarita Road and their pool area. It is recommended that the curvature section of this balcony incorporate a privacy screen, similar to the screen on the southern edge of the first floor balcony. Whilst elements of the proposed dwelling may overlook this pool area due to it's location down slope (susceptible to a level of view impact), the addition of this screen will allow for a further sense of security for the neighbours and the residents of the subject site.

Windows to these levels are modest and acceptably placed, and screened by vegetation.

Foreshore Area
The works to this area include waterway access stairs and landscaped elements, which are consistent with neighbouring dwellings. This area will be acceptably screened were possible with vegetation. Due to the sloped nature of the area with dwellings that include expansive windows/balconies, a level of over-looking into the open foreshore portions of these site are often unavoidable.

Comment
The outcomes of the control are:

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)*
- *A sense of territory and safety is provided for residents. (S)*

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment, particularly those located along the waterfront.

Having regard to the above assessment it is concluded that the applicable outcomes of the control have been achieved and that the proposal provides acceptable privacy (both visually and aurally) within a residential setting. Therefore, the application is supported on merit.

C1.19 Incline Passenger Lifts and Stairways

The inclinator on site is an existing structure to be retained.

C1.23 Eaves

Merit Consideration
Clause C1.23 Eaves requires dwellings to incorporate eaves on all elevations with a minimum width of 0.45 metres. The dwelling house does not include eaves on all elevations as part of the design.

The underlying outcomes of this clause are as follows:

- *Housing that reflects the coastal heritage and character of Pittwater.*
- *Optimise roof forms.*
- *Appropriate solar access and shading is achieved.*

Comment
The overall design reflects a theme which is consistent with designs in the surrounding area. The submitted BASIX Certificate demonstrates appropriate solar access and shading will be achieved, with the application accompanied with acceptable shadow diagrams. The proposed roof style/eaves do not generate adverse impacts to surrounding properties.

For the reasons outlined above, it is concluded that the outcomes of the clause are achieved and is supported on merit in this particular circumstance.

D1.1 Character as viewed from a public place

Merit Consideration
Clause D1.1 Character as viewed from a public place stipulates the following:

Garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place. 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.

A variation to the control permits parking spaces to be located forward of the building line where site constraints restrict alternative siting options. The subject site is located toward the northern portion of "Stokes Point" which consists of steeply sloped topography that usually fall from street level down toward the waterfront, limiting the siting of parking structures. In this instance, the proposed garage follows the pattern of parking structures within the vicinity and will be located forward of the building line of the dwelling house.

To further justify the acceptability of the location of the garage, it is noted that the parking structure will be constructed atop the existing location of the current carport with similar dimensions. The garage is minimal in design, with an outer dimensional width of 6.2 metres, and an internal width of 5.8 metres. Whilst this does not strictly comply with the 50.0% frontage control, which would limit the garage frontage to 6.05 metres, the deviation would only be 0.15 metres. The remainder of the frontage is to support the front entry, front fence and landscaping, refer to ***Images*** below for visual representation.



Image 4: *3D perspective of garage design, prepared by Archisoul Architects.*





Image 5: *Photo montage of surrounding garages, prepared by Archisoul Architects.*

Due to the steep slope of the subject site, the garage design is considered consistent in relation to the spatial characteristics of the existing built environment within the immediate vicinity. It is noted that the garage due to this slope cannot be located behind the dwelling house nor comply with the prescribed front setback requirement. Refer to *Clause D1.8 Front Building Line* for further detail.

It is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

D1.5 Building colours and materials

Merit Consideration

Clause D1.5 Building Colours and Materials require that buildings are to utilise medium to dark colour ranges with natural and earthy tones.

The proposed development seeks to utlise the below colours and materials:

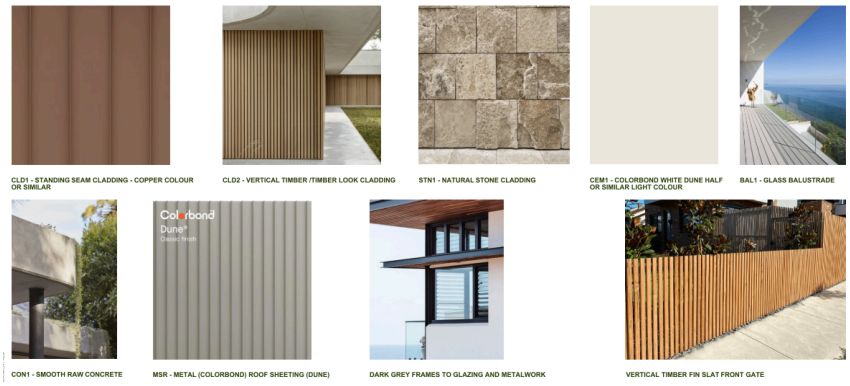


Figure 9: *Finishes Mood board.*



Figure 10: *Artist Impression with colour scheme and neighbouring dwelling.*

Surrounding development within the immediate locality comprises buildings that utilise similar materials and colour palettes, and exhibit spatial characteristics consistent with the proposed development. In this context, the proposal is considered compatible with its established setting.

Furthermore, given the proposed landscaped treatment along the eastern portion of the site, the selected colour scheme will not present as visually dominant. Instead, it will integrate appropriately with the surrounding vegetation and, upon maturation of the landscaping, will be complementary to other development within the foreshore environment.

A condition however is recommended to ensure the proposed roof has 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.

The development is considered to be acceptable on merit and will achieve the relevant outcomes of the control.

D1.8 Front building line

Description of Non-compliance

Clause D1.8 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 following front setbacks are proposed:

- Garage: 0.2 - 0.7 metres, with a variation of 96.9%
- Laundry (underneath garage structure): 0.3 - 1.4 metres, with a variation of 95.4%.
- Entry/Stairs: 1.3 - 2.2 metres, with a variation of 80.0%.
- Dwelling: 7.2 - 7.4 metres.

A variation is included in the control where carparking is to be provided on steeply sloping sites, a reduced or nil setback for carparking structures may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable. As demonstrated in the figure below, the dwelling in isolation is located behind the prescribed building line, in exception to the entry walkway. A laundry area is located on the level below the garage, however, this floor is situated below street level and will not be easily ascertained from the public domain.

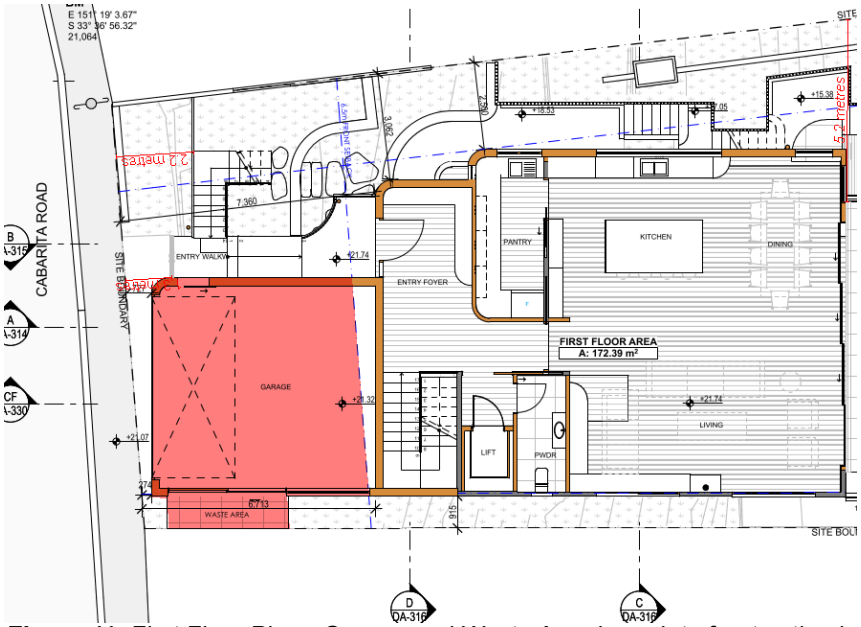


Figure 11: *First Floor Plan - Garage and Waste Area breach to front setback controls depicted in red shading.*

The outcomes of the control are:

- *To achieve the desired future character of the Locality. (S)*
- *The amenity of residential development adjoining a main road is maintained. (S)*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*
- *Vehicle manoeuvring in a forward direction is facilitated. (S)*
- *To encourage attractive street frontages and improve pedestrian amenity.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment
The parking structure is to replace the existing carport, which is currently located on a nil setback in the same location as the proposed. This garage design is not incongruent with other structures in the immediate vicinity nor other site's with similar topography, which limit the parking structure to the upper slope, close to street level. Realistically, the location of a garage with a setback greater than 6.5 metres to a constrained site, such as this is not feasible. To off-set this, the overall dwelling will remain behind the prescribed setback, in exception to ancillary elements i.e. access stairs/pathways and the lower level laundry (as previously mentioned), such arrangement is considered to be cohesive.

Cabarita Road is not classified as a main road, with forward vehicle maneuvering not considered to be mandatory, this is supported by Council's Development Engineer.

The front setbacks to the properties along the eastern side of Cabarita Road do present as minimally landscaped, due to the need for parking and access to be located within the front setback. However, the submitted Landscape Plan prepared by Hugh Burnett includes a vegetated courtyard to the northern corner of the site, located behind the front fencing. Such vegetation will allow for visual softening of built form upon maturity. The use of mixed materials such as stone, timber cladding, cement render and Colorbond will aid in visual appeal, contributing to the streetscape character.

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.

D1.9 Side and rear building line

Description of Non-compliance
Clause D1.9 Side and Rear Building line prescribes a side setback of 2.5 metres to one side and 1.0 metre to the other. For this assessment, the 2.5 metre side building line is applied to the northern boundary and the 1.0 metre side building line applied to the southern boundary. The below table lists the proposed setbacks. This site does not have a rear building line where the foreshore building line take precedence.

Side Building Line	2.5m *Northern Boundary*	First Floor: 2.5r Ground Floor: 2. Lower Ground Floor Garden Level Access Stairs/Pathways: 1.
	1.0m *Southern Boundary*	First Floor: 0.9m (First Floor Balcc Ground Floor: 0.9m Ground Floor Bal Lower Ground Floor Garden Level

Table 1: Snippet from Built Form Table.

A variation to the numerical control can be considered where alterations and additions to existing buildings are proposed, where it is shown that the outcomes of this clause are achieved.

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)*

- *The bulk and scale of the built form is minimised. (En, S)*
- *Equitable preservation of views and vistas to and/or from public/private places. (S)*
- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*
- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*
- *Flexibility in the siting of buildings and access. (En, S)*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*
- *A landscaped buffer between commercial and residential zones is achieved.(En,S)*

Comment
The proposal will maintain a low density residential development with spatial separation that is consistent with the desired future character of the Avalon Beach Locality.

Majority of the setbacks to the built form comply with the side setback requirements to the common boundary shared with No. 18 Cabarita Road, in exception to the access stairs. These stairs are located in a similar location to the existing stairs to be replaced, however, have now been designed to better incorporate with the proposed landscaped foreshore area. These stairs provide a functional access point consistent with surrounding sites along the waterfront.

The built form to the south include minor variations between 10.0% - 20.0% with these setbacks being influenced by the existing building line along the southern edge of the existing dwelling. The new elements generally continue the existing building lines of the dwelling for consistency. Refer to *Clause D1.11 Building envelope,* elsewhere in this report for further discussion on bulk and scale. Despite the deviations from the numerical control, the proposed works comply with the required solar access requirements and amenity is considered to be retained at an acceptable level. Refer to Clause *C1.5 Visual Privacy*, for further detail in regard to over-looking/visual privacy matters.

Refer to *Clause C1.3 View Sharing*, for further detail in relation to equitable preservation of views and vistas.

The proposed development will not adversely impact the flexibility in the siting of buildings and access on site.

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.

D1.11 Building envelope

Merit Assessment
Clause D1.11 Building Envelope generally requires development to be sited within a 3.5 metre building envelope to ensure the bulk and scale of the built form is minimised.

Portions of the proposed works on both the northern and southern elevations will extend outside of the prescribed envelope, and is indicated by the coloured shading in the below figures.

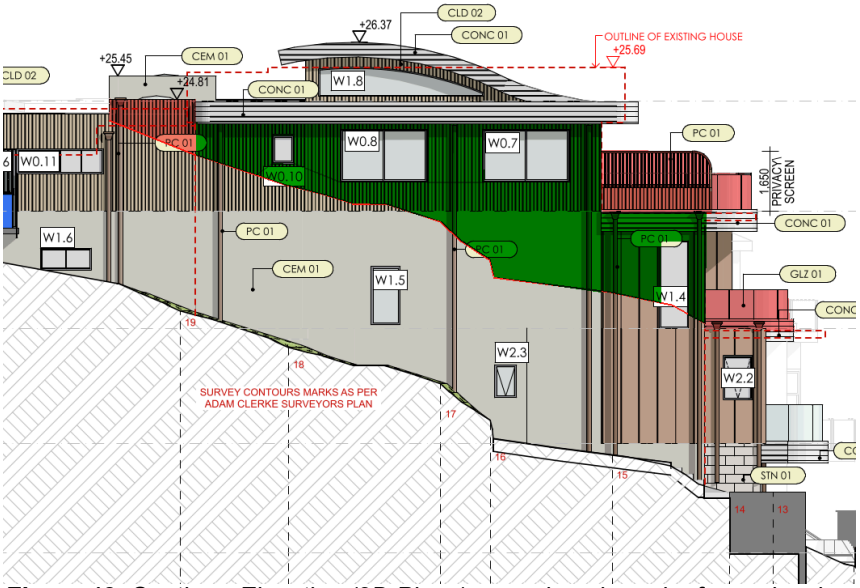


Figure 12: *Southern Elevation (2D Plane) - envelope breach of new development shown in red shading, green shading represents existing built form/envelope.*

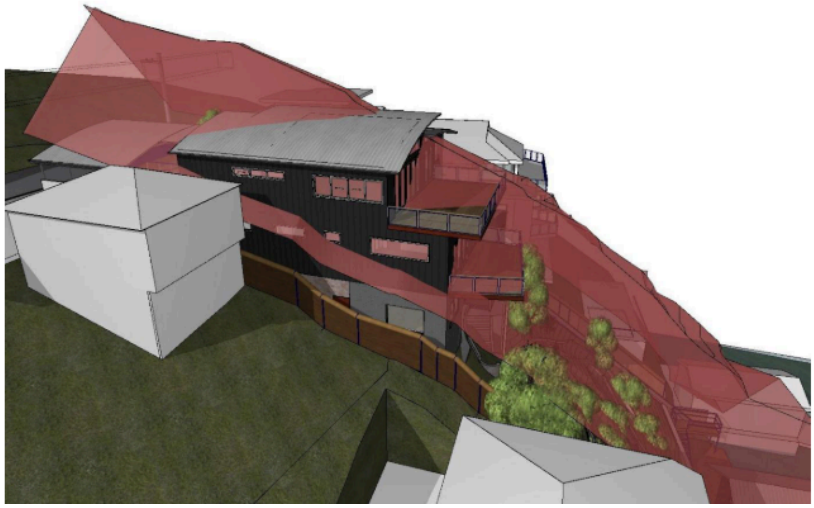


Figure 13: *Existing building envelope - south view (3D Plane)*

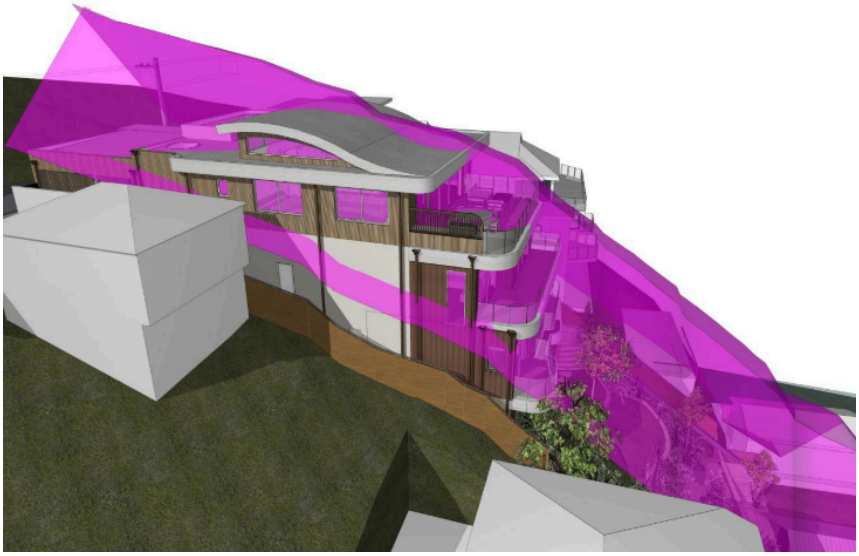


Figure 14: *Proposed building envelope - south view (3D Plane)*

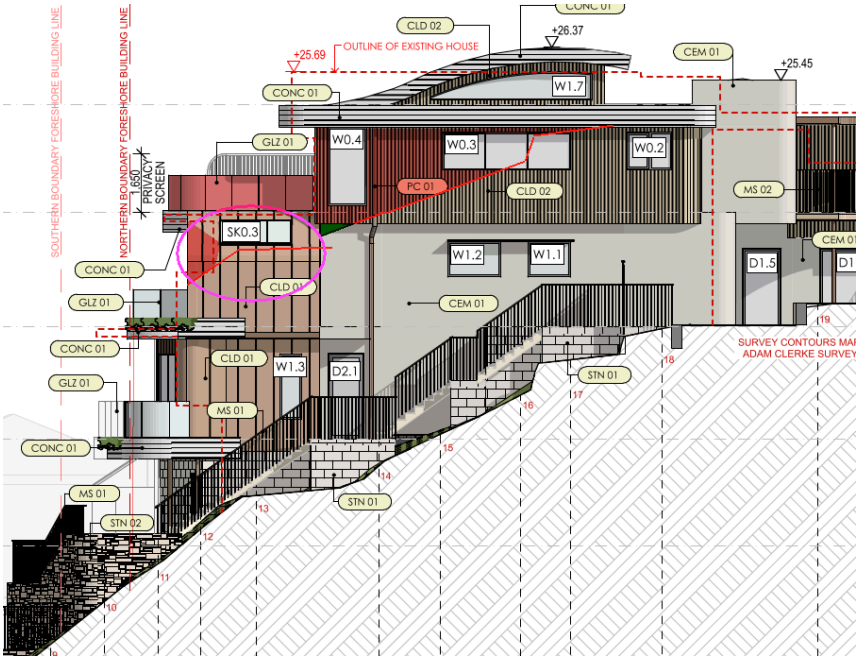


Figure 15: *Northern Elevation (2D Plane) - envelope breach of new development shown in red shading, green shading represents existing built form/envelope.*

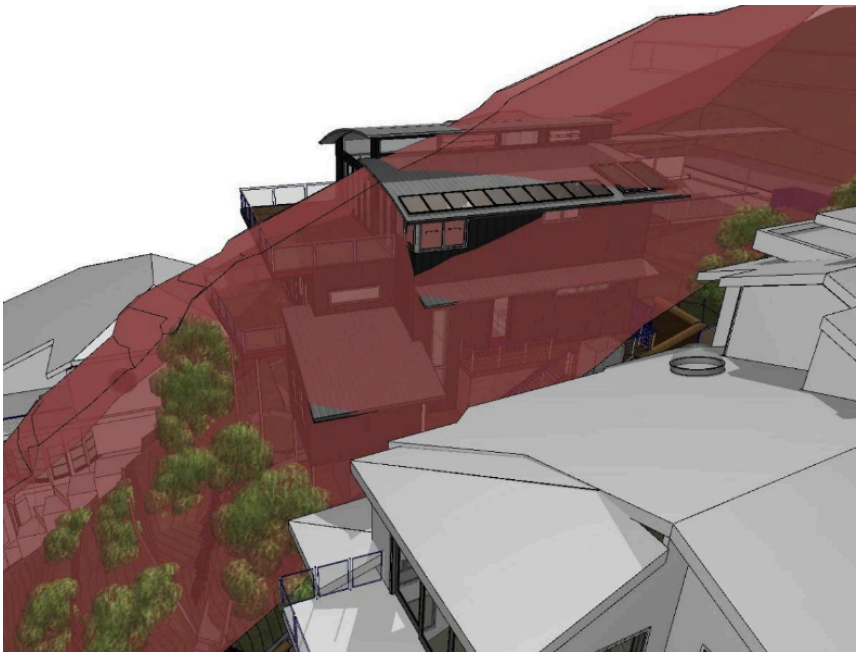


Figure 16: *Existing building envelope - north view (3D Plane)*

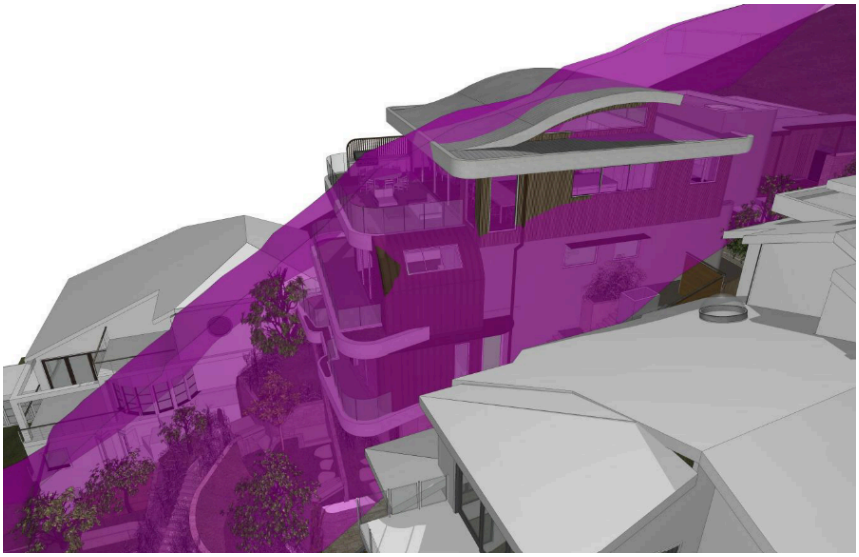


Figure 17: *Proposed building envelope - north view (3D Plane)*

The windows although form part of the building are often open and translucent in design, contributing to a lessening of bulk and scale when compared to solid massing of walls. The windows have been excluded to allow a visual representation of the extent of breach to the "actual" walls of the development in *Figure 12 and 15.*

Despite the above control, a variation is permitted where the building footprint is situated on a slope over 16.7 degrees to be considered on a merits basis. The proposed dwelling is located over a slope of more than 16.7 degrees or 30.0% and in this instance will be subject to a merit assessment below.

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

- *To achieve the desired future character of the Locality. (S)*
- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*
- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*
- *The bulk and scale of the built form is minimised. (En, S)*
- *Equitable preservation of views and vistas to and/or from public/private places. (S)*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*

Comment

The proposal will maintain a low density residential development, and is considered to achieve the outcomes of the desired future character of the Avalon Beach Locality. The deviation from the numerical portion of the control is influenced by the steep topography - over 16.7 degree slope and the retention of the existing dwelling and continuation of the side building lines for the proposed extensions.

It is noted that the existing building is non-compliant with the prescribed building envelope, resulting in any alterations to these areas to retain that non-compliance (as shown in the green shading above and existing 3D perspectives). The new areas of breach predominantly relate to the balcony areas on the upper floor which will consist of glass balustrades and are open in design, the balconies are a continuation of existing building lines for cohesion. The new breaches to the walls of the dwelling are associated with the new stairwell located upslope, and the northern extension on the upper floor and are influenced by the topography and existing structure. The extent of breach was reduced by shifting the balcony further back from the northern boundary (whilst improving visual privacy), the ground floor master bedroom was reconfigured to allow for a curved roof dome, which curves away form the northern boundary, providing an articulated architectural element of visual appeal.

The greatest protrusion is to the southern elevation, as mentioned earlier . These areas are not directly adjacent to the dwelling to the south, but rather the front entry courtyard, and will not adversely impact on amenity levels such as solar access, view loss or privacy (subject to recommended conditions). The overall breach to the north is not significantly altered when compared to the existing.

The envelope breaches are not dissimilar to those of newer development within the immediate vicinity which has been influenced via topography and positioning of existing structures, these designs include similar architectural elements and spatial seperation to mitigate visual dominance - refer to 3D Perspectives below.



Figure 18: *3D Perspective prepared by Archisoul.*



Figure 19: *3D Perspective prepared by Archisoul.*

The variable materials, screening and terracing used for the development will provide a break up of built form in the larger massed areas. Furthermore, the additional landscaping will visually soften the built form and provide a vegetated presence when viewed from the waterway.

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.

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance

Clause D1.14 requires a site located within Area 1 of the Landscaped Area Map to provide a minimum of 60.0% landscaped open space, equating to 357.84m².

Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:

- impervious areas less than 1 metre in width (e.g. pathways and the like);
- up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only.

Based on the above, the proposed development will result in a landscaped area of approx. 348.184m² or 58.0% of the site. It is noted that the site as existing did not comply with the 60.0% requirement, with a landscaped area of approx. 42.0% (based off submitted documentation).

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. (S)*
- *The bulk and scale of the built form is minimised. (En, S)*
- *A reasonable level of amenity and solar access is provided and maintained. (En, S)*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*
- *Conservation of natural vegetation and biodiversity. (En)*
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)*
- *To preserve and enhance the rural and bushland character of the area. (En, S)*
- *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

The proposed works will maintain a design situated within a landscaped setting as demonstrated by the submitted Landscape Plan (and recommended conditions) which include various trees/plantings, achieving the desired future character of the Locality. These vegetative elements will enhance the landscaping, provide visual interest and soften built form. The terraced garden within the foreshore area is considered to be a recurring "characteristic" with the properties to this immediate vicinity with extremely steep gradients in topography. The existing arrangement includes such characteristic, however is need of replacement retaining walls. The new works will allow for an upgrade/restoration to this area and will provide a more cohesive design to the landscaped area.

A reasonable and acceptable level of privacy, refer to *Clause C1.5 Visual Privacy*, amenity, and solar access will be maintained to the residents of the subject site and adjoining properties.

Council's Bushland and Biodiversity Officer has reviewed the proposal in relation to biodiversity conservation and found the development to be acceptable, subject to conditions.

The dimensions of the proposed landscape open space area is considered reasonable to provide infiltration of water and minimise run off. Council's Development Engineer has reviewed the proposal and is in support, subject to conditions. The subject site is located within, and is surrounded by environmental and residential zones, however the proposal has addressed the incorporation of acceptable levels of landscaping. Furthermore, preserving any bushland character present within the Avalon Beach area

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.

D1.15 Fences - General

The front fencing will be conditioned to a height of 1.5 metres to aid in consistency with the streetscape and the objectives of the control.

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 $24,897 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $2,489,685.

Assessment - Demolition Planning Principle - Coorey v Municipality of Hunters Hill [2013] NSWLEC 1187

The NSW LEC case of *Coorey v Municipality of Hunters Hill* [2013] NSWLEC 1187 outlines the considerations for determining whether a development application should be characterised as “additions and alterations” or an application for “a new building”. These considerations include (but are not limited to) the quantitative and qualitative analysis of the existing site conditions and the proposed development, including consideration of the following (extracted from [59] and [60], where necessarily applicable to the application):

Qualitative
How is the appearance of the existing building to be changed when viewed from public places?
To what extent, if any, will existing landscaping be removed and how will that affect the setting of the building when viewed from public places?
What additional structures, if any, in the curtilage of the existing building will be demolished or altered if the proposal is approved?
To what extent, if any, are the existing access arrangements for the building proposed to be altered?
To what extent, if any, will the proposed development result in any change to the streetscape in which the building is located?
To what extent, if any, will the outlook from within the existing building be altered as a consequence the proposed development?
Is the proposed demolition so extensive to cause that which remains to lose the characteristics of the form of the existing structure?

Comment

- The proposed development when viewed form the public domain i.e. waterway will be similar to the existing dwelling house in terms of the bulk and existing footprint.
- Additional vegetation to existing landscaped areas will be proposed to enhance the landscape presence.
- Structures in the existing building will be demolished i.e. internal walls to reconfigure the internal spaces, various external walls to remain and/or renovated.
- Access arrangement to remain the same, with new parking structure (from carport to garage) - same location.
- Front façade will change due to roof form, and new material elements, the location of the structures will be in similar locations.
- Various windows will be maintained, or replaced, with new windows added, outlook from within shall remain similar to existing given that the levels of the dwelling does change.
- A condition is proposed for structural adequacy, no additional walls that have not been approved can be demolished. Further application may need to be lodged, if this changes.

Quantitative

- *To what extent is the site coverage proposed to be changed?*
- *To what extent are any existing non-compliances with numerical controls either increased or diminished by the proposal?*
- *To what extent is the building envelope proposed to be changed?*
- *To what extent are boundary setbacks proposed to be changed?*
- *To what extent will the present numerical degree of landscaping on the site be changed?*
- *To what extent will there be changes in the roof form?*
- *To what extent will there be alterations to car parking/garaging on the site and/or within the building?*

Comment

- Site coverage does not significantly change, with overall landscaping not being too dissimilar to existing.
- The new built form that alters any site coverage are ancillary development to the dwelling i.e. walkways and balconies.
- Existing non-compliances maintained, with various variations as a result of the new development, largely in part due to the slope topography and existing building line of the development.
- Roof changes to allow for reduction in overall height and added visual appeal.
- Existing structures to be retained will consist of new material cladding.
- Carparking location maintained- garage over carport.

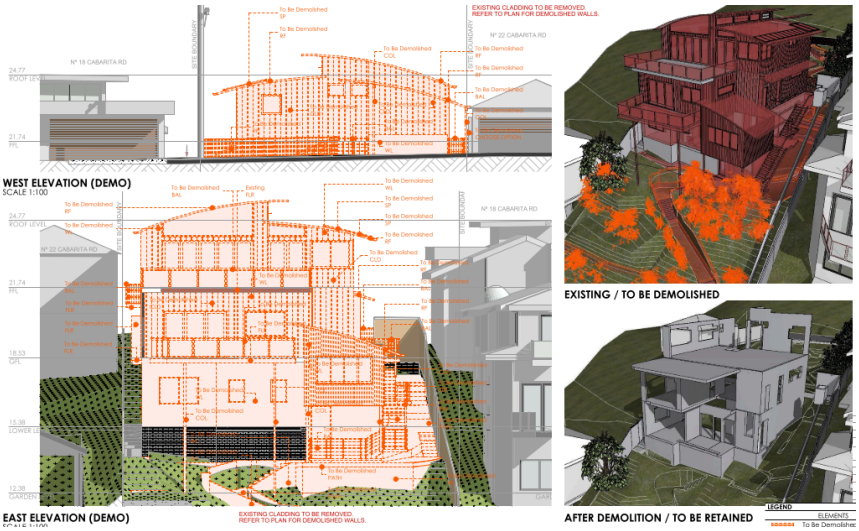


Figure 20: *Demolition/Retained Elements*

The above assessment has taken into consideration the qualitative and quantitative alterations to the form and appearance of the existing dwelling in comparison to the proposed works. It is concluded that the development application is acceptable for classification as alterations and additions, subject to conditions.

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 7.8 Limited development on foreshore area 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 demolition works, including alterations and additions to a dwelling house has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to to a portion of building works located within the foreshore building area, thereby contravening the non-numerical development standard of Clause 7.8 of the *Pittwater Local Environmental Plan 2014* (PLEP 2014).

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) with a total of (3) submission received. The concerns in which have been addressed in detail under 'Submissions' section of this report.

The critical assessment issues related primarily to the works in the foreshore area and the built form controls such as overall height, building envelope, landscaping and setbacks. Amended plans were received which satisfactory addressed the original concerns raised with the applicant during the assessment process. The built form variations are influenced largely by the siting of the existing structures to be retained, and will not preclude the development from achieving the outcomes of the relevant standards of the PLEP nor controls of the P21DCP.

On balance, and considering the preceding detailed assessment of the application, including a detailed analysis of the variation to Clause 7.8 of the PLEP 2014, it is considered that the proposal, subject to recommended conditions is consistent with the established character of the north-eastern side of "Stokes Point". In this locality, the foreshore areas are characterised by more structured landscaping, terraced walls and defined built form, in contrast to the more naturalistic setting evident on the western side. Accordingly, these proposed works to the foreshore area will result in an overall development that is acceptable in design, which will not detrimentally impact the established character or amenity of the area.

Overall, the development adopts a design approach that largely relies upon the existing structures, with minimal change to external bulk and scale when viewed holistically. As such, maintaining a built presence that is generally consistent with the established pattern of development in the vicinity. Whilst it is acknowledged that the existing building and external changes do not strictly comply with several numerical planning controls, the proposal will not result in adverse impacts on adjoining or nearby properties, or the natural environment.

The proposal has therefore been recommended to the NBLPP for **approval**, subject to conditions.

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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/1911 for Demolition works and alterations and additions to a dwelling house on land at Lot 7 DP 17704, 20 Cabarita Road, AVALON 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**
DA-200	D	Site Plan - Demolition - First Floor	ARCHISOUL	15 May 2026
DA-201	D	Site Plan - Demolition - Ground Floor	ARCHISOUL	15 May 2026
DA-202	D	Site Plan - Demolition - Lower Ground	ARCHISOUL	15 May 2026
DA-203	D	Site Plan - Demolition - Garden Level	ARCHISOUL	15 May 2026
DA-204	D	First Floor Plan - Demolition	ARCHISOUL	15 May 2026
DA-205	D	Ground Floor Plan - Demolition	ARCHISOUL	15 May 2026
DA-206	D	Lower Ground Floor Plan - Demolition	ARCHISOUL	15 May 2026
DA-207	D	Garden Level Plan - Demolition	ARCHISOUL	15 May 2026
DA-209	D	Roof Plan - Demolition	ARCHISOUL	15 May 2026
DA-305	D	First Floor Plan - Proposed	ARCHISOUL	15 May 2026
DA-306	D	Ground Floor Plan - Proposed	ARCHISOUL	15 May 2026
DA-307	D	Lower Ground Floor Plan - Proposed	ARCHISOUL	15 May 2026

DA-308	D	Garden Level Floor Plan - Proposed	ARCHISOUL	15 May 2026
DA-309	D	Boat Shed Level Floor Plan - Proposed	ARCHISOUL	15 May 2026
DA-310	D	Roof Plan - Proposed	ARCHISOUL	15 May 2026
DA-311	D	North Elevation - Proposed	ARCHISOUL	15 May 2026
DA-312	D	South Elevation - Proposed	ARCHISOUL	15 May 2026
DA-313	D	West & East Elevations - Proposed	ARCHISOUL	15 May 2026
DA-314	D	Section A - Proposed	ARCHISOUL	15 May 2026
DA-315	D	Section B - Proposed	ARCHISOUL	15 May 2026
DA-316	D	Sections C & D - Proposed	ARCHISOUL	15 May 2026
DA-330	D	Cut & Fill Plans	ARCHISOUL	15 May 2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**
Arboricultural Impact Assessment	-	Bluegum Tree Care and Consultancy	October 2025
Geotechnical Site Investigation Project No.: 2020-258.2	2	Crozier Geotechnical Consultants	9 December 2025
Coastal Engineering Risk Assessment Report Ref. 304501103	-	Stantec	4 December 2025
Waste Management Plan	-	-	-
BASIX Certificate No. A1378471_06	-	FRYS BUILDING CONSULTANCY PTY LTD	21 April 2026
Landscape Plans Sheet LCP01.1 - LCP01.4	G	Hugh Burnett Landscape Architect	9 April 2026

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral Response - Ausgrid	20 January 2026

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

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

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

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

4. **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 directly to the Long Service Corporation. 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 $24,896.85 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of $2,489,685.00.

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 $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. **On Slab Landscape Planters**
a) Details shall be submitted to the 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 Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections.

b) The following soil depths are required to support planting: 300mm for groundcovers and grasses; and 600mm for shrubs.

c) 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 ensure waterproofing and drainage is installed.

9. **No Clearing of Vegetation**
Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

10. **Amendment of Landscape Plans**
The submitted Landscape Plan is to be amended in accordance with the following:

- 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 species listed under the Pittwater Spotted Gum Forest Endangered Ecological Community listing.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

11. **Stormwater Disposal**
The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) , indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments.

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

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

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 9/12/2025 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. **Vehicle Crossings Application**
The Applicant is to submit an application (using form number 4028 available on Council website) with Council for driveway levels to construct one vehicle crossing 5.5 metres wide along frontage of site in Cabarita Road in accordance with Northern Beaches Council's Standard Normal Profile and in accordance with Section 138 of the Roads Act 1993.

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

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

Reason: To facilitate suitable vehicular access to private property.

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

a) Boundary Works: As depicted on the architectural plans, all works that are to be demolished and/or constructed are to be located wholly within the subject site. No approval for new boundary fencing to side boundaries.

b) Planter Box: Details are to be shown on plans that vegetation on the planter box to the northern edge of the ground floor balcony is maintained at a height of at least 1.5m.

c) Screen: A screen is to be added to the northern edge of the curvature section of the lower ground floor balcony. This screen is to be 1.65m in height when measured from finished floor level, include timber battens, opaque panels or angled louver style construction (with a maximum spacing of 20mm), in durable materials that complement the design of the dwelling.

d) Windows:

(i) W0.7 and W.08 on the First Floor are to consist of a privacy measure. Such a privacy measure may be a fixed external privacy screen of opaque panels or a fixed angled louver style screen (with a maximum spacing of 20mm), in durable materials that complement the design of the dwelling. The privacy treatment may also be either obscured glazing or an increased sill height of 1.65m when measured from finished floor level.

(ii) W0.4 on the First Floor is to be frosted from the bottom half of the window glazing.

(iii) W1.4 on the Ground Floor is to consist of a privacy measure. Such a privacy measure may be a fixed external privacy screen of opaque panels or a fixed angled louver style screen (with a maximum spacing of 20mm), in durable materials that complement the design of the dwelling. The privacy treatment may also be either obscured glazing or an increased sill height of 1.65m when

measured from finished floor level.

e) Front Fence: The new front fence is to be of 1.5m in height from existing ground level.

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.

15. **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.

16. **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.

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

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

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

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

18. **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.

19. **Excavation Management Plan**
Prior to the issue of the construction certificate an Excavation Management Plan shall be prepared and submitted to the Certifier. The plan shall include (but not limited to):

o Provision of vibrations limits that are consistent with the geotechnical report listed in Condition 1 (as measured at adjoining properties) to be complied with during excavations.
o Ongoing vibration monitoring during the course of excavation works, and method of management of excavation works so that the nominated vibration limits of the geotechnical reports are not exceeded.
o Identified plant and equipment to be utilised during excavations. Plant and equipment are to be suitable for the site constraints and of a type which will ensure that the vibration limits won't be exceeded.

Evidence of compliance is to be documented and available on site at all time for Council to inspect. This evidence is then to be provided to the Principal Certifier prior to the issue of the construction certificate.

Reason: To ensure the structural integrity of adjoining properties

20. **A Construction Traffic Management Plan (CTMP)**
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.

21. **Structural adequacy**

Prior to the issue of any Construction Certificate, 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. **Project Arborist**

a) 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 AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

b) The Project Arborist shall be in attendance and supervise all works as nominated in the approved Arboricultural Impact Assessment, and in particular:
i) tree protection measures and works under section 6 Recommendations.

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

d) The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2025 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.

23. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties: No. 18 and No. 22 Cabarita Road, Avalon 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.

24. **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

25. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:
i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
ii) all trees and vegetation located on adjoining properties,
iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,

vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2025 Protection of trees on development sites,
ix) the activities listed in section 4.2 of AS 4970-2025 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) The Principal Certifier must ensure that:
i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

26. **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.

27. **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.

28. **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.

29. **Handling of asbestos during demolition**
While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and

disposal of any asbestos material;
- Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA online reporting tool WasteLocate.

Reason: To ensure that the removal of asbestos is undertaken safely and professionally.

30. **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.

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 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.

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

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

36. **Pollution Control**
Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don’t enter the surrounding environment.

37. **Implementation of Construction Traffic Management Plan (CTMP)**
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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

38. **Required Screen Planting**

a) Screen planting shall be installed in accordance with the following:
i) all proposed retaining walls in the rear setback over 1 metre in height facing Pittwater, and with landscaped area available at their base, shall include screen planting so that the mature planting screens at minumum 75% of the height of the adjacent retaining wall.

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**

a) Landscape works are to be implemented in accordance with the approved Landscape Plan(s), and inclusive of the following conditions:
i) landscape works are to be contained within the legal property boundaries,
ii) at minimum one locally native tree shall be installed within the rear setback, generally selected from Northern Beaches Council's Native Planting Guide, or Council's Tree Guide, and to achieve at least 8 metres height at maturity,
iii) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of 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,
iv) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at minimum 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,
v) 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) Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

40. **Condition of Retained Vegetation**

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

Reason: Tree and vegetation protection.

41. **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.

42. **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.

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 Disposal Verification Statement**
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

46. **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.

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

47. **Landscape Maintenance**
a) If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

b) 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.

c) 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(s) and any conditions of consent.

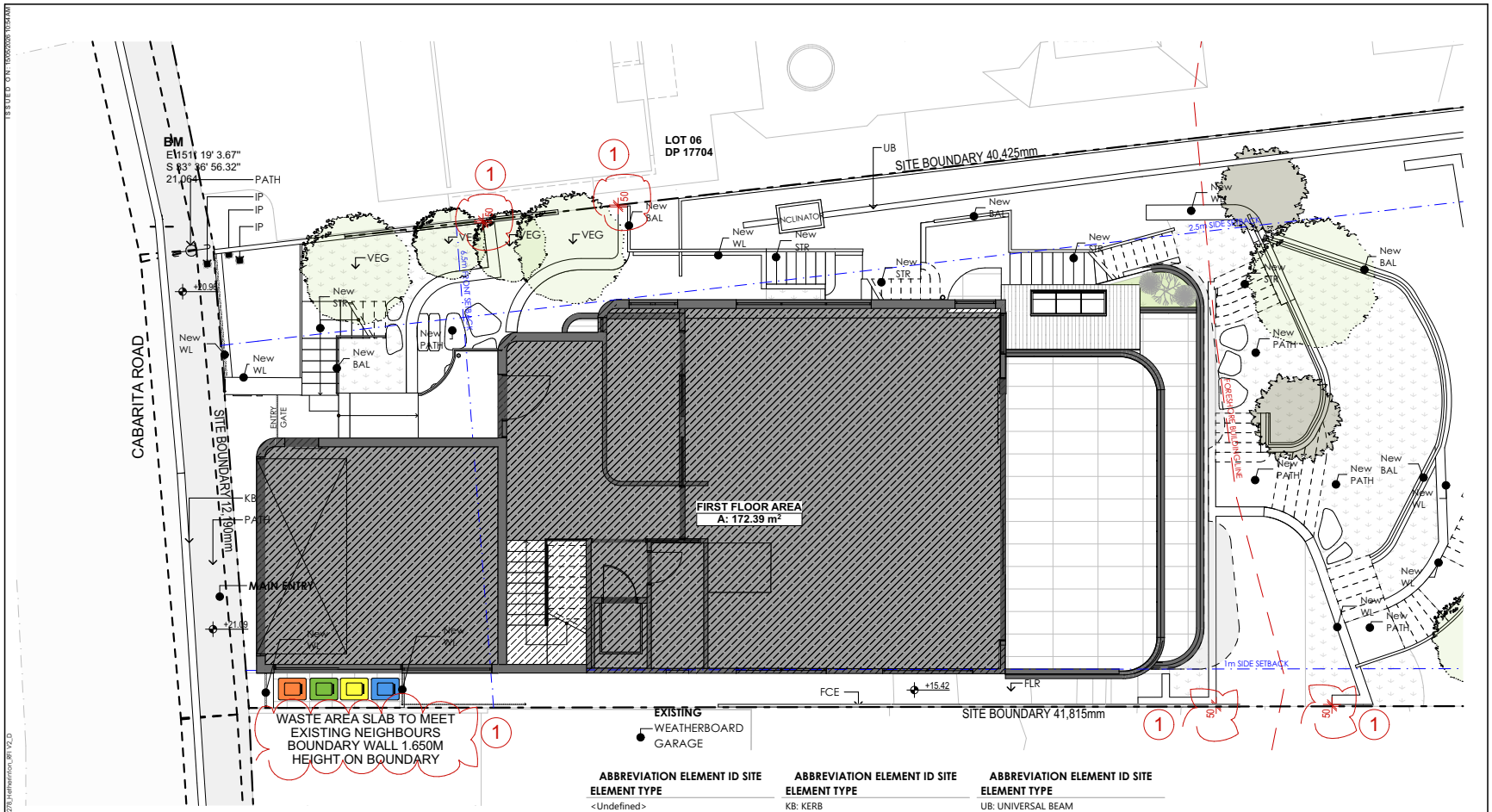
d) A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

e) The approved landscape planted areas, whether containing lawn, gardens or planters 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.

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

Reason: To ensure geotechnical risk is mitigated appropriately.



PROPOSED FIRST FLOOR SITE PLAN
SCALE 1:100

0 1 2 3 4 5

ABBREVIATION	ELEMENT ID SITE ELEMENT TYPE	ABBREVIATION	ELEMENT ID SITE ELEMENT TYPE	ABBREVIATION	ELEMENT ID SITE ELEMENT TYPE
<Undefined>		KB: KERB		UB: UNIVERSAL BEAM	
BAL: BALUSTRADE		PATH: PATHWAY / WALKWAY		VEG: VEGETATION	
COL: COLUMN		PP: POWER POLE		WL: WALL	
FCE: FENCE		RF: ROOF			
FLR: FLOOR		ROAD: ROAD			
IP: INSPECTION PIT		SP: SOLAR PANEL			

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ARCHISOUL
ARCHITECTS
UNIT 23/28-34 ROSEBERRY STREET
BALGOWLAH NSW AUSTRALIA 2093
Ph: 02 9976 5449
www.archisoul.com.au

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B	REQUEST FOR INFORMATION 6	16/04/202	B

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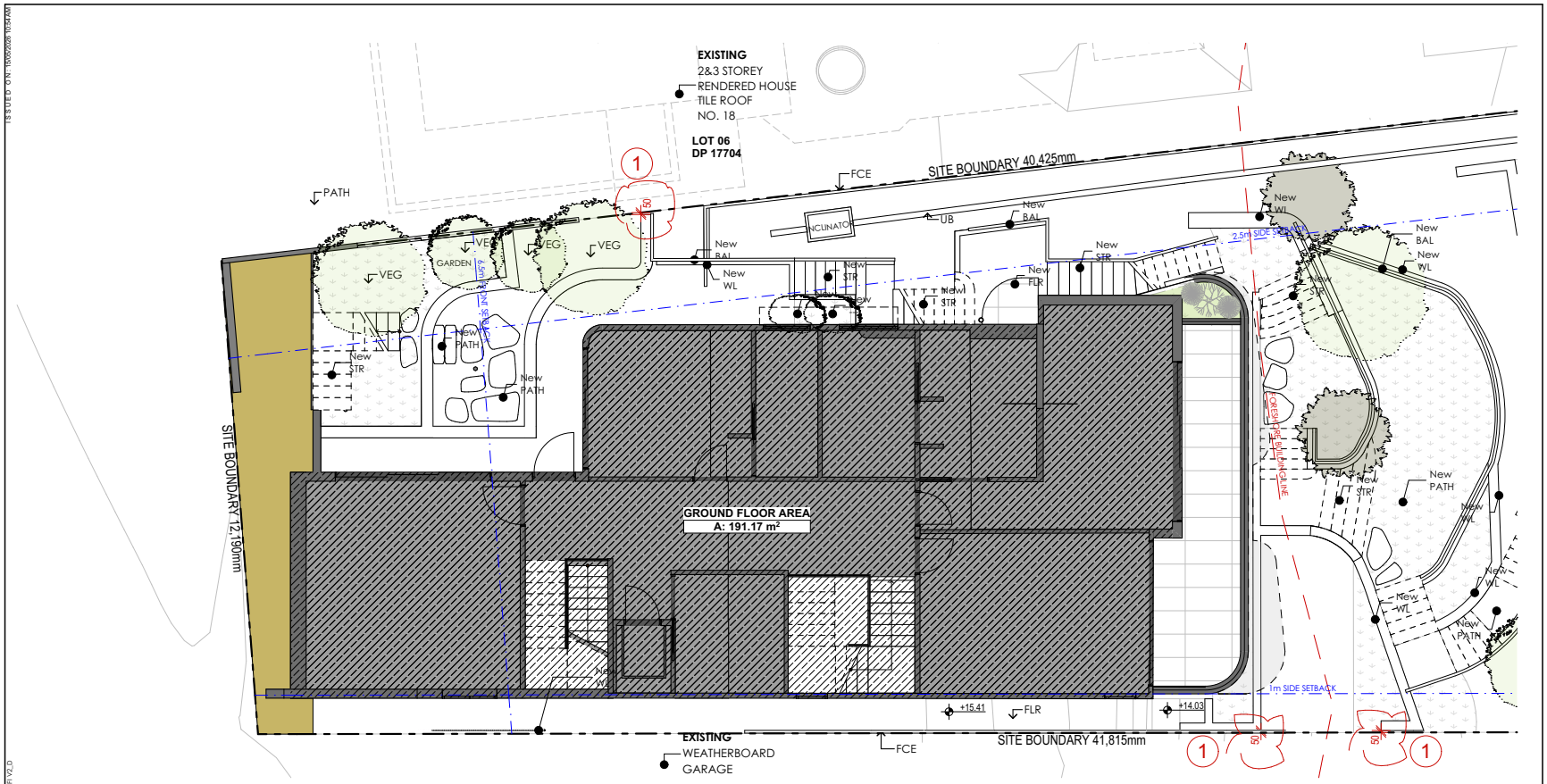
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PROJECT:
HOUSE HETHERINGTON

DRAWING TITLE :
SITE PLAN - PROPOSED - FIRST FLOOR

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PROJECT NO. 2278

DRAWING NO.
DA-300
REVISION NO.
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PROPOSED GROUND FLOOR SITE PLAN

SCALE 1:100

0 1 2 3 4 5

ABBREVIATION	ELEMENT ID SITE ELEMENT TYPE	ABBREVIATION	ELEMENT ID SITE ELEMENT TYPE	ABBREVIATION	ELEMENT ID SITE ELEMENT TYPE
<Undefined>		KB: KERB		UB: UNIVERSAL BEAM	
BAL: BALUSTRADE		PATH: PATHWAY / WALKWAY		VEG: VEGETATION	
COL: COLUMN		PP: POWER POLE		WL: WALL	
FCE: FENCE		RF: ROOF			
FLR: FLOOR		ROAD: ROAD			
IP: INSPECTION PIT		SP: SOLAR PANEL			

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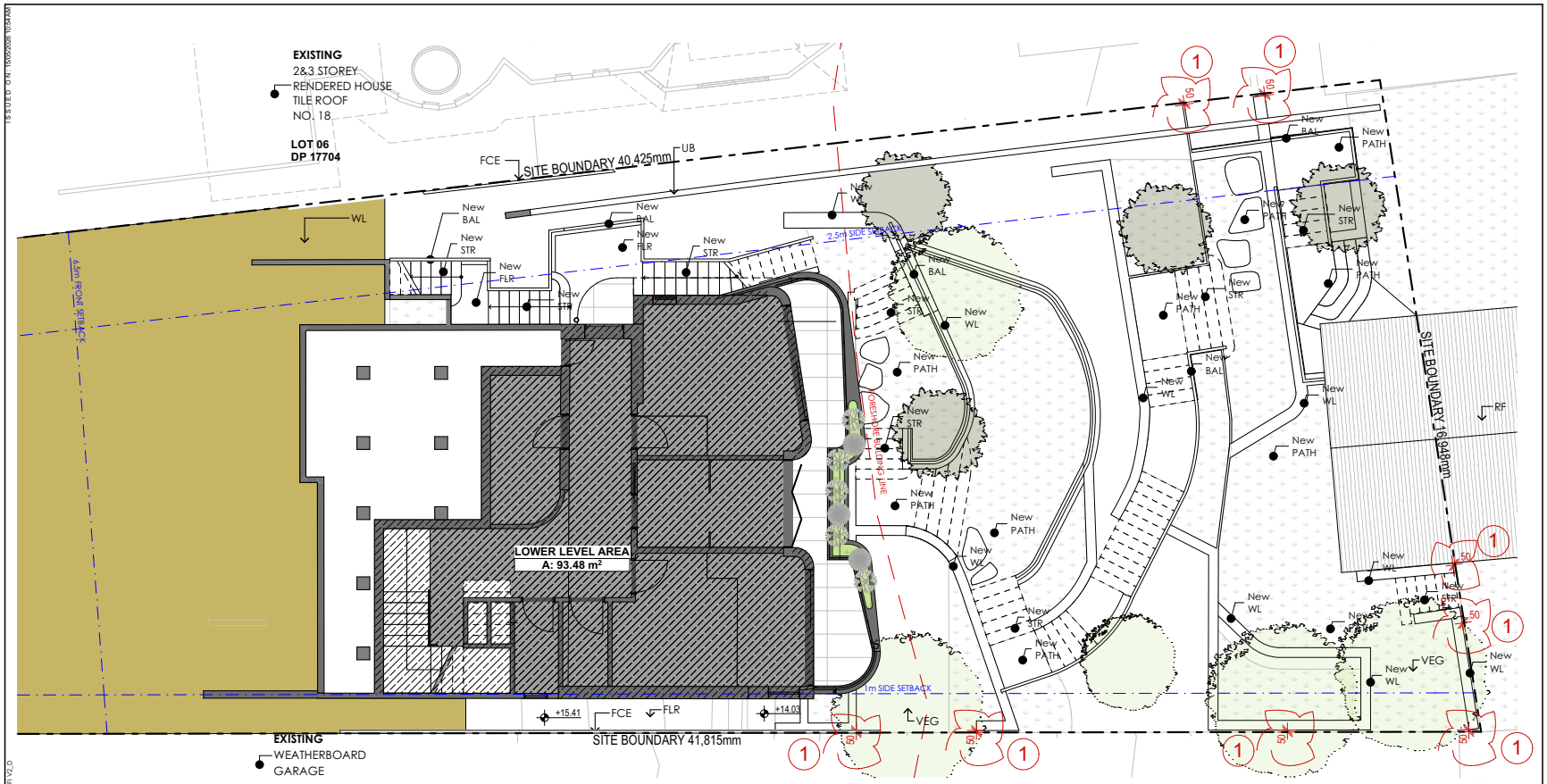
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PROPOSED LOWER GROUND SITE PLAN

SCALE 1:100

0 1 2 3 4 5

ABBREVIATION	ELEMENT ID	SITE ELEMENT TYPE
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BAL		BALUSTRADE
COL		COLUMN
FCE		FENCE
FLR		FLOOR
IP		INSPECTION PIT
KB		KERB
PATH		PATHWAY / WALKWAY
PP		POWER POLE
RF		ROOF
ROAD		ROAD
SP		SOLAR PANEL
UB		UNIVERSAL BEAM
VEG		VEGETATION
WL		WALL

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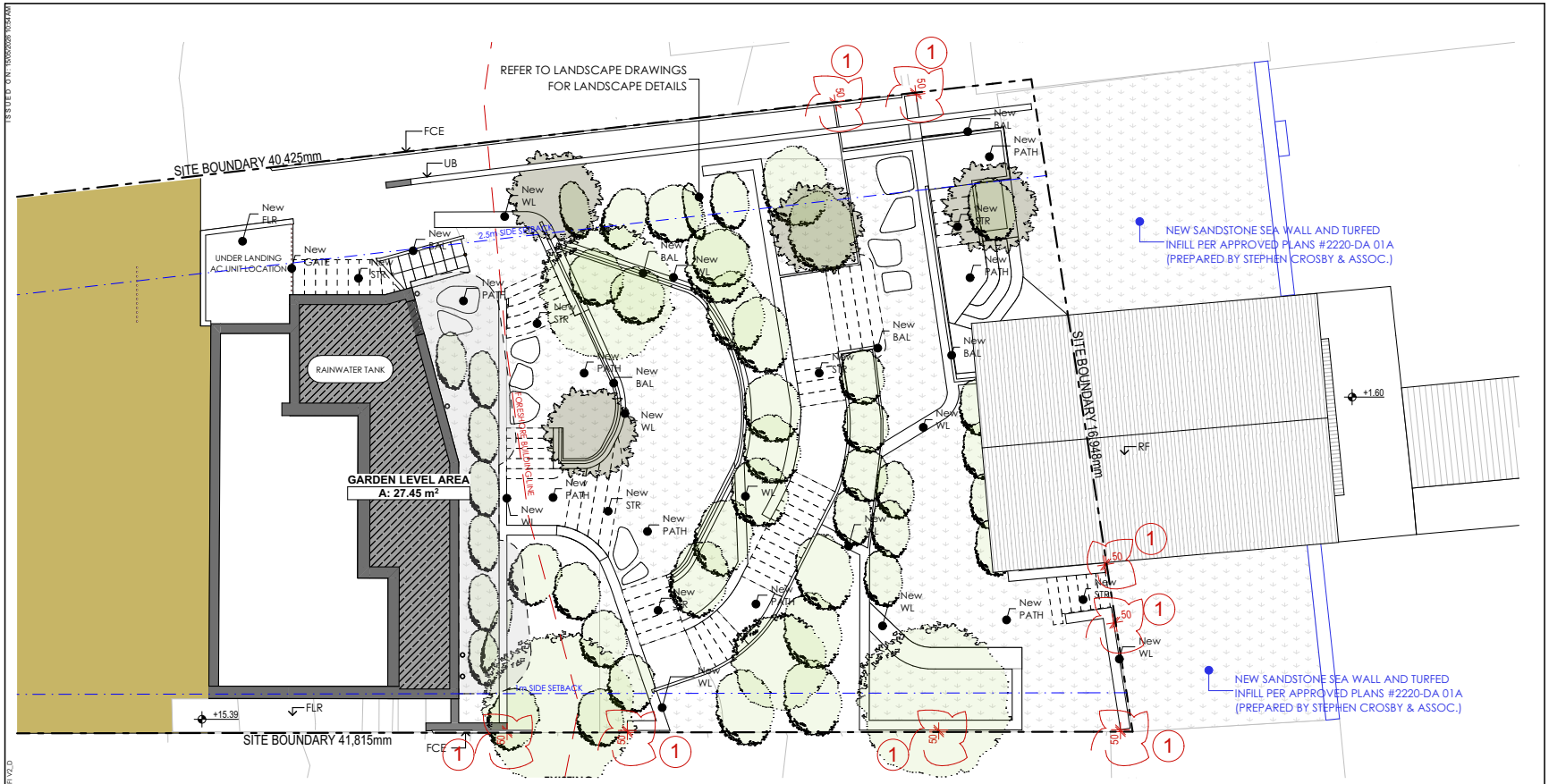
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PROJECT:
HOUSE HETHERINGTON

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PROJECT NO. 2278

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PROPOSED GARDEN LEVEL SITE PLAN

SCALE 1:100

0 1 2 3 4 5

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COL: COLUMN		PP: POWER POLE		WL: WALL	
FCE: FENCE		RF: ROOF			
FLR: FLOOR		ROAD: ROAD			
IP: INSPECTION PIT		SP: SOLAR PANEL			

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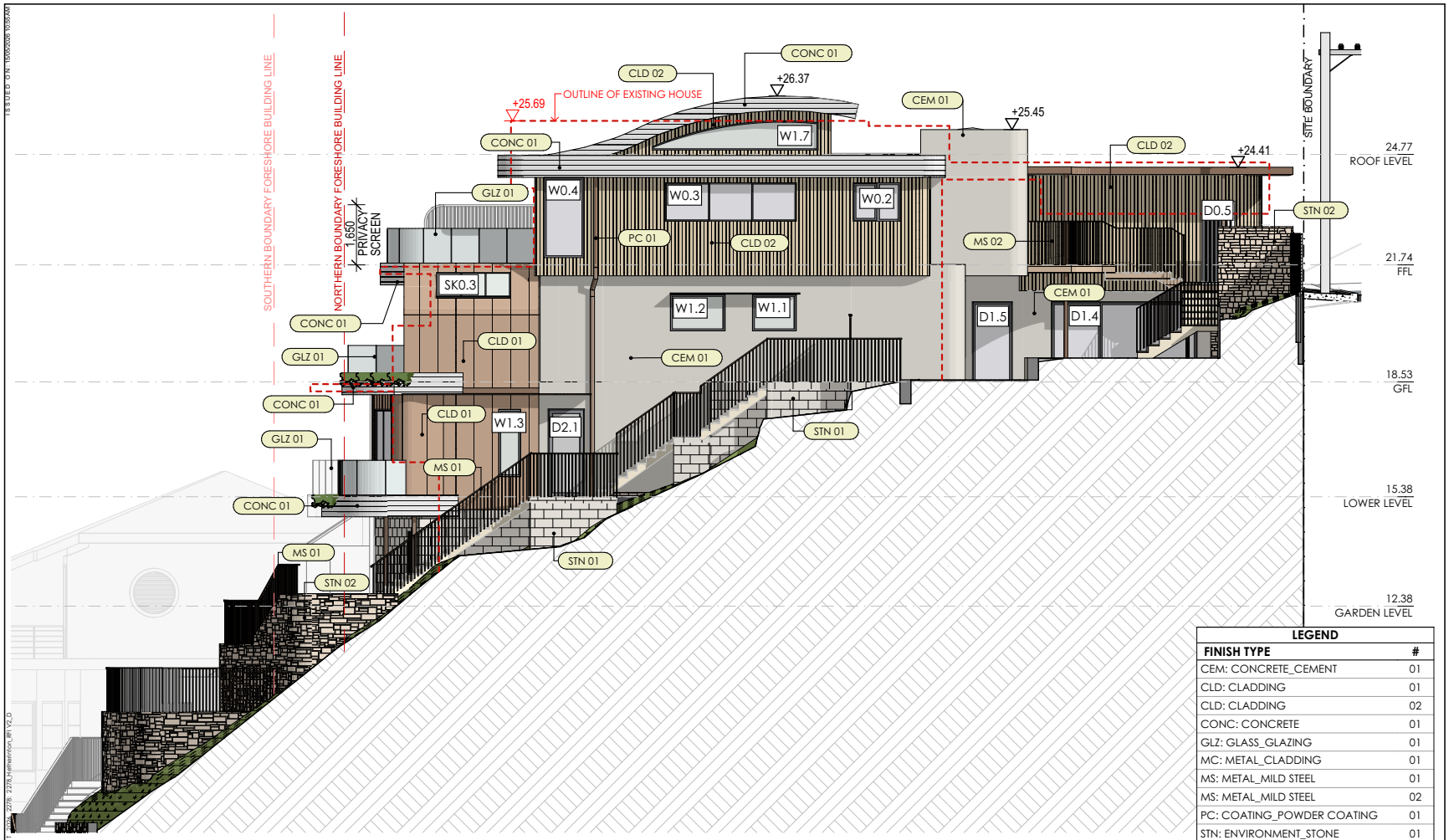
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PROJECT:
HOUSE HETHERINGTON

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PROJECT NO. 2278

DRAWING NO. **DA-303**
REVISION NO. **D**



PROPOSED NORTH ELEVATION
SCALE 1:100

LEGEND	
FINISH TYPE	**#**
CEM: CONCRETE_CEMENT	01
CLD: CLADDING	01
CLD: CLADDING	02
CONC: CONCRETE	01
GLZ: GLASS_GLAZING	01
MC: METAL_CLADDING	01
MS: METAL_MILD STEEL	01
MS: METAL_MILD STEEL	02
PC: COATING_POWDER COATING	01
STN: ENVIRONMENT_STONE	01
STN: ENVIRONMENT_STONE	02
TIM: TIMBER	01

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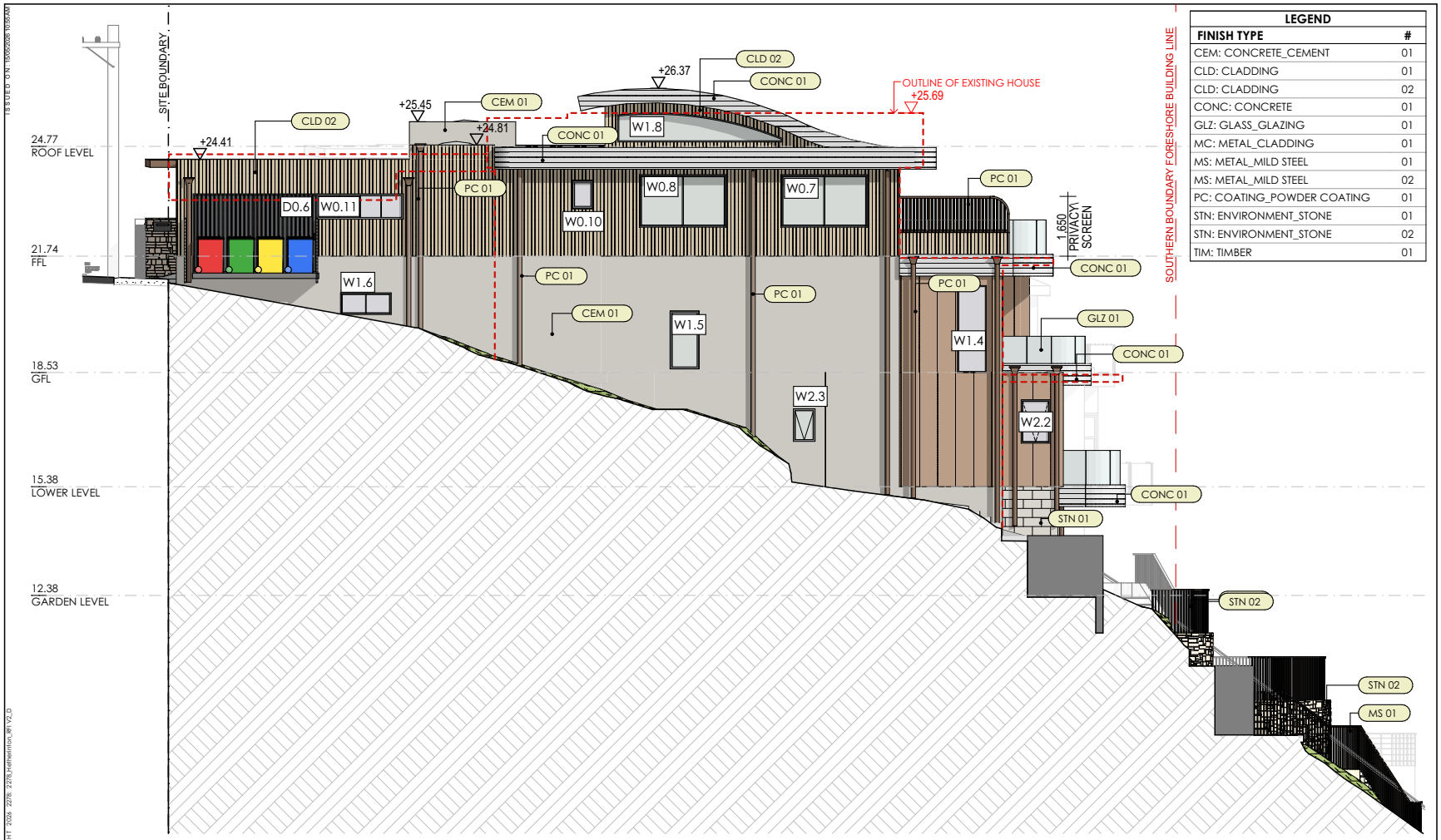
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DRAWING TITLE :
NORTH ELEVATION - PROPOSED

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LEGEND	
FINISH TYPE	**#**
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CLD: CLADDING	01
CLD: CLADDING	02
CONC: CONCRETE	01
GLZ: GLASS_GLAZING	01
MC: METAL_CLADDING	01
MS: METAL_MILD STEEL	01
MS: METAL_MILD STEEL	02
PC: COATING_POWDER COATING	01
STN: ENVIRONMENT_STONE	01
STN: ENVIRONMENT_STONE	02
TIM: TIMBER	01

PROPOSED SOUTH ELEVATION
SCALE 1:100

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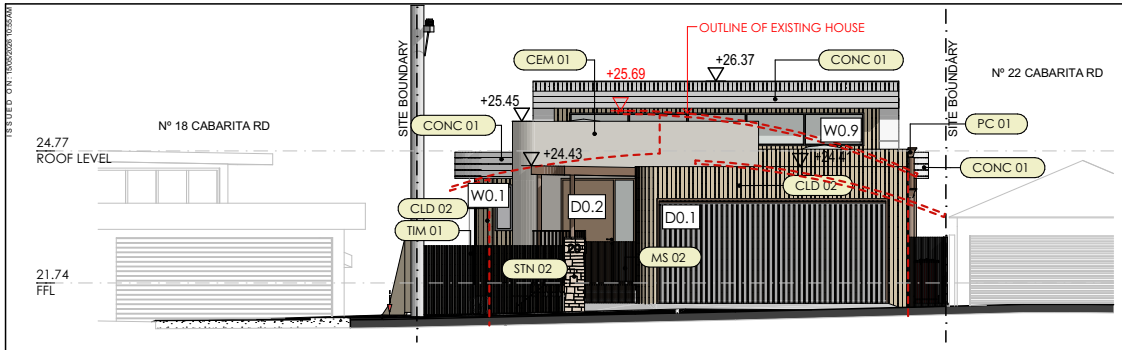
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PROJECT:
HOUSE HETHERINGTON

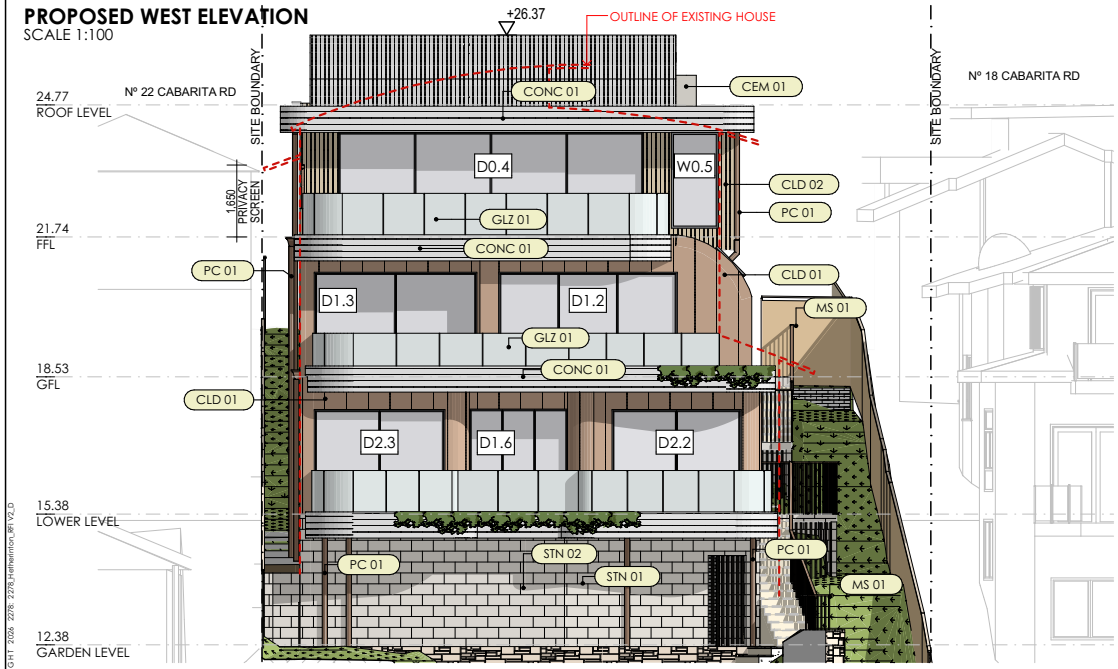
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PROJECT NO. 2278

DRAWING NO.
DA-312
REVISION NO.
D



PROPOSED WEST ELEVATION
SCALE 1:100



PROPOSED EAST ELEVATION
SCALE 1:100

LEGEND	
FINISH TYPE	**#**
CEM: CONCRETE_CEMENT	01
CLD: CLADDING	01
CLD: CLADDING	02
CONC: CONCRETE	01
GLZ: GLASS_GLAZING	01
MC: METAL_CLADDING	01
MS: METAL_MILD STEEL	01
MS: METAL_MILD STEEL	02
PC: COATING_POWDER COATING	01
STN: ENVIRONMENT_STONE	01
STN: ENVIRONMENT_STONE	02
TIM: TIMBER	01

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PROJECT:
HOUSE HETHERINGTON

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WEST & EAST ELEVATIONS - PROPOSED

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PROJECT NO. 2278

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REVISION NO. **D**

planning consultants

Clause 4.6 Variation Request to the Foreshore Building Line Development Standard under Clause 7.8 of Pittwater LEP 2014

Proposed Alterations and Additions to Existing Dwelling, Removal of Two (2) Trees, Landscaping and Associated Works

20 Cabarita Road, Avalon Beach

Prepared for: Scott Hetherington
December 2025

PO Box 230 North Ryde BC NSW 1670 | P 02 9980 6933 | www.dfpplanning.com.au

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Client: Scott Hetherington
Project Number: 21873C

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Suite 2.01, 1A Eden Park Drive, Macquarie Park NSW 2113
PO Box 230, North Ryde BC NSW 1670
P: 02 9980 6933
www.dfpplanning.com.au
DFP Planning Pty Limited
ACN 002 263 998

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1 Introduction

1.1 Commission

DFP has been commissioned by Scott and Adele Hetherington to prepare a written request ("Variation Request") pursuant to cl4.6 of *Pittwater Local Environmental Plan 2014* (the LEP) for the proposed development for alterations and additions to an existing dwelling, removal of two (2) trees, landscaping and associated works (the Proposal) at 20 Cabarita Road, Avalon Beach (the Site).

The Proposal is described in detail in **Section 4** of the Statement of Environmental Effects dated 11.12.2025, prepared by DFP and includes:

- Demolition;
- Existing carport;
- Part of lower ground floor;
- Part of ground floor;
- Part of first floor;
- Existing roof;
- Removal of two (2) trees;
- Earthworks/excavation;
- Construction of alterations and additions to an existing three (3) storey dwelling to comprise:
    - Lower Ground:
        - Wine Cellar;
        - Sauna / Wine cellar;
        - Stairs / Walkway area;
        - Bedroom 3 with balcony;
        - Bedroom 4 with balcony; and
        - Bathroom.
    - Ground Floor:
        - Laundry / Art Space;
        - Foyer;
        - Lift;
        - Stairs / Walkways;
        - Guest Bedroom;
        - Master Bedroom with WIR and en-suite;
        - Bathroom;
        - Living Room; and
        - Balcony.
    - First Floor:
        - Double Garage;
        - Entry Foyer and Stairs;
        - Lift;

1 Introduction

- Toilet;
- Open Plan Kitchen with Pantry, Living and Dining Room; and
- Balcony.

- Construction of a double garage with vehicular access via Cabarita Road, including widening of crossover;
- Site landscaping including plants native to Pittwater Ward and “Pittwater Spotted Gum endangered ecological community”; and
- Stormwater drainage and other ancillary works.

The Proposal as shown on the landscaping plans prepared by Hugh Burnett, Landscape Architect proposes landscaping works located below the Foreshore Building Line which is a non-numerical development standard under Clause 7.8 of the LEP. More specifically, the proposed landscaping works below the foreshore building line at the site are as follows:

- Retaining walls;
- Paths and stairs to provide access from the dwelling to the existing boat shed, jetty and ramp;
- A new landing area for the existing inclinator with stairs and paths to access the existing boatshed, jetty and ramp; and
- New landscaping comprising trees, shrubs, grassed areas and ground cover treatment.

No part of the proposed dwelling including the balconies with encroach within the Foreshore Building Line.

The proposed landscaping works will replace existing unstable retaining walls to prevent the possibility of future land slip issues, along with replacing narrow/ steep stairs with pathways to provide safer access.

Notwithstanding the contravention of the foreshore building line development standard under Clause 7.8 of the LEP, the Proposal is considered to be consistent with the objectives of this development standard and there are sufficient environmental planning grounds to justify the contravention in this instance including:

- the proposed landscaping works in the foreshore area will not have any adverse impacts on natural foreshore processes or have a detrimental impact on the significance and amenity of the area;
- the proposal will ensure continuous public access along the foreshore area and to the waterway;
- the proposed landscaping works respond to the steep topography of the site;
- the proposed landscaping works will provide protection and avoid impacts to the site and neighbouring properties and respond to environmental risks and hazards such as land stability, flooding and estuarine impacts on the waterway of Careel Bay;
- the proposal will achieve consistency with the low density residential streetscape and existing built form of neighbouring residential properties in this Avalon locality.

This written request has been prepared to provide a detailed assessment in accordance with the statutory requirements of cl4.6 so that the consent authority can exercise its power to grant development consent, notwithstanding the contravention to the foreshore building line development standard of the Pittwater LEP.

1.2 Material Relied Upon

This Variation Request has been prepared by DFP based on the Architectural Drawings prepared by Archisoul Architects, landscaping drawings prepared by Hugh Burnett landscape

1 Introduction

architect and other supporting drawings and specialist consultants reports which are appended to the Statement of Environmental Effects (SEE) report prepared by DFP dated 17 December 2025.

This Variation Request should be read in conjunction with the detailed environmental planning assessment contained in the SEE and documents appended thereto.

2 The Nature of the Variation

Clause 7.8 and the Foreshore Building Line Map of the LEP designates a foreshore building line applies to site (see **Figure 1**).



Figure 1 Extract of Foreshore Building Line Map (Pittwater LEP 2014)

Clause 7.8 (1) and (2) of the LEP states as follows:

> *"**7.8 Limited Development on Foreshore Area***
>
> *(1) The objectives of this clause are as follows –*
>
> *(a) To ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*
>
> *(b) To ensure continuous public access along the foreshore area and to the waterway.*
>
> *(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes –*
>
> *(a) The extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
>
> *(b) Boatsheds, sea retaining walls, wharfs, slipways, jetty's, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors)."*

Clause 7.8 (3) of the LEP provides those matters which a consent authority must be satisfied before granting development consent for any proposed development within a foreshore building line under the LEP.

It is the opinion of DFP that the proposed landscaping works which are located below the foreshore building line as shown on the landscaping plans prepared by Hugh Burnett, Landscape Architect, are permitted under Clause 7.8 (2) of the LEP as they involve the extension or rebuilding of an existing building (or other landscaping works) wholly or partly in the foreshore area including the retaining walls, stairs, paths and the new inclinator stop landing area with stairs and paths and proposed landscaping works which will facilitate waterway access to the existing boat shed, jetty and ramp.

Notwithstanding, as a precautionary measure DFP has prepared this Clause 4.6 Variation Request report in respect to the proposed landscaping works located within the foreshore building line area of the site.

3 Clause 4.6 Assessment

3.1 Clause 4.6(1) - Objectives

Clause 4.6(1) of the LEP states the objectives of the clause 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.*

In the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ("Initial Action"), Preston CJ ruled that there is no provision that requires the applicant to demonstrate compliance with these objectives or that the consent authority be satisfied that the development achieves these objectives. Furthermore, cl4.6(3) does not impliedly require the development that contravenes a development standard to "*achieve better outcomes for and from development*".

Accordingly, the remaining subclauses of cl4.6 provide the preconditions which must be satisfied before a consent authority may grant development consent to a development that contravenes a development standard imposed by an environmental planning instrument. These preconditions are discussed hereunder.

3.2 Clause 4.6(2) – Consent May be Granted

Clause 4.6(2) 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.*

The foreshore building line control in Clause 7.8 of the LEP is a development standard, defined in Section 1.4 of the EP&A Act as follows:

> *"**development standards** means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*
>
> *(a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,"*

The foreshore building line development standard under Clause 7.8 of the LEP is a non-numerical development standard which is not expressly excluded from the operation of cl4.6 (see **Section 3.4** and **Section 3.5**).

3.3 Clause 4.6(3) – Consent Authority Considerations

Clause 4.6(3) outlines the matters that a consent authority must be satisfied of, when consideration a development that seeks to contravene a development standard and states:

> *(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that 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.*

This report constitutes a written request for the purposes of the EP&A Regulation 2021 and the following subsections address the justifications required under subclause 4.6(3).

3 Clause 4.6 Assessment

3.3.1 Clause 4.6(3)(a) – Compliance is Unreasonable or Unnecessary

In his Judgment of *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* ('Micaul') Preston CJ confirmed that an established means of demonstrating that compliance with a development standard is unreasonable or unnecessary is to establish that a development would not cause environmental harm and is consistent with the objectives of the development standard.

It is considered that the environmental impacts of the proposed development, and specifically the landscaping works of the proposal that may contravene the foreshore building line development standard, are appropriately avoided, minimised or mitigated as described in **Table 1**.

Table 1 Environmental Impact Mitigation and Management

Issue	Discussion
Visual Impact	The proposed landscaping works within the foreshore area will not disrupt any views from neighbouring properties of the foreshore or waterway, as the works are low in scale, follow the natural topography, and involve soft landscaping elements that blend with the surrounding environment.
Streetscape	The proposed landscaping within the foreshore area is not visible from the street due to the steep topography of the site. The proposal will therefore have no impact on the existing streetscape.
Visual Privacy and Acoustic Privacy	The proposed landscaping within the foreshore building area will enhance visual privacy for adjoining properties by introducing layered screen planting and strategically positioned trees. These plantings will soften sightlines, provide natural screening, and assist in concealing existing boundary fencing, thereby improving the overall sense of privacy and visual separation between properties. The proposed development within the foreshore area includes landscaping. No noise impacts are expected to be generated from the landscaping works.
Solar Access	The proposed development within the foreshore building area relates to landscaping. The works are low-level comprising of ground level changes including stairs and paths and a new inclinator area. Medium sized and small trees are proposed to be planted as part of the landscaping as well as low-lying ferns and shrubs. These are expected to have a minimal impact on solar access for adjoining properties.
Views	The proposed landscaping works within the foreshore area is not expected to obstruct any views of the foreshore from adjoining neighbours. The natural descending topography towards the water and the low-growing, carefully selected vegetation ensure that existing view corridors are preserved and that the development integrates seamlessly with the visual landscape.
Foreshore Impacts	The proposed landscaping within the foreshore building area avoids adverse impacts on the natural foreshore environment. No built structures, or modifications to the foreshore edge or waterway are proposed as part of this development. The proposed works involve low-impact works such as planting, minor ground-level adjustments, and the use of permeable materials, all of which will help stabilise the soil, reduce erosion risk, and enhance the ecological condition of the site.
Access (Public/Private)	The proposed landscaping within the foreshore building area maintains existing accessways to the waterway including via an existing Council approved inclinator at the site. Private accessways are enhanced within the foreshore building area through the construction of an upgraded path and stairs from the dwelling house to the waterway. Additionally, private access is enhanced through the construction of a new inclinator landing platform.
Stormwater and Drainage	The proposed landscaping within the foreshore building area provides adequate stormwater management and drainage of the site to reduce runoff or erosion risk near foreshore edge. Permeable surfaces including open pavement, grasses and garden bedding will reduce stormwater runoff, promote natural infiltration, and assist in maintaining the stability of the foreshore. The Stormwater Management Plan prepared by Taylor Consulting provides the proposed stormwater drainage for the site including within the foreshore building area. A pollution control pit and sandstone boulder apron are proposed to be installed to prevent erosion and pollution at the proposed discharge point into the

3 Clause 4.6 Assessment

Table 1 Environmental Impact Mitigation and Management	
	watercourse. An extract of the Stormwater Management Plan is provided at **Figure 2** below.

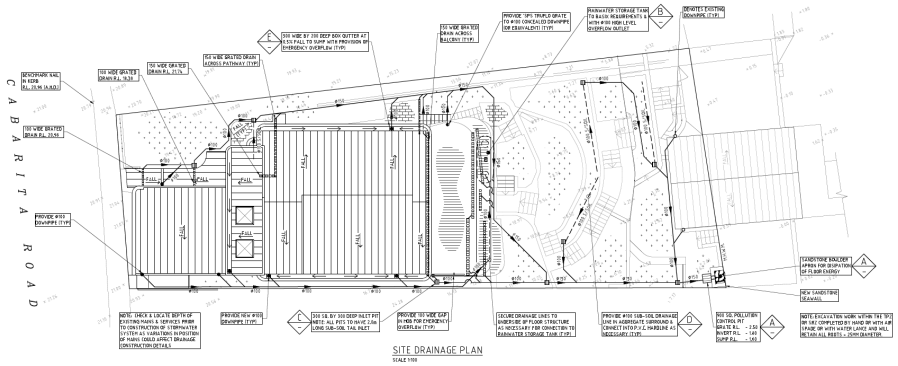


Figure 2 Stormwater Management Plan, prepared by Taylor Consulting

Furthermore, the proposed development is considered to be consistent with the objectives of the foreshore building line development standard as described in **Table 2**.

Table 2 Assessment against the objectives of the foreshore building line development standard

Objective	Assessment
(a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,	The proposed development will not impact any natural foreshore processes, as it seeks only to upgrade the existing use of the area through landscaping improvements. The proposed landscaping upgrades will enhance the amenity of the site by providing improved functionality, stabilisation of degraded areas, increased accessibility, and a more visually cohesive interface with the natural foreshore environment. Native planting and permeable surfaces will be used to support local biodiversity and improve stormwater management.
(b) to ensure continuous public access along the foreshore area and to the waterway.	The proposed development involves landscaping works within the foreshore building line but does not obstruct or restrict any existing public access as there is no existing provision of public access across this portion of the foreshore. As such, while the proposal does not create new public access, it maintains the current access arrangements and ensures there is no adverse impact on broader foreshore connectivity or access to the waterway.

Accordingly, for the reasons identified above it is considered that strict compliance with the foreshore building line development standard is unreasonable or unnecessary as the non-compliance will not cause environmental harm and the proposed development is consistent with the objectives of the foreshore building line development standard, notwithstanding the non-compliance.

3.3.2 Clause 4.6(3)(b) – Sufficient Environmental Planning Grounds

In the Judgment of *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* ("Four2Five") Pearson C indicated there is an onus on the applicant to demonstrate, through the written request, that there are "*sufficient environmental planning grounds"* such that compliance with the development standard is unreasonable or unnecessary. Furthermore, that the environmental planning grounds must be particular to the circumstances of the proposed development rather than public benefits that could reasonably arise from a similar development on other land.

3 Clause 4.6 Assessment

In Initial Action, Preston CJ indicated that it is reasonable to infer that "*environmental planning grounds*" as stated in under cl4.6(3)(b), means grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EP&A Act.

The site-specific environmental planning grounds that support the proposed variation to the foreshore building line development standard in this circumstance are detailed in the SEE, supported by the Landscape Drawings and specialist consultant reports of the SEE and are summarised in **Table 3**.

Table 3 Environmental planning grounds supporting the proposed variation

Environmental Planning Ground	Discussion
Lack of adverse amenity impacts	In Micaul and Initial Action, Preston CJ clarified that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. As summarised in Table 1, the proposal satisfactorily avoids, manages or mitigates adverse amenity impacts (s1.3(g) EP&A Act)). The lack of adverse amenity impacts is summarised to include: **Views:** The proposed landscaping works within the foreshore building area features landscaping which is low in scale and visually unobtrusive. The proposed landscaping has negligible visual impact from public vantage points. **Access:** The proposed landscaping works within the foreshore building line area maintains existing accessways to the waterway. **Solar Access:** The proposed landscaping works within the foreshore building line area are not expected to reduce solar access to adjoining buildings as the proposed works include minor landscaping works.
Minimised environmental impact	Development proposed within the foreshore building line area is to comprise of landscaping including paving, sandstone retaining walls, and planting. With reference to the proposed Landscape Plans and Stormwater Management Plan the development effectively minimises pollution or siltation of the waterway through adequate mitigation and management methods.
Consistency with existing built form	Neighbouring properties to the site's south at 22 Cabarita Road include structures that are within the foreshore building line area. Considering this the extent to which the proposed development encroaches within the foreshore building line area through landscaping may be seen as compliant with surrounding existing built and landscaped form.
Improved amenity	The proposed landscaping works within the foreshore building line area will result in a clear improvement to the overall amenity of the site. By upgrading a previously underutilised area with high-quality landscaping, including native planting and improved access pathways and an inclinator landing area towards the waterway, the proposal enhances both visual and recreational amenity.

In addition, in Micaul and Initial Action, Preston CJ clarified that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. As summarised in **Table 1**, the proposal satisfactorily avoids, manages or mitigates adverse amenity impacts.

Accordingly, it is considered that there are sufficient environmental planning grounds to justify the contravention of the foreshore building line development standard in this instance.

3.4 Clause 4.6(6) – Subdivision on Certain Land

Clause 4.6(6) is not relevant to the proposed development as it does not relate to subdivision of land.

3 Clause 4.6 Assessment

3.5 Clause 4.6(8) – Restrictions on use of cl4.6

Clause 4.6(8) of the LEP states as follows:

> *(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.*

Clause 4.6(8) is not relevant to the proposed development as it is subject to a DA and does not constitute Complying Development, does not seek to vary any requirements of SEPP BASIX and does not relate to a standard under cl5.4, cl 5.5.

4 Conclusion

The proposed development contravenes the foreshore building line development standard under cl7.8 of the LEP.

The foreshore building line control under cl7.8 of LEP is a non-numerical development standard and is not excluded from the application of cl4.6.

This written request to vary the development standard has been prepared in accordance with cl4.6(3) of the LEP and demonstrates that strict compliance with the development standard is unreasonable and unnecessary because, notwithstanding the contravention of the foreshore building line development standard, the proposed development is consistent with the objectives of the development standard pursuant to cl7.8 of the LEP because:

- The proposed development is consistent with the objectives of the development standard pursuant to cl7.8 of the LEP; and
- There will be a lack of environmental harm arising from the areas of non-compliance.

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the foreshore building line development standard including:

- Consistency with existing built form;
- The lack of significant adverse amenity impacts arising from the areas of non-compliance.

Accordingly, this written request can be relied upon by the consent authority when granting development consent to the proposed development, notwithstanding the contravention of the development standard.

ITEM 5.2 DA2025/1516 - 1763 PITTWATER ROAD MONA VALE - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A SHOP TOP HOUSING DEVELOPMENT THAT CONTAINS AFFORDABLE HOUSING

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the development standard contained within Section 18 Affordable housing requirements for additional building height; and Section 19(2)(b) and (c) – Landscaped area and Deep Soil zone of the State Environmental Planning Policy (Housing) 2021 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 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. The Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2025/1516 for Demolition of existing structures and construction of a shop top housing development that contains affordable housing at Lot 1 DP 555463, 1763 Pittwater Road MONA VALE subject to the conditions set out in the Assessment Report.

Reporting manager	**Adam Richardson**
TRIM file ref	2026/297400
Attachments	⇩1 Assessment Report ⇩2 Site Plan & Elevations ⇩3 Clause 4.6 - HOB ⇩4 Clause 4.6 - Landscape ⇩5 Design and Sustainability Panel Report

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/1516

Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 1 DP 555463, 1763 Pittwater Road MONA VALE NSW 2103
Proposed Development:	Demolition of existing structures and construction of a shop top housing development that contains affordable housing
Zoning:	MU1 Mixed Use
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	PVD No. 22 Pty Ltd

Application Lodged:	25/10/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	16/03/2026 to 30/03/2026
Advertised:	16/03/2026
Submissions Received:	4
Clause 4.6 Variation:	Section 18(2) of State Environmental Planning Policy (Housing) 2021 – height of buildings Section 19(2)(b)(c) of State Environmental Planning Policy (Housing) 2021 – landscaped area and deep soil zone
Recommendation:	Approval

Estimated Cost of Works:	$ 23,185,077.00

EXECUTIVE SUMMARY

This development application seeks consent for the demolition works of existing structures and the construction of a five (5) storey shop top housing development with rooftop communal open space, comprising of twenty (23) residential units, three (3) retail tenancies, two (2) levels of basement parking and at-grade off street parking.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as the development contravenes a development standard imposed by an environmental planning instrument by more than 10.0%. In addition, Chapter 4 of the *State Environmental Planning Policy (Housing) 2021* (SEPP

(Housing) 2021) applies to the development, with the building exceeding four (4) storeys in height.

The proposal seeks to employ the in-fill affordable housing provisions under SEPP (Housing) 2021 by dedicating six (6) units as affordable housing, totaling to 16.0% of the total Gross Floor Area. By incorporating the bonus provisions under Section 18 (2) of the SEPP (Housing) 2021 would allow for a 30.0% increase in overall height, to 16.9 metres from the maximum of 13.0 metres permitted under Clause 4.3 Height of Buildings of the *Pittwater Local Environmental Plan 2014.*

Despite the bonus uplift facilitated by the SEPP, the development will exceed the revised height limit by 2.805 metres, by proposing a maximum height of 19.705 metres, a 16.5% variation to the bonus provision. A written Clause 4.6 variation request accompanies the application and demonstrates that compliance is unreasonable and unnecessary in the circumstances of the case. The breach in height is attributed to the rooftop terrace which provides for Communal Open Space, as recommended by the Design and Sustainability Advisory Panel (DSAP). In addition, there are minor portions of the roof design which breach the 16.9 metres height standard due to the site's topography and split-level design.

Further to the above, an additional written Clause 4.6 variation request is provided in relation to Section 19 (2) (b) and (c) under SEPP (Housing) 2021, in relation to landscape area and deep soil zones. Based on the provisions of twenty (23) units and a site area of 1447.0m², a landscaped area of 434.1m², with a deep soil zone of 217.05m² is required. The proposal provides 143.8m² of landscaped area, with 47.68m² deep soil. The variation arises from constraints due to the geometry of the site and the location within Mona Vale Town Centre, whereby providing extensive landscaped areas is deemed to be limited. The design and limited areas of deep soil allow for maximising opportunities at the ground floor level for commercial spaces given the MU1 Mixed Use zoning, which is a town centre location is desirable.

This application was formally notified in accordance with Council's current Community Participation Plan (CPP). Four (4) submissions were received during the assessment of the application. Detailed consideration is given to the submissions and are addressed under the 'submissions' section of this report, the matters raised do not warrant the refusal or further amendment of the proposal.

Critical assessment matters include:

- Assessment against Clause 4.6 in relation to Section 18 (2) and 19 (2) (b) and (c) of the SEPP (Housing) 2021;
- Chapter 2 - Affordable Housing - Division 1 In-Fill Affordable Housing of the SEPP (Housing) 2021;
- Chapter 4 Design of Residential Apartment Development of the SEPP (Housing) 2021;
- The Apartment Design Guide (ADG) which includes variations to aspects of 3D Communal and public open space, 3E Deep Soil zones, 3F Visual Privacy, 4D Apartment size and layout and 4E Private Open space and balconies;
- Clause 2.6 Dwelling Density and Subdivision of the P21DCP in relation to a variation of commercial GFA; and
- Clause D9.6 Front Building Line of the P21DCP.

Notwithstanding the above, it is considered that no adverse environmental and/or amenity impacts are likely to occur as a result of the development and are supported on a merits basis. The proposal was found to demonstrate consistency with the objectives of the relevant planning instruments and provisions including that of the ADG and is considered an acceptable form of development for the transformation within the Mona Vale Town Centre and surrounding urban context.

This report concludes with a recommendation that the NBLPP grant **approval** to the development

application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks consent for the demolition works and construction of a shop top housing development and basement carpark.

Specifically, the works comprised of the following:

- Demolition of all existing structures on the site.
- The construction of a five (5) storey shop top housing development with rooftop communal open space, comprising of twenty-three (23) residential units, three (3) retail tenancies, two (2) levels of basement parking and at-grade off street-parking (noted in detail below).
- Associated landscaping works.

Basement 2 Plan
- Twenty (23) parking spaces, all of which are residential (including 3 accessible spaces).
- Car wash bay
- Bicycle storage for seventeen (17) bicycles
- End of trip facilities including lockers and bathroom.
- Residential storage cages.
- Two (2) lifts and two (2) stairwells for access to the levels above.

Basement 1 Plan
- Twenty (23) parking spaces - five (5) visitors (including one (1) accessible space), fourteen (14) residential (including two (2) accessible spaces), three (3) retail (including an accessible space) and one (1) dedicated Telstra parking bay.
- Bicycle storage for seven (7) bicycles.
- Motorbike parking for two (2) motorbikes.
- Residential storage cages.
- Telstra Exchange infrastructure (approved under DA2025/1478).
- Service Areas.
- OSD Tank Location.
- Two (2) lifts and two (2) stairwells for access.

Ground Floor Plan
- Three (3) retail tenancies
- Driveway access via Pittwater Road.
- Six (6) parallel off-street parking spaces along Bungan Lane of which two (2) form a timed loading zone.
- Residential lobby accessed from Bungan Lane and both residential and retail waste storage areas.
- Electric switch room and services.
- Fire egress.
- OSD Tank Location.
- Two (2) lifts and stairwell for access.

Level 01 Plan
- Three (3) units (3 bedrooms w/balconies).
- Three (3) units (2 bedrooms w/balconies) - Two (2) of which are nominated as affordable.
- All apartments have direct access to street or laneway facing terraces and are accessed from a single split level circulation core.
- Landscaped Courtyard.
- Two (2) lifts and stairwell for access.

Level 02 + 03 (each level)
- Three (3) units (3 bedrooms w/balconies).
- Three (3) units (2 bedrooms w/balconies) - Two (2) of which are nominated as affordable (each level).
- All apartments have direct access to street or laneway facing terraces and are accessed from a single split level circulation core.
- Two (2) lifts and stairwell for access.

Level 04
- Three (3) units (3 bedrooms w/balconies).
- Three (3) units (2 bedrooms w/balconies).
- All apartments have direct access to street or laneway facing terraces and are accessed from a single split level circulation core.
- Two (2) lifts and stairwell for access.

Rooftop
- Roof Terrace (COS) / planter boxes.
- Two (2) lifts and stairwell for access.
- Zone for services i.e. PV Panels, Hot Water Plant and AC.



Figure 1: *Photo montage of proposed development, prepared by PopovBass.*

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 - 7.1 Acid sulfate soils
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater Local Environmental Plan 2014 - 7.10 Essential services
Pittwater 21 Development Control Plan - B2.6 Dwelling Density and Subdivision - Shop Top Housing
Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
Pittwater 21 Development Control Plan - B6.5 Access Driveways and Works on Road Reserves on or Adjacent to a Main Road
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 - C1.1 Landscaping
Pittwater 21 Development Control Plan - C1.4 Solar Access
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.7 Private Open Space
Pittwater 21 Development Control Plan - C1.15 Storage Facilities
Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure
Pittwater 21 Development Control Plan - D9.3 Building colours and materials
Pittwater 21 Development Control Plan - D9.6 Front building line

SITE DESCRIPTION

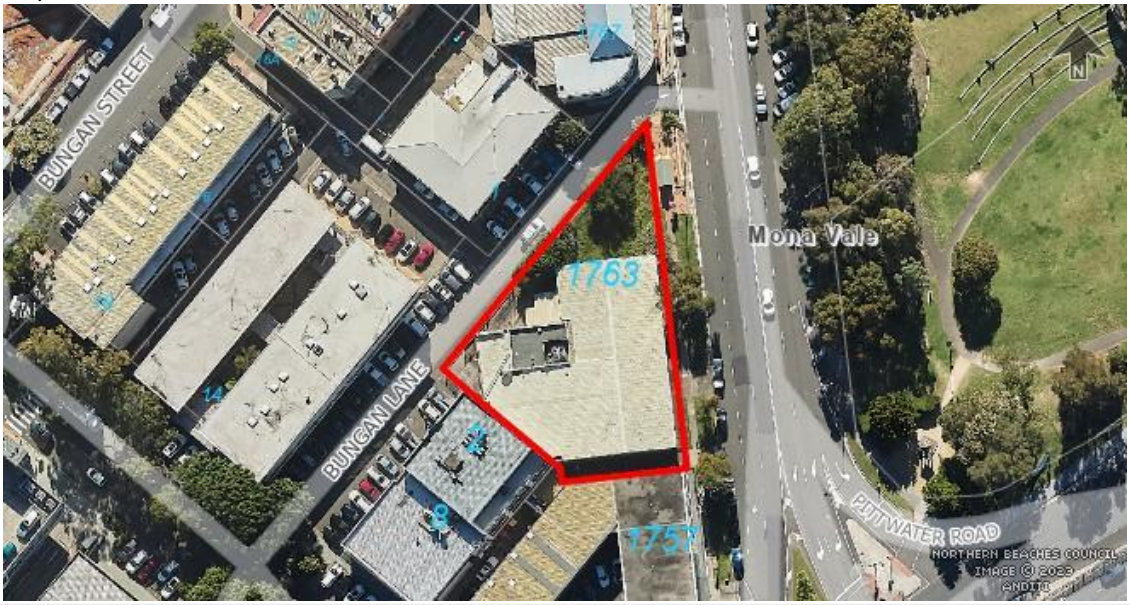
Property Description:	Lot 1 DP 555463 , 1763 Pittwater Road MONA VALE NSW 2103

Detailed Site Description	The subject site consists of one (1) allotment located on the western side of Pittwater Road and south-eastern side of Bungan Lane. The subject site is legally identified as Lot 1, Deposited Plan 555463, No. 1763 Pittwater Road, Mona Vale. The site is irregular in shape with a primary frontage and address to Pittwater Road of 60.360 metres, secondary frontage to Bungan Lane of 55.705 metres and a site area of 1447m². The site is located within the MU1 Mixed Use zone pursuant to the Pittwater Local Environmental Plan 2014 and accommodates the Mona Vale Telstra Exchange located within a single storey brick building with metal roof including a range of fencing around the perimeter. The site topography is relatively flat with an approximate fall of 2.3m across the surface. Th site does not consist of any significant landscape features. **Detailed Description of Adjoining/Surrounding Development** Adjoining and surrounding development is characterised by two (2) and three (3) storey development (commercial/mixed use), many of these reflecting dated building stock. Village Park and Mona Vale library are adjacent to the site on the eastern side of Pittwater Road. Mona Vale B-Line bus hub is located a short distance south of the site. A public bus stop is located immediately adjacent to the Pittwater Road frontage of the site.



Figure 2: *Site and location context, prepared by PopovBass.*

Map:



SITE HISTORY

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

N0071/07
Development Application for illuminated signage on two existing telephone booths.
Determined on 23 April 2004.

N0174/09
Development Application for the erection of security fencing on site.
Determined on 10 June 2009.

PLM2025/0047
Pre-lodgement Meeting for the demolition and construction of shop top housing development with ancillary site works.
A DSAP meeting was held on 22 May 2025 for the subject proposal prior to lodgement.

The proposal was overall supported subject to the advice provided to the Applicant by both DSAP and Council. This advice is generally reflected in the amended architectural plans.

DA2025/1478
Development Application for the demolition works and construction of a new Telstra telecommunications equipment room.
Determined on 5 February 2026.

This application has connection to DA2025/1516.

Current Application History

This application was formally notified in accordance with Council's current Community Participation Plan (CPP) which was for a period of fourteen (14) days and publicly exhibited on Council's website. Four (4)

submissions were received during the assessment of the application.

A DSAP meeting was held on 11 December 2025 for the subject proposal, the advice provided by the Panel is considered in this report where relevant.

A request for additional information was issued to the Applicant on 13 February 2026 in response to key concerns raised by the planning assessment, including both internal referrals and the DSAP. The items raised in the request were as follows:

1. Design and Sustainability Advisory Panel
The Panel qualified support to the development, subject to the provision of rooftop COS and recommendations related to sustainability.

2. Apartment Design Guide (ADG) - Communal Open Space (COS)
The ADG aims to ensure that adequate communal open space is provided to enhance residential amenity and to provide opportunities for landscaping. The proposal currently presents a design that lacks any meaningful COS. It is considered that the density of the development is such that the demands communal open space.

As recommended by DSAP rooftop COS shall be considered and designed in such a way to ensure that the skylights to the units below should obtain adequate visual privacy, with an inclusion of a green roof element.

3. Referral Unit – Environmental Health - Acid Sulfate Soils
No acid sulphate soils management plan can be located within the proposal documentation - to be provided.

4. Referral Unit – Waste
Bulky waste room must be separate from residential waste room and able to be accessed without going into the residential waste room. Bulky waste will not be brought through the residential waste room by residents or for collection purposes.

An operational waste management plan will be required to be prepared and submitted to council. The OWMP will demonstrate who will be responsible for coordinating domestic waste and recycling collections, ensuring site safety for residents, staff, contractors and any other users, ensuring effective signage, communication and education is provided to occupants, tenants, maintenance staff and cleaning contractors and coordinating general waste, recycling and bulky waste collections.

The submission of additional information occurred on the 2 March 2026, whereby the proposal was formally re-notified for a period of fourteen (14) days and publicly exhibited on Council's website. Further amendments (minor) occurred to address an outstanding waste issue, with a new set of plans being submitted on the 14 April 2026, these amendments did not trigger re-notification procedures.

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 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested, refer to Site History. Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. Clauses 62 and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the significant 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 application has been publicly exhibited from 16/03/2026 to 30/03/2026 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	**Address:**
Mr Paul Christopher Bottero Ms Denise Anne Bottero	1757 Pittwater Road MONA VALE NSW 2103
Mona Vale Residents Association	Po Box 479 MONA VALE NSW 1660
Mona Vale Plan Group	Po Box 62 MONA VALE NSW 1660

Name:	Address:
Maree Denise Kinnaird	Po Box 418 MONA VALE NSW 2103

Four (4) submissions were received during the notification period. The issues raised are summarised and addressed below.

- ***Excavation for proposed two (2) level basement may impact and/or result in damage to adjoining properties (i.e. existing footing/foundations). The objector notes that the following conditions to be considered:***

  Pre and post construction dilapidation reports to be carried out by an independent, qualified structural engineer or building surveyor, covering our property and any other immediately adjoining sites.

  This report be provided to both the developer and the property owners prior to the commencement of demolition or excavation works.

  That any damage identified as a result of the works be the responsibility of the developer to rectify.

  That appropriate construction management and vibration control measures be implemented during excavation to minimise risk to surrounding structures.

  Comment
  Conditions of consent have been included which address the above concerns, these include (but not limited to): pre/post construction dilapidation reports, geotechnical report recommendations, geotechnical certification and conditions relating to excavation.

- ***The existing green space located on the northern corner of the site shall be retained and utilised as a pocket park with bench seating and landscaping. Recommended portion of the site to be dedicated to Council as a public park.***

  Comment
  The subject site is privately owned land and is not identified or zoned for open space or public recreation purposes. Any dedication of land for public use would need to be secured through a Voluntary Planning Agreement (VPA) under the *Environmental Planning and Assessment Act 1979*, which the applicant is under no obligation to enter into and which cannot be required as a condition of development consent. Further, a publicly accessible park within a private development would create unresolved issues relating to ownership, maintenance, liability, and public access. It is noted that the Town Centre consists of both Village Park to the east of the subject site and Kitchener Park to the south.

- ***The proposal shall be assessed on it's merits against the relevant statutory requirements and controls.***

  Comment
  The proposal has been assessed against the relevant planning instruments and is considered to be consistent with the objectives of the applicable legislation and planning controls.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	***Referral completed.*** The proposal was originally presented to the Design and Sustainability Advisory Panel (DSAP) at Pre-DA stage on 22 May 2025. The Panel was generally supportive, subject to amendments. The proposal was again presented to DSAP at Development Application stage on 11 December 2025. As stipulated in the DSAP Meeting Report, the Panel gave qualified support to the overall development, subject to the provision of rooftop communal open space and various sustainability recommendations. The aspects discussed in DSAP are addressed in detail under *Section 145 Referral to Design Review Panel for Development Applications,* elsewhere in this assessment report.
Environmental Health (Acid Sulfate)	***Referral completed - conditions recommended.*** <u>General Comments</u> This site is deemed class 5 acid sulphate soils. The detailed site investigation accompanying the proposal states (in part): *"...Based on review of geology maps, soil maps, site topography and site observations it is considered unlikely that acid sulfate soils may be present on-site. Based on the site's elevation, the reported geology and with regard to the ASS Risk Map classification, no further consideration of requirements for the management of acid sulfate soil is required...."* Despite this this, the geotechnical report accompanying the proposal states (in part): "...Field and laboratory testing has confirmed the presence of actual acid sulfate soils (AASS) at depths greater than 1.5 m. In light of these findings, an Acid Sulfate Soil Management Plan (ASSMP) should be prepared prior to any excavation works...." No acid sulphate soils management plan can be located within the proposal documentation. <u>Updated Referral Comment - 12/03/2026</u> The applicant has supplied an Acid Sulphate Soils Management Plan. Accordingly, the proposal is supported with a number of conditions of consent recommended.

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	***Referral completed - conditions recommended.*** General Comments A preliminary site investigation (PSI) and detailed site investigation (DSI) accompany the proposal documentation. The DSI concludes that contaminants of potential concern (COPC's) "*...concentrations in site media would not pose a risk to future site receptors under residential or commercial/industrial land use based on a building on ground development ...* " Environmental Health supports the proposal. Updated Referral Comment - 12/03/2026 The applicant has supplied details of an amended proposal. The suite of amendments do not alter previous referral comments.
Environmental Health (General)	***Referral completed - conditions recommended.*** General Comments The proposal is supported by an acoustic report which recommends a Construction Noise and Vibration Management Plan as well as a number of building design elements to mitigate noise issues for the development. The proposal is supported with several conditions of consent recommended. Updated Referral Comment - 12/03/2026 The applicant has supplied details of an amended proposal. The suite of amendments do not alter previous referral comments.

Internal Referral Body	Comments
Landscape Officer	***Referral completed - conditions recommended.*** Council's Landscape Referral section have assessed the application against SEPP (Housing) 2021, the Apartment Design Guide (ADG), the Pittwater Local Environment Plan (PLEP), and the Pittwater 21 DCP (but not limited to). Additional Information Comment 16/03/2026 The amended reports and plans are noted. The conditions have been slightly amended to reflect the amended plans. Original Comment *The Arboricultural Impact Assessment (AIA) identified 7 trees. Trees 4, 5, 6 and 7 are located within the property boundary and will require removal to facilitate the proposed works. Trees 4, 6 and 7 are exempt by species or height and as such may be managed or removed at the discretion of the applicant without consent. Tree 5 can be supported for removal subject to native tree replacement planting. Street trees 1, 2 and 3 are proposed to be retained. Trees 1 and 2 will be impacted by the proposed driveway works and as such a Project Arborist shall be engaged to supervise the work in the tree protection zone of these trees. The public domain works, within the tree protection zone of trees 2 and 3 will also require supervision from the Project Arborist.* *The public domain works are generally supported and will be subject to final determination under a s138 application. The areas of lawn in the public domain, shown along the Pittwater Road frontage, shall be replaced with paving. Street tree planting along Pittwater road shall be Waterhousea floribunda. All understorey planting in the public domain will be subject to approval under a s138 application and shall tie into the existing planting palette of Mona Vale town centre.* *The landscape proposal is generally supported and all on structure planters shall meet the soil depth requirements outlined in the ADG. Areas of planting adjacent to the parallel parking on Bungan Lane will need to consider circulation space for drivers entering and exiting vehicles. Tree planting along the Bungan Lane frontage shall be Tristaniopsis laurina 'Luscious'.*
NECC (Development Engineering)	***Referral completed - conditions recommended.*** Review 27/3/2026 Amended plans have been reviewed. Conditions as recommended. Original Comments The proposal is for the construction of a shop top housing development. No objections to approval subject to conditions as recommended.

NECC (Water Management)	***Referral completed - conditions recommended.*** The proposed Stormwater drainage works are considered acceptable from a water management standpoint, with no objections relating to water quality or water balance impacts.
Strategic and Place Planning (Heritage Officer)	***Referral completed - no conditions required.*** **Heritage Comments** This application has been referred to Heritage as the subject site is within the vicinity of a heritage item, being; 2270020 - Great War Memorial - Mona Vale Park, bounded by Park Street, Pittwater and Barrenjoey Roads, Mona Vale. **Details of heritage items affected** <u>Statement of Significance</u> The Great War Memorial is a sandstone monument with historical and social significance as it commemorates the lives of 35 men who served in World War I, three of which were killed in action. It was rededicated in 1996 to include World War II, the Korean campaign, Malaya, Malaysia and the Vietnam War. It is also a prominent feature in the landscape of this park, with visible frontage to a major intersection. <u>Physical Description</u> The memorial stands in the middle of a large semi-circular clearing opening on to the intersections of Barrenjoey Rd and Pittwater Rd, Mona Vale. It is covered in sandy gravel, and is surrounded by sandstone block edging with regularly spaced short piers. Beyond this is a well maintained garden with hedging and some trees. One of these is a Cypress pine. <u>Consideration of Application</u> This proposal is for the construction of a shop-top housing building. The proposal involves the demolition of all existing structures on the site, and the construction of a five-storey shop-top housing development consisting of 23 apartments, 2 levels of basement parking with 49 car spaces, and 6 off-street parking spaces along Bungan Lane. The proposal also includes the strata subdivision of the site. The site is adjacent to a heritage item, being the war memorial located on a large semi-circular clearing opening on the intersections of Barrenjoey Road and Pittwater Road. Heritage considers that the significant view to the heritage item is from the corner of Barrenjoey Road and Pittwater Road. While the proposed development will result in some visual impacts due to its increased height in comparison to the surrounding buildings, this impact is considered to be manageable from a heritage perspective. Further, Heritage does not consider the proposal to adversely impact the significant views to the heritage item. As such, Heritage raises no concerns regarding this proposal and requires no conditions. Consider against the provisions of CL5.10 of PLEP. Is a Conservation Management Plan (CMP) Required? No Has a

	CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No

<table>
<tr>
<td>Traffic Engineer</td>
<td>
Referral completed - conditions recommended.

<u>Review based on amended plans provided</u>
The Transport Network team has reviewed the proposal for the demolition of the existing Telstra Telephone exchange building, replacing the exchange facility under a separate concurrent Development Application in an underground structure adjacent to Bungan Lane. The proposal in the application is to provide 3 retail/commercial tenancies and 23 residential dwellings (11 two bedroom and 12 three bedroom) over 5 storeys with two levels of basement parking with 45 parking spaces provided.

<u>Parking Provision</u>
The applicant is using a combination of TfNSW guidance and Pittwater DCP requirements to provide a suitable number of parking spaces on site and 4 publicly accessible spaces and a loading zone adjacent to the road reserve in Bungan Lane.

Using the Pittwater DCP parking rates the development would be required to have the following parking provision.
<table>
<tr><th>Land Use</th><th>Number of dwellings/GFA</th><th>Minimum DCP Parking Rate</th><th>DCP required parking</th></tr>
<tr><td>2-bed dwelling</td><td>11</td><td>2 spaces per dwelling</td><td>22</td></tr>
<tr><td>3-bed dwelling</td><td>12</td><td>2 spaces per dwelling</td><td>24</td></tr>
<tr><td>Visitor</td><td>-</td><td>1 space per 3 dwellings</td><td>8</td></tr>
<tr><td>Car Wash Bay</td><td>-</td><td></td><td>1</td></tr>
<tr><td>Retail</td><td>535.5sqm GFA</td><td>1 space/30m²</td><td>18</td></tr>
<tr><td></td><td></td><td>Total</td><td>73</td></tr>
</table>

Given the proposal is within the Mona Vale Village Centre (Strategic Centre) and within 400m of high frequency public transport (B-Line), the applicant is proposing the following carparking provision.
<table>
<tr><th>Land Use</th><th>Number of Dwellings/GFA</th><th>Proposed car parking rate</th><th>proposed parking provision</th></tr>
<tr><td>2-bed dwelling</td><td>11</td><td>0.9 per dwelling (TFNSW)</td><td>Total 39</td></tr>
<tr><td>3-bed dwelling</td><td>12</td><td>2 per dwelling (Pittwater DCP)</td><td></td></tr>
<tr><td>Visitors</td><td>-</td><td>1 space per 5 dwellings (TFNSW)</td><td>5</td></tr>
<tr><td>Car Wash Bay</td><td>-</td><td>1 (Pittwater DCP)</td><td>1</td></tr>
</table>
</td>
</tr>
</table>

Retail	535.5sqm GFA	3 staff in basement plus customer at grade	3 + 4
Telstra		1 as per lease agreement	1
		Total	45 + 4

Whilst this is substantially less (23) than the required parking provision under the DCP, it does meet Council's intent to provide parking maximum rates in the Strategic Centres on the Northern Beaches and is aimed at reducing congestion across the road network. The reduced parking rate is supported subject to conditions being placed on the development and restrictions placed on the title of each strata unit.

Traffic Generation

The applicant is using the high density trip generation rates for the residential component of development, with Council believing that Mona Vale functions more like a Medium Density town centre historically and the proposed development does not meet the quantum of dwelling numbers to use the lower trip generation rates.
That said the difference between Council's trip generation total is only 6 trips higher that the trip generation using the applicants rates for high density, which adds minimal impact to the adjoining road network.

Site Access

Access to the basement carpark is proposed using a bi-direction driveway on the eastern boundary of the site on Pittwater Road. TfNSW and Council are in concurrence that a median needs to be constructed on Pittwater Road to ensure the carpark operates under a strict left in left out arrangement. Primary access to the residential component of the development is from the Bungan Lane site frontage and retail/commercial access spread between both frontages. Loading and waste collection is from the dedicated timed loading zone in Bungan Lane.

Active Transport

The proposal contains bicycle rack for 24 bikes within the basement carpark along with end of trip facilities within the basement carpark.

Other Matters

- The applicant will need to ensure that the proposed loading zone meets the structural requirements for a fully loaded waste collection vehicle.
-

The application is therefore supported subject to conditions being provided.

Initial Referral comments

The Transport Network team has reviewed the proposal for the demolition of the existing Telstra Telephone exchange building, replacing the exchange facility under a separate concurrent Development Application in an underground structure adjacent to Bungan Lane. The proposal in the application is to provide 3 retail/commercial tenancies and 23 residential dwellings (11 two bedroom and 12 three bedroom) over 5 storeys with two levels of basement parking with 49 parking spaces provided.

Parking Provision

The applicant is using a combination of TfNSW guidance and Pittwater DCP requirements to provide a suitable number of parking spaces on site and 4 publicly accessible spaces and a loading zone adjacent to the road reserve in Bungan Lane.

Using the Pittwater DCP parking rates the development would be required to have the following parking provision.

Land Use	Number of dwellings/GFA	Minimum DCP Parking Rate	DCP required parking
2-bed dwelling	11	2 spaces per dwelling	22
3-bed dwelling	12	2 spaces per dwelling	24
Visitor	-	1 space per 3 dwellings	8
Car Wash Bay	-		1
Retail	535.5sqm GFA	1 space/30m²	18
		Total	73

Given the proposal is within the Mona Vale Village Centre (Strategic Centre) and within 400m of high frequency public transport (B-Line), the applicant is proposing the following carparking provision.

Land Use	Number of Dwellings/GFA	Proposed car parking rate	proposed parking provision
2-bed dwelling	11	0.9 per dwelling (TFNSW)	Total 39
3-bed dwelling	12	2 per dwelling (Pittwater DCP)	
Visitors	-	1 space per 5 dwellings (TFNSW)	5
Car Wash Bay	-	1 (Pittwater DCP)	1
Retail	535.5sqm GFA	3 staff in basement plus customer at grade	3 + 4
Telstra		1 as per lease agreement	1
		Total	46 + 4

Whilst this is substantially less (23) than the required parking provision under the DCP, it does meet Council's intent to provide parking maximum rates in the Strategic Centres on the Northern Beaches and is aimed at reducing congestion across the road network. The reduced parking rate is supported subject to conditions being placed on the development and restrictions placed on the title of each strata unit.

Traffic Generation

The applicant is using the high density trip generation rates for the residential component of development, with Council believing that Mona Vale functions more like a Medium Density town centre historically and the proposed development does not meet the quantum of dwelling numbers to use the lower trip generation rates.

That said the difference between Council's trip generation total is only 6 trips higher that the trip generation using the applicants rates for high density, which adds minimal impact to the adjoining road network.

	Site Access Access to the basement carpark is proposed using a bi-direction driveway on the eastern boundary of the site on Pittwater Road. TfNSW and Council are in concurrence that a median needs to be constructed on Pittwater Road to ensure the carpark operates under a strict left in left out arrangement. Primary access to the residential component of the development is from the Bungan Lane site frontage and retail/commercial access spread between both frontages. Loading and waste collection is from the dedicated timed loading zone in Bungan Lane. Active Transport The proposal contains bicycle rack for 24 bikes within the basement carpark along with end of trip facilities within the basement carpark. Other Matters • The applicant will need to ensure that the proposed loading zone meets the structural requirements for a fully loaded waste collection vehicle. • The application is therefore supported subject to conditions being provided.

Waste Officer	***Referral completed, conditions recommended.*** <u>Updated waste referral comments 14 April 2026</u> Residential and bulky waste all satisfactory. Doors 1.2m wide, all to open outwards and able to be latched in an open position. Commercial/Retail waste - door should accommodate 1100L bins as per Elephants Foot Operational Waste Management Plan Revision C dated 13/4/2026. Suggest 1.5m but not mandatory. <u>Updated waste referral comments 12 March 2026</u> Residential waste room and commercial waste rooms are satisfactory. Doors must all open outwards and be able to be latched in an open position. Access for waste contractor via dedicated timed loading bay adjacent to the residential waste storage is satisfactory. Bulky waste storage separated from residential waste but also needs to be accessible for carry out service by contractor so for this blocks configuration would need to be at property boundary also with internal door into the room for residential/building manager use and external door for the contractor to access from the loading bay. Bulky waste cannot be presented at kerbside in a town centre situation like this. The contractor will need direct access from the street without going through the residential bin store. Suggest the cleaner's room and bulky room swop and the bulky waste room be alongside the residential waste storage with access from both sides. <u>Previous waste comments</u> All doors into the residential waste room must be minimum of 1.2m wide opening outwards and able to be latched in an open position. Bulky waste room must be separate from residential waste room and able to be accessed without going into the residential waste room. Bulky waste will not be brought through the residential waste room by residents or for collection purposes. All doors to commercial waste room must be of an adequate width to accommodate the largest bins anticipated (1100L) and able to be latched in an open position for servicing. Only one door on the external wall is shown - what is the access path for all commercial tenants? Commercial tenants will not have access to the domestic waste rooms at any time. An operational waste management plan will be required to be prepared and submitted to council. The OWMP will demonstrate who will be responsible for coordinating domestic waste and recycling collections, ensuring site safety for residents, staff, contractors and any other users, ensuring effective signage, communication and education is provided to occupants, tenants, maintenance staff and cleaning contractors and coordinating general waste, recycling and bulky waste collections.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	***Referral completed - conditions recommended.*** 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.
Roads and Maritime Service - SEPP (Transport and Infrastructure) 2021, s2.122 - Traffic generating development	***Referral completed - conditions recommended.*** The development application which was referred to Transport for NSW (TfNSW) for comment under Section 2.122 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021.* TfNSW notes that Pittwater Road, at this location fronting the site, is a 2000 series regional classified road under the care and control of Council. As such, TfNSW provides concurrence under section 138 of the *Roads Act 1993* to the proposed vehicular crossing and kerb works on Pittwater Road subject to Council's approval and conditions.

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)

Housing and Productivity Contribution

Part 2 Development for which contribution is required and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component amount.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	$12,000	new dwelling lot
	Medium or high-density residential development	$10,000	new dwelling
	Commercial development	$30	square metre of new GFA
	Industrial development	$15	square metre of new GFA

Figure 3: *Base component amount.*

Greater Sydney	Residential subdivision	new dwelling lot	$12,974.62
	Medium or high-density residential development	new dwelling	$10,812.18
	Commercial development	square metre of new GFA	$32.44
	Industrial development	square metre of new GFA	$16.22

Figure 4: *The indexed base component amounts as of 1 January 2026.*

Comment

The subject site is sited within the Greater Sydney region. The proposed development is for demolition works of existing structures (telecommunication infrastructure) and the construction of a five (5) storey shop top housing development, comprising of twenty (23) residential units, three (3) retail tenancies (total GFA of 525.5m²).

In accordance with the recent indexed base component amounts, the contributions is as follows:

$10,812.18 x 23 dwellings = 248,680.14
$32.44 x 525.5m² (Commercial GFA) = $17,047.22

Total: $265,727.36

A condition has been recommended requiring the payment of these contributions.

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1815629M_02 dated 24 February 2026).

Where relevant, the embodied emissions have been quantified in the above BASIX Certificate.

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

SEPP (Housing) 2021

Chapter 2 Affordable Housing - Division 1 In-Fill Affordable Housing

The proposed development has been submitted under the provisions of Chapter 2, Division of *State Environmental Planning Policy Housing 2021 (SEPP Housing 2021).*

The table below contains the planning assessment of this Division. Further comments on certain clauses are provided below the table.

Section 15C – Development to which Division applies	
Standard	**Compliance/Comment**
(1) This division applies to development that includes residential development if:	
(a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and	The proposed development is permitted with consent under the *Pittwater Local Environmental Plan 2014 (PLEP 2014).*
(b) the affordable housing component is at least 10%, and	The affordable housing component is greater than 10.0%. Refer to comments under Section 18, of this report.
(c) all or part of the development is carried out: (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone. ***relevant zone*** means the following— (a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use, (c) Zone B1 Neighbourhood Centre, (d) Zone B2 Local Centre, (e) Zone B4 Mixed Use.	The subject site is located within the six (6) cities region (Eastern Harbour City - Northern Beaches Council). The B-Line bus service meets the criteria for service frequency with the bus stop approximately 400.0 metres walking distance from the site.

Section 18 – Affordable housing requirements for additional building height	
Standard	**Compliance/Comment**
(1) This section applies to development that includes residential development to which this division applies if the development: (a) includes residential flat buildings or shop top housing, and (b) does not use the additional floor space ratio permitted under section 16.	This section applies as the development is for the purposes of shop top housing and does not use additional FSR under Section 16, as no FSR applies to the site.
(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).	Clause 4.3 Height of buildings under PLEP 2014 prescribes a maximum building height of 13.0 metres. A bonus 30.0% would increase the permissible height to 16.9 metres (+3.9 metres) The maximum proposed height is 19.705 metres, with a 16.5% variation to 16.9 metres. A written Clause 4.6 variation request accompanies the proposal and is assessed under the Clause 4.6 section, elsewhere in this report.

(3) The minimum affordable housing component, which must be at least 10%, is calculated as follows:	The proposed development proposes the provision of six (6) units as affordable housing with a GFA of 626.3m², being 16.0% of total GFA (3915.7m²).

Section 19 – Non-Discretionary Development Standards – the Act, s 4.15	
Standard	**Compliance/Comment**
(a) A minimum site area of 450m².	Complies - the subject is 1447.0m².
(b) a minimum landscaped area that is the lesser of: (i) 35m2 per dwelling, or (ii) 30% of the site area,	30.0% of the site area (1447.0m²) is 434.1m². The amended proposal provides a landscaped area of 216.84m² (15.0%) A written Clause 4.6 variation request accompanies the proposal and is assessed under the Clause 4.6 section, elsewhere in this report.
(c) A deep soil zone on at least 15% of the site area, where: (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,	(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.
(d) Living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter.	(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.
(e) the following number of parking spaces for dwellings used for affordable housing: (i) for each dwelling containing 1 bedroom—at least 0. 4parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking space, (iii) for each dwelling containing at least 3 bedrooms —at least 1 parking space,	Complies. <u>Affordable Units</u> 6 (2 x bedrooms) x 0.5 (parking spaces) Total of 6 spaces
(f) the following number of parking spaces for dwellings not used for affordable housing: (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	Complies. <u>Market Units</u> 5 (2 x bedrooms) x 1 (parking space) = 5 12 (3 bedrooms x 1.5 (parking spaces) = 18 Total of 26 spaces Total Required (Affordable + Market) = 32 spaces Total Provided: 37 residential parking (including 5 accessible)
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	Complies. Refer to ADG table below.

Section 20 – Design Requirements	
Standard	**Compliance/Comment**
(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with: (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	Complies. Refer to Chapter 4 and P21DCP sections of report.

Section 21 – Must be used for Affordable Housing for at least 15 years	
Standard	**Compliance/Comment**
(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development: (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	The applicant submitted a letter from Bridge Housing Limited, a registered community housing provider, advising that they will manage the affordable housing units for a minimum period of 15 years. In the event of an approval, conditions of consent would be imposed to secure compliance with this section.

Section 22 – Subdivision permitted with consent	
Standard	**Compliance/Comment**
Land on which development has been carried out under this division may be subdivided with development consent.	Complies.

Section 18 Affordable housing requirements for additional building height - refer to Clause 4.6 section of this report.

Section 19(2)(b)(ii) – Landscaped area - refer to Clause 4.6 section of this report.

Chapter 4 Design of Residential Apartment Development

Clause 144 of *State Environmental Planning Policy Housing 2021* (SEPP (Housing) 2021)) stipulates that:

(1) This chapter applies to development only if:
- (a) the development consists of:
  - (i) the erection of a new building,
  - (ii) the substantial redevelopment or the substantial refurbishment of an existing building, or

(iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and

(c) the building contains at least 4 dwellings.

Comment

The proposed development is for the erection of a five (5) storey shop top housing development plus two (2) level basement car parking for the provisions of twenty (23) self-contained units. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP (Housing) 2021 are applicable to the assessment of this application.

Section 145 Referral to Design Review Panel for Development Applications

Clause 145 of SEPP (Housing) 2021 requires:

(2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development).

Comment

In accordance with Section 145, the proposal was referred to the Design and Sustainability Advisory Panel (DSAP) at both pre-lodgement (meeting held on 22 May 2025) and Development Application stage (meeting held 11 December 2025).

The table below outlines the advice provided at the Pre-lodgement and Development Application stages and includes an overall comment of the merits and acceptability of the proposal.

DSAP PLM RECOMENDATION	DSAP DA RECOMMENDATION	PLANNER COMMENT
Strategic Context, Urban Context: Surrounding Area Character		
i. The Panel would recommend that Council re-consider the DCP provision for a 2-storey street wall in light of neighbouring building alignments and that a 4-storey street wall should be considered. Further discussions should be had with Council as to the strategic direction of the future Mona Vale town Centre controls. However, the Panel is also of the view that the upper-level setbacks along both streets should conform with the DCP requirement of 6m and that the side setbacks achieve 3m in line with the DCP. Furthermore, some variation in height and setback might be considered appropriate at the corner of the site, where the 2 streets converge, to give greater architectural emphasis to the built form of the corner.	Matters Resolved.	General Site analysis was satisfactory. Refer to ADG Assessment and Sections under P21DCP.

Scale, Built Form and Articulation		
ii. Consider allowing opening rear courtyard to street to enhance apartment amenity and ensure ADG compliance for natural ventilation (and indeed light). iii. Consider introduction of 25% commercial to development. iv. Consider refinements to street façades.	ii and iii not pressed by Panel. iv - Resolved.	As noted in the ADG Assessment 14 out of 23 apartments are naturally cross ventilated, complying with 60.0% criteria. Ground Floor dedicated to commercial development (525.5m²). Shortfall in GFA is discussed under Section B2.6 of P21DCP, elsewhere in this report. DSAP supportive of facade treatment and articulation.
Access, Vehicular Movement and Car Parking		
v. Consideration should be given to a shorter more direct access to the residential lobby from the street. vi. Entry from Bungan Lane would be encouraged in order to activate this lane and provide un-broken frontage to commercial at street level on both streets. vii. Applicant to liaise with Council with a view to reducing on-site carparking requirements.	Matters Resolved.	Access to residential lobby is considered to be simplified and "direct" via the proposed colonnade that runs parallel to the retail frontages. Activation to Bungan Lane considered satisfactory by: i. entrance lobby to residential units. ii. two (2) commercial tenancies fronting Bungan Lane. Council's Traffic and Development Engineer supportive, subject to conditions.
Landscape		

viii. Consider areas for planting trees in a nominal setback that takes advantage of the lack of overhead powerlines and by using structural soil cells as well as creating a small open space area in the northeast corner with deep soil landscaping as required. ix. Consider a use of building articulation to provide areas to plant iconic local Cabbage Tree Palm trees to add to the canopy cover and overall landscape response. x. The proposed development will need to provide a revised design that is compliant with the recently released DPIE document Tree Canopy Guide for Low- and Mid-Rise Housing.	The proposal is supported with regard to landscape issues. Council's Landscape Referral section have assessed the application against SEPP (Housing) 2021, the Apartment Design Guide (ADG), the Pittwater Local Environment Plan (PLEP), and the Pittwater 21 DCP (but not limited to).	Refer to ADG Assessment Council's Landscape Officer supportive, subject to conditions for landscape treatment
Amenity		
xi. Refer to note under Scale and Built Form.	The Panel considers that rooftop Communal Open Space (COS) should be provided. Skylights to the units below should be modified to ensure adequate visual privacy.	Rooftop COS provided Refer to ADG Assessment. Siting of the COS is relative to proposed skylights ensuring the maintenance of appropriate privacy to below units.
Façade Treatment/Aesthetics		
xii. Consider substituting faux-look materials for ones that are a direct reflection of each material's inherent characteristics. The degree to which this can also be a reflection of a material's sustainability credentials and longevity is always an added bonus to the aesthetics of a given material.	Matters Resolved.	Submitted Schedule of Finishes incorporates additional materials when compared to PLM Stage, these include Bronze metal cladding, granite stone paving and sandstone. The overall colours and materials are considered satisfactory, consistent with new development within and around Mona Vale Town Centre and representative of a coastal setting.
Sustainability		

xiii. Include alternative transport facilities to support a reduction in car parking. xiv. Refine the design to include shading to all north-west facing windows and sliding doors. xv. Consider greater variation to the housing type mix to include studio and one-bedroom apartments – to support more affordability options. xvi. Demonstrate how the development meets the ADG cross ventilation requirements. xvii. The DA proposed design should demonstrate further sustainability initiatives including: a. solar panels. b. rainwater storge c. bike parking d. services including hot water, A/S, and cooking which should be electric. xviii. Consider inclusion of a green roof in combination with the solar panels.	Consider on site battery storage as a highly desirable back-up during the transition to a de-carbonised grid. Reconsider external blinds for the windows on the north-west facade Include ceiling fans to improve comfort and reduce reliance on air-conditioning. Find a way for materials from demolished buildings to be utilised. Use fewer materials where possible (e.g. exposed concrete floors, reduced tiling). Design for durability and adaptability over time, accounting for different systems. Preference low-carbon or renewable materials (e.g. timber, recycled steel, low-carbon concrete). Prioritise energy efficient lift systems, considering gearless traction lifts, machine-room-less (MRL) lifts, LED lighting and sleep mode when not in use.	Satisfactory. Amendments adopted include provision of external blinds to the north-west façade to assist in sun protection and the provision of ceiling fans to all bedrooms to reduce the reliance of air-conditioning. BASIX thermal and energy targets are achieved, the application is satisfactory in this regard. Waste Management Plan notes to reuse bricks, concrete and timber were practical.

	Maximise longevity and ease of maintenance Optimise embodied carbon in lift construction by considering manufacturers with low carbon supply chains, materials and equipment.	

Section 147 Determination of Development Applications and Modification Applications for Residential Apartment Development

Clause 147 of SEPP (Housing) 2021 requires the following:

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—
(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
(b) the Apartment Design Guide,
(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

Comment
The below part of the report makes an assessment against the design quality principles contained within Schedule 9 (a) and an assessment is carried out against the ADG below (b).

Overall, the proposal meets the design quality principles of Schedule 9 for the reasons outlined below. The proposal appropriately responds to the design guidelines within the ADG and where strict compliance is not achieved numerical requirements, reasonable alterative solutions are provided to meet the objectives of the ADG.

The consent authority has considered the advice received from the DSAP and the applicant has amended the proposal where necessary to respond to the DSAP advice. Overall, the DSAP was supportive of the proposal subject to minor changes regarding sustainability and the inclusion of rooftop COS, for the consideration of Council.

Non-discretionary development standards for residential apartment development

Clause 148 of SEPP Housing contain non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e. 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide
(b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment
As noted in the below assessment, the proposal meets the requirements of the ADG in relation to Part 3J, 4D and 4C. This assessment has not required more onerous standards and does not recommend refusal of any of these reasons.

DESIGN QUALITY PRINCIPLES - Schedule 9

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.
Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.
Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics,

living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment
The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

APARTMENT DESIGN GUIDE (ADG)

The following table is an assessment against the key criteria of the 'Apartment Design Guide' in accordance with *SEPP (Housing) 2021:*

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
3A:Site Analysis	Does the development relate well to its context and is it sited appropriately?	**Satisfactory** The proposed development is designed to utilise the irregularity of the site i.e. triangular geometry to a benefit via unique architectural elements such as the proposed corner treatment, providing an "anchor point" or transition into the Town Centre. No major constraints have been identified and it is considered that the development is sited appropriately to the surrounding context for the reasons set out in this report, and subject to conditions.

3B: Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	**Satisfactory** All apartments are orientated toward the street, either Bungan Lane (North-west) or Pittwater Road (North-east) to optimise solar access. Neighbouring properties will receive acceptable levels of solar access. The immediate adjoining properties are predominantly commercial development uses, such building have not yet undergone recent transformation. No identified residential development to be impacted by overshadowing.

3C: Public Domain Interface	Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	**Satisfactory** All units include balconies that passively overlook the public domain and street frontages. The residential spaces i.e. units, parking and storage are secured. The submitted ADG Compliance Statement and submitted plans demonstrate an element of public seating on ground level in proximity to bus stop. Continuous awnings are incorporated along the street frontage above the retail tenancies for public amenity as well as for visual interest and consistency in design with the private residential balconies above. Landscaping along the street frontage is incorporated to visually soften the built form, articulate the entrances to the retail tenancies, and enhance the overall pedestrian experience. Waste facilities strategically placed for integration and subtlety. Further discussion on setbacks and street frontage under P21DCP section of report.
3D: Communal and Public Open Space	Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25.0% of the site 2. Developments achieve a minimum of 50.0% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid winter)	**Satisfactory on Merit** 1. A communal open space (COS) of 145.5m² or 10.06% in the form of a roof terrace is provided at the lower roof level. Refer to additional comments below table. 2. The COS receives 6 hours of sunlight between 9am - 3pm on 21 June. Majority of this sunlight achieved between the hours of 9am - 12pm.

<table>
<tr>
<td>3E: Deep Soil Zones</td>
<td>Deep soil zones are to meet the following minimum requirements:

<table>
<tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr>
<tr><td>Less than 650m2</td><td>-</td><td rowspan="4">7%</td></tr>
<tr><td>650m2 – 1,500m2</td><td>3m</td></tr>
<tr><td>Greater than 1,500m2</td><td>6m</td></tr>
<tr><td>Greater than 1,500m2 with significant existing tree cover</td><td>6m</td></tr>
</table>
</td>
<td>Satisfactory

Site Area: 144.07m²
Minimum Deep Soil: 101.29m² or 7.0%
Proposed Deep Soil: 47.68m² or 3.3%
Variation: 53.0%

ADG acknowledges that deep soil zones may be constrained by the size of the lot or the location of a proposed development including those located in town centres.</td>
</tr>
<tr>
<td>3F: Visual Privacy</td>
<td>Minimum required separation distances from buildings to the side and rear boundaries are as follows:

<table>
<tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr>
<tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr>
<tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr>
<tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr>
</table>

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</td>
<td>Satisfactory on Merit

Refer to comments below.</td>
</tr>
<tr>
<td>3G: Pedestrian Access and entries</td>
<td>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?

Large sites are to provide pedestrian links for access to streets and connection to destinations.</td>
<td>Satisfactory

Both street frontages present a connection to the main building entrance on Bungan Lane through a colonnade design element which runs parallel to the commercial frontage, providing a clear pedestrian link.</td>
</tr>
</table>

3H - Vehicle Access	Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?	**Satisfactory** Pedestrian and vehicular access are separated and distinguishable. The vehicular access point is located off Pittwater Road on the south-eastern portion of the site. The main entry/lobby is located to the opposite street frontage on Bungan Lane toward the north-west. Pedestrian links/pathways are included in the design along and around the street frontage to both Pittwater Road and Bungan Lane. The vehicular access point is designed as a "left in - left out" arrangement with the presence of a median strip on Pittwater Road, such design has been reviewed and supported by both Council's Traffic Team and Transport for NSW (TfNSW) subject to conditions.
3J: Bicycle and Car Parking	For development in the following locations: • On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or • On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street. Parking and facilities are provided for other modes of transport. Visual and environmental impacts are minimised.	**Satisfactory** Refer to sections of report under P21DCP and Council's Traffic Engineer Referral for detailed discussion. Conveniently located and sufficient numbers of parking spaces provided for motorbikes, scooters and bicycles.
Part 4 Designing the Building		
Amenity		

<table>
<tr><td rowspan="2">4A: Solar and Daylight Access</td><td>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:

• Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</td><td>Satisfactory

All twenty-tree (23) units will achieve at least 2 hours of sunlight between 9am-3pm June 21, this includes the living room and POS.</td></tr>
<tr><td>• A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</td><td>As above.</td></tr>
<tr><td>4B: Natural Ventilation</td><td>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:

• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.

• Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</td><td>Satisfactory

60.9% of units to be cross ventilated.

The proposal provides fourteen (14) units out of the twenty-three (23) as naturally cross ventilated. Two (2) of these units, these being Apartment 20 and 22 are cross ventilated via an operable skylight above the entryway to the roof. These have been designed to optimise privacy.</td></tr>
<tr><td>4C: Ceiling Heights</td><td>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

<table><tr><td colspan="2">Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor

2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table></td><td>Satisfactory

All habitable rooms: 2.7 metres
All non-habitable rooms: 2.4 metres

Ground Floor (Commercial): 3.0 - 3.7 metres providing a range for mixed uses.</td></tr>
</table>

<table>
<tr>
<td>4D: Apartment Size and Layout</td>
<td>Apartments are required to have the following minimum internal areas:

<table>
<tr><th>Apartment type</th><th>Minimum internal area</th></tr>
<tr><td>Studio</td><td>35m2</td></tr>
<tr><td>1 bedroom</td><td>50m2</td></tr>
<tr><td>2 bedroom</td><td>70m2</td></tr>
<tr><td>3 bedroom</td><td>90m2</td></tr>
</table>

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2 each.</td>
<td>Satisfactory

All apartments exceed the minimum internal areas noted in the adjacent table, and are considerably sized.</td>
</tr>
<tr>
<td></td>
<td>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</td>
<td>Satisfactory

Each habitable room has access to considerably sized windows with a minimum area of not less than 10.0% of the floor area the room.</td>
</tr>
<tr>
<td></td>
<td>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</td>
<td>Satisfactory

Max habitable room depth = 2.5 x 2.7m (ceiling height) = 6.8 metres.

Habitable room depths (other than living/dining/kitchen) are between 3.6 - 4.5 metres.</td>
</tr>
<tr>
<td></td>
<td>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</td>
<td>Satisfactory on Merit

Several apartments, the back of the kitchens are over 8.0m but are considered by the Applicant to be balanced with wider living rooms ranging from 4.2 - 4.5 metres in width.</td>
</tr>
<tr>
<td></td>
<td>Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).</td>
<td>Satisfactory

Master Bedrooms exceed 10.0m² with other bedrooms exceeding 9.0m².</td>
</tr>
<tr>
<td></td>
<td>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</td>
<td>Satisfactory

Minimum dimensions range between 3.0 metres x 3.6 metres.</td>
</tr>
</table>

<table>
<tr><td></td><td>Living rooms or combined living/dining rooms have a minimum width of:
3.6m for studio and 1 bedroom apartments
4m for 2 and 3 bedroom apartments</td><td>Satisfactory

Minimum width is 4.1 metres.</td></tr>
<tr><td rowspan="2">4E: Private Open Space and Balconies</td><td>All apartments are required to have primary balconies as follows:

<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m2</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m2</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m2</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m2</td><td>2.4m</td></tr></table>
The minimum balcony depth to be counted as contributing to the balcony area is 1m</td><td>Satisfactory on Merit

All apartments have primary balconies that front the street and exceed the minimum areas.

These include a minimum depth of 2.4 metres for 3 bedroom units and 2.0 metres for the 2 bedroom units.

Unit 23 does not achieve the 2.4 metre depth, and rather proposes a 2.2 metre width balcony. This is offset by the width of the balcony (over 11.0 metres) extending the full length of the unit, with an overall area of 21.57sqm. Based off the overall size and configuration, the shortfall in depth is supported.</td></tr>
<tr><td>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.</td><td>N/A</td></tr>
<tr><td rowspan="2">4F: Common Circulation and Spaces</td><td>The maximum number of apartments off a circulation core on a single level is eight.</td><td>Satisfactory.

The building is split level in design with 2-4 units sharing a lobby/lift. Each Floor level contains a maximum of 6 units.</td></tr>
<tr><td>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</td><td>N/A</td></tr>
</table>

<table>
<tr><td>4G: Storage</td><td>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

<table><tr><td>Dwelling Type</td><td>Storage size volume</td></tr><tr><td>Studio apartments</td><td>4m2</td></tr><tr><td>1 bedroom apartments</td><td>6m2</td></tr><tr><td>2 bedroom apartments</td><td>8m2</td></tr><tr><td>3+ bedroom apartments</td><td>10m2</td></tr></table>
At least 50% of the required storage is to be located within the apartment.</td><td>Satisfactory on Merit.

Storage cages are provided in the basement levels for each apartment to accommodate 5.0m³ of storage.

Each unit includes storage between 5.0m³ - 6.0m³ in addition to bedrooms, bathrooms and kitchens. In exception to Unit 2, 8 and 14 which include 4.45m³ of additional storage. The shortfall is considered minor (0.55m³) and can be justified given that every bedroom to these units include built in wardrobe and an additional prep/panty space in the kitchen.</td></tr>
<tr><td>4H: Acoustic Privacy</td><td>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</td><td>Satisfactory

The proposed development is acceptably designed with respect to the relationship between noise sources and bedrooms.</td></tr>
<tr><td>4J: Noise and Pollution</td><td>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</td><td>Satisfactory

The recommendations made in the submitted Acoustic Assessment will be required through recommended conditioned

The units have been designed in consideration of the main roads (Pittwater Road and utilise separation, balconies and planter boxes as additional mitigation measures.</td></tr>
<tr><td colspan="3">Configuration</td></tr>
<tr><td>4k: Apartment Mix</td><td>Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.</td><td>Satisfactory

The proposed development includes 2-bedroom apartments and 3 - bedroom apartments of various sizes.
6 apartments are dedicated to affordable housing.
The third bedroom is noted as a "flexi" room with the ability to be used as a bedroom, media room or study.</td></tr>
</table>

4L: Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	N/A

4M: Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	**Satisfactory** The building facades utlise a combination of materials, articulation and architectural elements to provide for an attractive street frontage. Such design respects the desired future character of the area.
4N: Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	**Satisfactory** The roof design features curved elements reflective of "art deco" and is consistent with the overall building. The roof contains centralised plant and solar panels. The addition of a rooftop terrace for COS as recommended by DSAP. The rooftop terrace is designed to mitigate impacts to the units below and associated skylights.
4O: Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	**Satisfactory** Landscape Plan is acceptable and supported by Council's Landscape Officer, subject to recommended conditions. The design incorporates native vegetation and provides screening, shade, and softening of built form where practicable.

<table>
<tr>
<td>4P: Planting on Structures</td>
<td>When planting on structures the following are recommended as minimum standards for a range of plant sizes:
<table>
<tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr>
<tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m3</td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr>
<tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m3</td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr>
<tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m3</td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr>
<tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr>
<tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr>
<tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr>
</table>
</td>
<td>Satisfactory

Landscape Plan is acceptable and supported by Council's Landscape Officer, subject to recommended conditions.</td>
</tr>
<tr>
<td>4Q: Universal Design</td>
<td>Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features</td>
<td>Satisfactory

The application is accompanied by an access report prepared by ABE Consulting which details the developments' compliance with the relevant provisions and standards. The report confirms that 5 (21.7%) adaptable housing units (are proposed to comply with the provisions of Silver Level of the Liveability Housing Guidelines</td>
</tr>
<tr>
<td>4R: Adaptable Reuse</td>
<td>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.</td>
<td>N/A</td>
</tr>
<tr>
<td>4S: Mixed Use</td>
<td>Can the development be accessed through public transport and does it positively contribute to the public domain?

Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</td>
<td>Satisfactory

The subject site is in close proximity to public transport services.

The non-residential uses are located on the ground floor level.</td>
</tr>
</table>

4T: Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.	**Satisfactory.** Awnings provided on ground floor to residential lobby and retail tenancies consistent with surrounding buildings. The awnings are designed to integrate with the architectural elements including the triangular corner and residential balconies above, demonstrating consistency and contributing to the buildings visual identity. No signage proposed.
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	**Satisfactory** The submitted BASIX achieves the thermal and energy targets, requirements shown on plans where required.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	**Satisfactory** Council's Water Management Team are in support, subject to recommended conditions.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	**Satisfactory** Waste Management Plan and Operational Waste Management Plan has been submitted.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	**Satisfactory** The proposed development is designed in such a manner that will ensure the longevity and sustainability of the building. Supportive comments provided by DSAP.

FURTHER NOTES

3D: Communal and Public Open Space

Based on the site area of 1447.0m², the proposal in required to provide 361.75m² (25.0%) as communal open space (COS). The initial design proposed did not formally provide COS, after discussions within the DSAP Meeting, it was agreed that consideration to rooftop COS be explored. The amended plans that form the basis of this report, now provides COS of 145.5m² or 10.06% and is located on the lower roof level to achieve a recessed design, not easily viewed from the public domain.

The design guidance under Objective 3D-1 stipulates:

"Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:

- *Provide communal spaces elsewhere such as a landscaped roof top terrace or a common room*
- *Provide larger balconies or increased private open space for apartments*
- *Demonstrate good proximity to public open space and facilities and/or provide contributions to public open space.*

Comment

The restriction to provide compliant COS is evident through the siting of the allotment within an urban

town centre. The proposal provides for an extensive rooftop COS with opportunities for amenities and includes generous planter boxes for visual appeal. It is noted that the overall size of the private balconies exceed the required areas for functionality and to off-set the reduced COS areas. The site is located adjacent to Village Park, and Mona Vale Library The COS is orientated toward the recreational park (Village Park) demonstrating close proximity. In addition, the COS is well lit, and will obtain six (6) hours of sunlight during midwinter. In this instance, the shortfall is supported on merit.

3F: Visual Privacy
The below units are located on a side boundary facing toward the internal courtyard/opening:

- Units 1, 6, 7, 12, 13, 18, 19 and 23.

Units 1, 6, 7, 12, 13 and 18 are generally below 12.0 metres in height and require at least 12.0 metres from habitable window/balcony to habitable window/balcony, and 6.0 metres for non-habitable room windows. This level will include raised garden beds between both units, and the lift lobby window, to obscure direct views.

Unit 1 and 6 provide 6.0 metres distance between the private open space balconies within the internal courtyard. These balconies are connected to bedrooms, with their main balcony situated to the street.

For these nominated units, the habitable windows have approximately 11.3 metres separation, with the non-habitable windows having 6.7 metres - 7.3 metres of separation. The windows have been incorporate deep privacy hoods which are designed to reduce direct over-looking whilst still obtaining natural light and ventilation.

Units 19 and 23 being above the 12.0 metres height would require separation of 18.0 metres for habitable room windows and 9 metres for non-habitable, they currently provide the same separation stipulated above, with the same privacy treatments.

The irregular geometry of the site has significantly influenced the building layout, particularly limiting the positioning and spacing of windows for units facing the internal courtyard. To address these constraints and maintain acceptable levels of privacy, the windows have been carefully designed to angle away from one another. Based on these privacy design measures discussed above, the resulting arrangement is considered to provide an appropriate level of privacy for occupants.

4D: Apartment Size and Layout
The proposed units comply with the minimum internal areas, however demonstrate consistency with objective 4D-2 in relation to the maximum depths for open plan layouts.

The open plan layouts provide depths between 7.0 metres - 12.5 metres. The areas with depths over the 8.0 metres are balanced with wider sized rooms ranging from 4.1 metres - 4.5 metres.

The design guidance under Objective 4D-2 stipulates:

- *Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths.*
- *All living areas and bedrooms should be located on the external face of the building.*

Comment
The living rooms have a minimum ceiling height of 2.7 metres and are noted by the Applicant to be sized to meet the expectations of the target demographic in the area. By increasing the ceiling height beyond 2.7

metres would create a further breach to the building height standards. It is acknowledged that the site's irregular geometry presents design constraints that influence the internal layout and configuration of the units. To respond to these constraints, several units adopt a unique layout with increased internal room depths. However, these units incorporate substantial glazed areas, including multiple windows with varied orientations, ensuring adequate access to natural light and outlook.

Furthermore, the units are designed to achieve compliance with the ADG cross-ventilation objectives. On balance, despite the identified variation, the design response is considered appropriate given the site constraints, and the non-conforming element is supported on merit.

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 5.0 metres 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 5.0m 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.

Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:
The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
(i) the design of the vehicular access to the land, or
(ii) the emission of smoke or dust from the development, or
(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment
The site has a frontage to Pittwater Road which is a 2000 series regional classified road under the care and control of Council. A referral to Transport for NSW (TfNSW) was undertaken, who provided recommended

conditions of consent.

Section 2.120 - Impact of road noise or vibration on non-road development states:
(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—
(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Comment
An Acoustic Assessment was prepared by Renzo Tonin & Associates and submitted with the application. The assessment recommends a Construction Noise and Vibration Management Plan as well as several building design elements to mitigate noise impacts for the development.

Council's Environmental Health - General Team have reviewed the assessment and are in support subject to a condition for a Construction Noise and Vibration Management Plan and certification of acoustic measures, in accordance with the acoustic report approved under this consent.

Section 2.122 Traffic Generating Development states:
(4) Before determining a development application for development to which this section applies, the consent authority must—
(a) give written notice of the application to TfNSW within 7 days after the application is made, and
(b) take into consideration—
(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and
ii) the accessibility of the site concerned, including—
(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
(iii) any potential traffic safety, road congestion or parking implications of the development.

Comment
The application was referred to Transport for NSW (TfNSW) for comment under Section 2.122 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021.*

TfNSW notes that Pittwater Road, at this location fronting the site, is a 2000 series regional classified road under the care and control of Council.

As such, TfNSW provides concurrence under section 138 of the *Roads Act 1993* to the proposed vehicular crossing and kerb works on Pittwater Road subject to the conditions provided by TfNSW. These conditions have been recommended to form part of the consent, if the application is approved.

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 telecommunication 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 shop top housing land use.

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of Chapter 4, the applicant has submitted a Stage 1 Preliminary Environmental Site Investigation (PSI), prepared by EBG Environmental Geoscience.

The PSI concluded that due to the potential for on-site contaminant impact, a Detailed Site Investigation (DSI) shall be undertaken to provide adequate data in accordance with EPA NSW guidelines, to enable the consultant to form an opinion whether the site is suitable for the proposed development, or if not, the remediation measures needed to provide to the client a site suitable for the proposed development.

Therefore, as the Investigation indicates that there is a potential for contaminants to exist on the site, sub-section 4.6 (1)(b) and 7(1)(c) of this chapter must be considered.

Sub-section 4.6(1)(b) stipulates that *"if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out"*.

Given the claimed potential of contamination on the site as noted in the Stage 1 Investigation, a Stage 2 DSI should be provided to confirm whether contamination is actually present, at what levels and at what locations. A DSI, prepared by JBS&G Australia Pty Ltd has been provided and concludes the following:

"it is concluded that COPCs concentrations in site media would not pose a risk to future site receptors under residential or commercial/industrial land use based on a building on ground development. Standard environmental controls should be implemented during redevelopment, including an unexpected finds protocol."

Council's Environmental Health - Contaminated Lands Team reviewed both investigative assessments and are in support subject to the following condition:

Requirement to Notify about New Contamination Evidence
Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.
Reason: To protect human health and the environment.

In this regard, it is considered that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the Recommendation of this report.

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	13.0m (PLEP 2014) *w/ 30.0% bonus - 16.9m**	A. 19.705m (Access stair/lift well) B. 18.845m (shade/pergola structure) C. 17.7m (Rooftop planter) D. 17.19m (Portions of roof structure)	A. 16.5% B. 11.5% C. 6.1% D. 1.7%	**No** *Refer to Clause 4.6 Section of Report*

** Section 18 - Affordable housing requirements for additional building height under State Environmental Planning Policy (Housing) 2021*
Incorporating the bonus provision to allow for a 30.0% increase to total building height.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No

Clause	Compliance with Requirements
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

1. Section 18 (2) Affordable housing requirements for additional building height

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

Development Standard: Section 18 (2) Affordable housing requirements for additional building height of the S*tate Environmental Planning Policy (Housing) 2021*
Requirement: 16.9 metres (w/bonus 30.0% or 3.9 metres)
Proposed: 19.705 metres
Percentage of Variation: 16.5%
Areas of Breach: Minor portions of the roof over the north-eastern corner of the development breaches the height standard by between 250.0mm (1.4%) and 290.0mm (1.7%).
The proposed roof top communal open space and associated shade structure, lift/ stair access and roof top plant and screening breach the height standard by between 1.945 metres (11.5%) and 2.805 metres (16.5%) with the associated rooftop planter breaching the standard by 800.0mm or 6.1%.

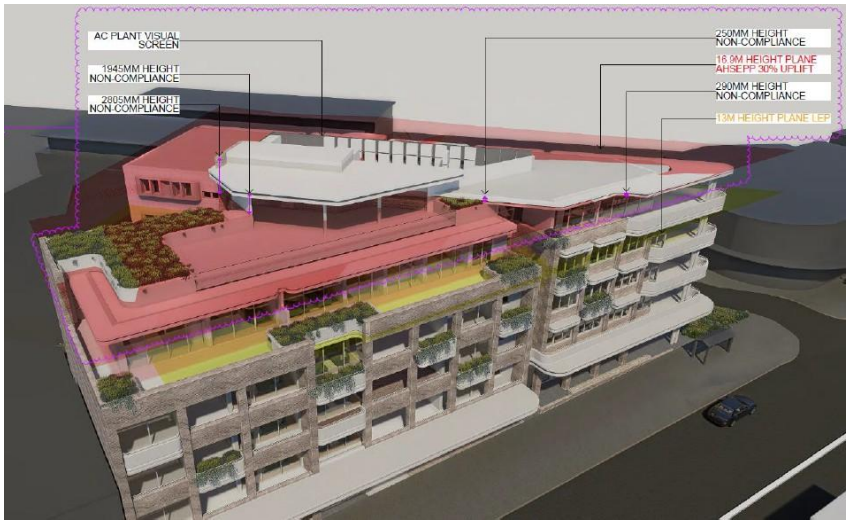


Figure 5: *Height blanket compliance diagram depicting the building height breaching elements - Red shading depicts 16.9 metres and yellow shading depicts 13.0 metres.*

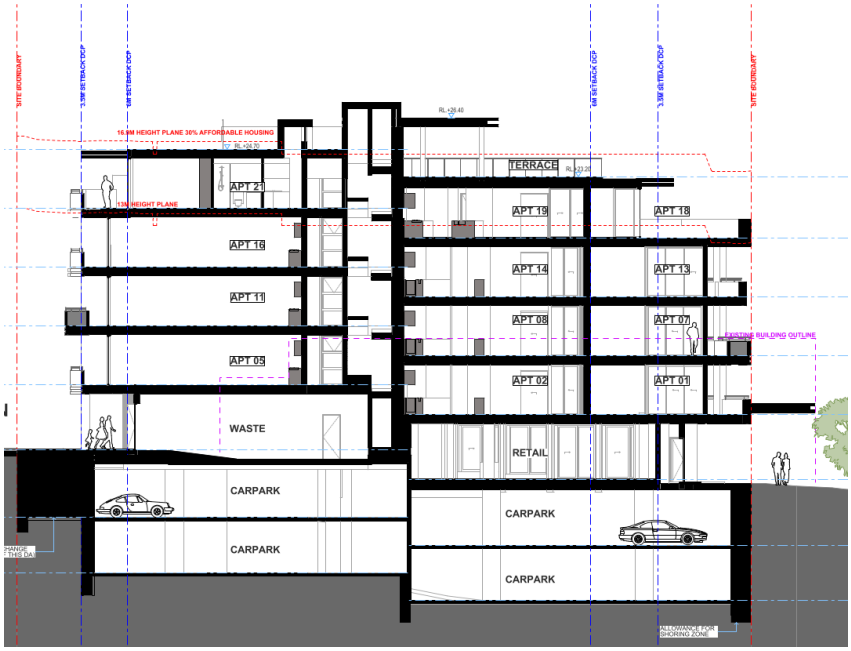


Figure 6: *Section AA demonstrating level of breach of 13.0 metres and 16.9 metres.*

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
The proposal seeks to employ the full 30.0% bonus building height under Section 18 (2) of the *SEPP (Housing) 2021.* The structure of the bonus is based on the degree of affordable housing component, which is defined in Section 15B as:

affordable housing component*, of development, means the percentage of the gross floor area used for affordable housing.*

A full 30% bonus would permit an increase in the building height from 13.0 metres under *PLEP 2014* to 16.9 metres (+3.9 metres). The affordable housing component to deliver this bonus is required to be 15.0% of the GFA. The applicant submitted a GFA calculation plan, this plan identifies the proposed GFA as 3915.7m², requiring a minimum affordable housing component of 587.4m². The GFA plan indicates a 626.3m² or 16.0% affordable housing component is proposed.

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
The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The Applicant's 4.6 Request seeks to rely upon the the first way, which has been adopted in relation to all objectives, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Council is satisfied that the Applicant has demonstrated that compliance with Section 18 (2) of *SEPP (Housing) 202*1 is unreasonable or unnecessary in the circumstances of this application for the following reasons (extract from submitted Clause 4.6 Request, prepared by Boston Blyth Fleming Pty Limited):

First way - Consistency with objectives of the standard
Clause 15A of SEPP Housing states that the objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households...satisfied that the building height breaching elements do not contribute to building height or massing to the extent that the overall building will be incompatible with the desired future character of the precinct as anticipated through strict compliance with the applicable infill affordable housing incentive provisions which anticipate buildings having a height 30% more than the maximum prescribed by the applicable Local Environmental Planning instrument at both street frontages.

The proposal satisfies the clause 20(3)(b) design requirements of SEPP Housing as it relates to compatibility with the emerging and desired future character of the precinct. Further, notwithstanding the non-compliant building height breaching elements the proposal facilitates the delivery of new infill affordable housing that will meet the needs of very low, low and moderate income households and to that extent achieves the objective of the standard.

...consider it appropriate to assess the proposed building height against the objectives of the height of building standard contained at clause 4.3 PLEP to the extent that they do not derogate from the infill affordable housing objective at clause 15A of SEPP Housing.

An assessment as to the consistency of the proposal when assessed against the objectives of clause 4.3 PLEP are as follows:

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

Comment: In accordance with the Mona Vale desired future character statement the building, with the exception of the lift overrun and portions of the roof slab, is compliant with the 16.9 metre height of buildings development standard and appropriately responds to the topographical characteristics of the site through the provision of a stepped floor plate design.

The proposed design appropriately responds to site topography whilst providing a development of exemplary design quality that will positively contribute to the Pittwater Road and Bungan Lane streetscapes and the wider locality.

The height, design, scale and treatment of the proposed development are compatible with that anticipated within this precinct as reflected by recent approvals. External materials and finishes will be consistent with the colours and materials anticipated in the locality.

The design, scale, and treatment of the proposal reflect the prominent position of the site through building design and landscaping and principles of good urban design. The site is conveniently located within the Mona Vale commercial centre, within immediate proximity of public transport and community facilities, and is supported by adequate infrastructure.

In this regard, the development is consistent with the desired future character of the Mona Vale Locality notwithstanding the non-compliance with building height.

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

Comment: The size of the development is consistent with the surrounding approved and/or constructed development and anticipated development. The protruding elements, including the lift overrun and relatively minor roof slab elements will not be readily perceived from the public domain...the building height breaching elements are limited to minor residential floor plate roof elements including mechanical plant and screening and structures required to facilitate roof top communal open space of appropriate amenity. All breaching elements are non-habitable in nature.

The central location of the communal open space access and roof structures ensure that they will not be readily discernible in a streetscape context and will not to any measurable extent contribute to unacceptable building height, bulk or scale. The overall height, bulk and scale the building as viewed from Pittwater Road and Bungan Lane is entirely consistent with that anticipated for future development taking advantage of the Chapter 2 SEPP Housing infill affordable height incentive provisions.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191, I have formed the considered opinion that most observers would not find the height or bulk of the proposed development, in particular the building height breaching elements, offensive, jarring or unsympathetic in the streetscape context.

(c) to minimise any overshadowing of neighbouring properties,

Comment: The location of the breaching elements will ensure that they do not contribute to unacceptable shadowing of any adjoining property and certainly not to the extent that the shadowing will prevent the orderly development of adjoining land for a mixed-use shop top housing building and land use typology.

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

Comment: Upon review of the site and its surrounding context, there does not appear to be any view corridors obtained over the subject site, and certainly not to the extent that the non-compliant building height elements will give rise to unacceptable public or private view affectation. A view-sharing outcome is maintained.

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

Comment: The topography of the land contributes towards the extent of height breaches proposed with the stepped building form sensitively relating to the natural topography of the land. The building height breaching elements do not themselves require excavation or modification of the landform.

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

Comment: The proposed areas of non-compliance will not adversely impact the natural environment with no site disturbance directly attributed to the building height breaching elements proposed. The site is not listed as a heritage item or within a heritage conservation area.

The proposed development has been designed with a 4 storey dominant façade with recessive upper level and roof top communal open space consistent with nearby more contemporary development. The non-compliant communal open space and associated access, landscaping and shade structures are recessive elements in the overall composition of the development to the extent that they will not be perceived as inappropriate or jarring in the event that they are discernible from the public domain.

The façade of the development is well articulated, with various materials utilised to ensure that the apparent size of the development is appropriately relieved. Landscaping is proposed in the street setbacks to soften and screen the built form. Overall, the proposed development has been designed to ensure that the visual impact of the development is appropriately minimised, with no adverse impacts upon the natural environment.

(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 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 (extract from submitted Clause 4.6 Request, prepared by Boston Blyth Fleming Pty Limited):

Ground 1 - Topography
The site falls approximately 2.3 metres across sits surface in a south easterly direction with the topography of the land contributing towards the extent of building height breaching elements proposed.

Ground 2 - Nature of breach and lack of impact
I am satisfied that the building height breaching elements do not contribute to building height or massing to the extent that the overall building will be incompatible with the desired future character of the precinct as anticipated through strict compliance with the applicable in-fill affordable housing incentive provisions, which anticipate buildings having a height 30% more than the maximum prescribed by the relevant Local Environmental Planning instrument.

I am also satisfied that the building height breaching elements will not give rise to adverse streetscape or residential amenity impacts. Consistent with the findings of Commissioner Walsh in Eather v Randwick City Council [2021] NSWLEC 1075 and Commissioner Grey in Petrovic v Randwick City Council [2021] NSW LEC 1242, the absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

Ground 3 - Objectives of SEPP Housing
Approval of the building height breaching elements will achieve the objective of the Division 1 in-fill affordable housing provisions within SEPP Housing, which is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low, and moderate-income households (clause 15A).

Ground 4 - Objectives of the Environmental Planning and Assessment Act 1979
Approval of height variation will facilitate the provision of rooftop communal open space and, in doing so, promote good design and amenity of the built environment consistent with Objective 1.3(g) of the EP&A Act.

Planner Comment:
It is considered that the Applicant has adequately demonstrated sufficient environmental planning grounds to justify the contravention of Section 18(2) of the SEPP (Housing) 2021, for the reasons outlined above. As discussed in relation to the *"unreasonable or unnecessary"* test, the extent of the exceedance beyond the 16.9 metres bonus height provision is modest and confined primarily to roof structures, which have been designed with a flat profile to reduce perceived building bulk.

The more substantive portion contributing to the variation being the rooftop communal open space and associated access (lift and stairs), are centrally located and largely situated within the lower portion of the split-level roof form. This design approach reduces the visibility of these structures from surrounding streets and the public domain. It is agreed that no substantial impacts are being generated by the height non-compliance from both an amenity and bulk and scale perspective.

The building presents as predominantly four (4) storeys, with a recessed upper level which includes the rooftop communal open space, consistent with the emerging built form character of nearby contemporary developments and contributes to the intended transformation of the Town Centre.

The provision of affordable housing is an accepted environmental planning ground in this circumstance, and in this instance, the height exceedance is largely attributable to the inclusion of communal open space within a shop-top housing context and associated roof elements, rather than additional habitable floor area. The provision of the affordable housing does not influence the need for the height breach specifically, however, strict compliance would likely compromise the achievable floor area facilitated by the bonus provisions, thereby undermining the delivery of affordable housing.

Importantly, the rooftop communal open space, being the primary contributor to the height variation, resulted from discussions with DSAP to enhance the amenity and design outcomes for future residents.

Based on the above, 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 as discussed above, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

2. Section 19(2)(b) and (c) – Landscaped area and Deep Soil zone

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

Development Standard: Section 19(2)(b) and (c) – Landscaped area and Deep Soil zone of the *State Environmental Planning Policy (Housing) 2021*
Requirement: Landscaped Area: 434.1m² + Deep Soil Zone of 217.05m².
Proposed: Landscaped Area: 82.96m² (5.7%)* + Deep Soil Zone: 47.68m² (3.3%)
Percentage of Variation: Landscaped Area: 351.14m² (80.8%) + Deep Soil Zone: 169.37m² (78%)

*Landscape Area since been increased by amendments to 216.84m² (15.0%), with 217.26m² (50.0%) variation.

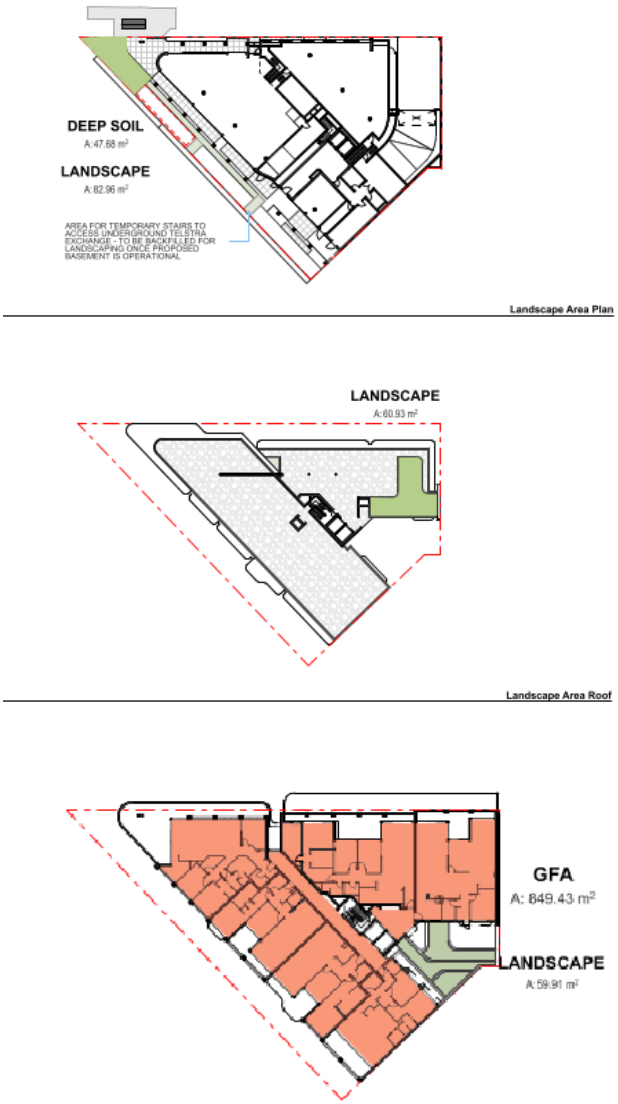


Figure 7: *Landscape Calculation Diagrams*

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
This clause applies to the Section 19(2)(b) – Landscaped area and 19(2)(c) – Deep soil zone of *SEPP (Housing) 2021* development standards.

Section 19(2)(b) requires a minimum landscaped area that is the lesser of 35m² per dwelling or 30.0% of the site area, with a a deep soil zone on at least 15.0% of the site area. As the site area is 1447.0m², a landscaped area of 434.1m² and a deep soil zone of 217.05m² is required.

The definition of landscaped area under the *SEPP (Housing) 2021:*

***landscaped area** means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.*

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
The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The Applicant's 4.6 Request seeks to rely upon the the first way, which has been adopted in relation to all objectives, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Council is satisfied that the Applicant has demonstrated that compliance with Section 19 (b) and (c) of *SEPP (Housing) 2021* is unreasonable or unnecessary in the circumstances of this application for the following reasons (extract from submitted Clause 4.6 Request, prepared by Boston Blyth Fleming Pty Limited):

Consistency with the implicit objective of the standards
...the implicit objective of the standards is to control the percentage of the area of the site which a building can occupy to provide adequate area for landscaped space/ tree plantings.

Given the size, geometry and double street frontage the basement has been constructed boundary to boundary in locations to facilitate basement carparking. The southern and south-eastern facades have also been partially constructed to the boundary to create a street wall in response to the nil setbacks established by adjoining development. The ability to achieve basement carparking maximises the area available at ground floor level for commercial floor space which given the mixed-use zoning of the land is highly desirable.

...the proposal provides appropriately for landscaping adjacent to both street frontages with on slab plantings also proposed through the Level 01 courtyard and on the edges of upper-level balconies. Deep soil street tree plantings are also proposed adjacent to Bungan Lane and Pittwater Road as detailed on the accompanying landscape plan prepared by Sturt Noble.
The proposed landscape regime will ensure that the building will sit within a contextually appropriate landscape setting. The implicit objective of the standard is achieved notwithstanding the non-compliance proposed...

...Having regard to the above, the development will achieve the objectives of the standard to at least an equal degree as would be the case with a development that complied with the landscaped area/ deep soil area standards as reasonably applied to a mixed-use development within a mixed-use zone. Given the developments consistency with the implicit objective of the standards strict compliance has been found to be both unreasonable and unnecessary under the circumstances.

The non-compliant component of the development demonstrates consistency with the objective of the standards. Adopting the first option in Wehbe strict compliance with the landscaped area standard has been demonstrated to be is unreasonable and unnecessary.

(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 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 (extract from submitted Clause 4.6 Request, prepared by Boston Blyth Fleming Pty Limited):

Ground 1 – Appropriate response to MU1 Mixed – use zoning of the land and associated ground floor plate commercial use and setback expectations
Given the size, geometry and double street frontage the basement has been constructed boundary to boundary in locations to facilitate basement carparking. The southern and south-eastern facades have also been partially constructed to the boundary to create a street wall in response to the nil setbacks established by adjoining development. The ability to achieve basement carparking maximises the area available at ground floor level for commercial floor space which given the mixed-use zoning of the land is highly desirable.

That said, the proposal provides appropriately for landscaping adjacent to both street frontages with on

slab plantings also proposed through the Level 01 courtyard and on the edges of upper-level balconies. Deep soil street tree plantings are also proposed adjacent to Bungan Lane and Pittwater Road as detailed on the accompanying landscape plan prepared by Sturt Noble.

Strict compliance with the landscaped area and deep soil area standards would require a 379.05m² reduction in building footprint and a corresponding reduction in the geometry of the basement to the extent that the orderly and economic development of the land would be compromised.

The proposed landscape regime will ensure that the building will sit within a contextually appropriate landscape setting.

Ground 2 - Achievement of objective of the Division
Approval of the variation will better achieve the objective of Chapter 2, Part 2, Division 1 of SEPP Housing being to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

Ground 3 - Objectives of the Act
Objective (c) to promote the orderly and economic use and development of land.

For the reasons outlined in this submission, approval of the variation will promote the orderly and economic use and development of the land and will increase the supply and diversity of residences that will meet the needs of more vulnerable members of the community, including very low to moderate income households.

Strict compliance would require the basement and above ground footprint to be significantly reduced to the extent that the ability to provide efficient basement parking would be significantly compromised potentially requiring the introduction of an additional level or part level of parking and associated excavation. Ground floor commercial floor space would also be reduced in an area where street level commercial floor space and associated activation is encouraged. Such outcome would be neither economic nor orderly.

Approval of the variation will achieve objective (c) of the Act.

Objective (g) to promote good design and amenity of the built environment

The building is of exceptional design quality with the variation facilitating basement carparking and the contextually appropriate distribution of floor space on the site, the delivery of affordable housing and the orderly and economic use and development of the land consistent with objective (g) of the Act.

Planner Comment:

The constraints imposed by the site configuration, together with consideration of the zone objectives, are relevant factors influencing the extent of the basement (constructed boundary to boundary in parts to facilitate car parking provision), wall to wall design and the capacity to deliver landscaped areas at ground level. Notwithstanding these constraints, landscaping is provided to both street frontages with on slab plantings also proposed through the Level 01 courtyard and on the edges of upper-level balconies, with deep soil street tree plantings are also proposed adjacent to Bungan Lane and Pittwater Road, at a level consistent with comparable developments within the Town Centre and supported by Council's Landscape Officer.

Requiring strict compliance would hinder the ability to deliver both the affordable housing component and a meaningful, functional ground floor commercial floor plate. It is also noted that the ADG acknowledges that deep soil zones may be constrained by the size of the lot or the location of a proposed development including

those located in a town centre, in this case Mona Vale Town Centre. This approach is similarly reflected in the P21DCP, where no specific landscaped area controls apply to this locality.

Based on the above, 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 as discussed above, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil **Class 5**, as indicated on Council's Acid Sulfate Soils Planning Map.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 7.75m below existing ground level. The submitted Geotechnical Investigation prepared by Crozier Geotechnical Consultants, dated 3 October 2025 states the following in reference to acid sulfates:

In accordance with the Acid Sulfate Soils Assessment Guidelines (NSW DPIE, 2019) and relevant environmental regulations, an Acid Sulfate Soil Management Plan (ASSMP) will be required prior to any excavation or construction works that disturb ASS materials.

In light of the above, an Acid Sulfate Soil Management Plan (ASSMP) was considered to be necessary for the development of the site, such documentation was requested and further submitted during the assessment process (prepared by Crozier Geotechnical Consultants, dated 19 February 2026). The ASSMP was referred to Council's Environmental Health Officer - Acid Sulfate Soils, this documentation as reviewed and conditions have been recommended. No outstanding matters were identified in relation to acid sulfate soils at the time of preparing this assessment report, it is therefore considered that the proposal achieves the requirements and outcomes of Clause 7.1 Acid sulfate soils of the PLEP 2014.

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.

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

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

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

Comment
The excavated material will be processed according to the Waste Management Plan for the development.

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

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

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

Comment
The excavated material will be processed according to the Waste Management Plan for the development.

(f) the likelihood of disturbing relics

Comment
The subject site does not contain any known relics.

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

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

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

Comment

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

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

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

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

7.7 Geotechnical hazards

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

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

Comment
The proposed development is supported by a geotechnical risk assessment prepared by Crozier Geotechnical Consultants dated 3 October 2025. The recommendations in this report are included as conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:
(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and

Comment
The application has been reviewed by Council's Water Management and Development Engineer, who is supportive of the proposal, subject to conditions of consent.

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

Comment
It is considered that the development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

7.10 Essential services

Under Clause 7.10 Essential Services development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

(a) the supply of water,
(b) the supply of electricity,
(c) the disposal and management of sewage,
(d) stormwater drainage or on-site conservation,
(e) suitable vehicular access.

Comment
The Applicant confirms that the site has access to (a) to (c). Council's Development Engineer and Water Management Team confirm that the site will be able to manage stormwater drainage/ on-site conservation, subject to relevant conditions.

Furthermore, Council's Traffic Team and TfNSW support the vehicular access arrangement, subject to relevant conditions.

It is considered that the proposal will achieve the essential services listed through (a) - (e) and comply with the requirements of this clause.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies

Front Building Line	3.5m (at ground level up to 8.49m in height) 6.0m (to that part of the building 8.5m and greater above ground level)	Pittwater Road GF: Nil - 2.5m Level 01: Nil - 2.2m Level 02: Nil Level 03: Nil Level 04: Nil -0.8m Roof Terrace: 5.5m Bungan Lane GF: 2.3m - 3.5m Level 01: 2.6m - 3.5m Level 02 + 03 + 04: 2.6m - 5.0m Roof Terrace: 11.0m - 17.7m	Max. 100.0%	No Merit Assessment
Side Building Line	Nil	Adjoining No. 1761 Pittwater (South): Nil Adjoining No. 2 Bungan Lane (South- West): Nil Adjoining No. 4 Waratah Street (South): Nil	-	Yes
Commercial Floor Area	Min 25.0% of GFA *As calculated up to the 13m Pittwater Local Environmental Plan 2014 height limit.*	17.1% 525.5m²	53.7%	No Merit Assessment
Adaptable Housing and Accessibility	20.0%	21.7%	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.3 Purpose of this plan	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2.6 Dwelling Density and Subdivision - Shop Top Housing	No	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B6.5 Access Driveways and Works on Road Reserves on or Adjacent to a Main Road	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	No	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D9.16 Character of the Public Domain - Mona Vale Commercial Centre	Yes	Yes

Detailed Assessment

B2.6 Dwelling Density and Subdivision - Shop Top Housing

Merit Consideration

Clause B2.6 requires a minimum of 25.0% (978.925m²) of the gross floor area (GFA) to be dedicated to commercial/retail development.

The proposal dedicates approximately of (525.5m²) of commercial GFA, located on the Ground Floor Plan. The Applicant argues that this control can only reasonably apply to PLEP 2014 anticipated building height (13.0m) and associated floor space being a four (4) storey building. When a typical mid floor (Level 3) is deducted from the total GFA the proposed development would have a total GFA of 3066.8m². The proposed development provides 17.1% of total GFA for commercial use.

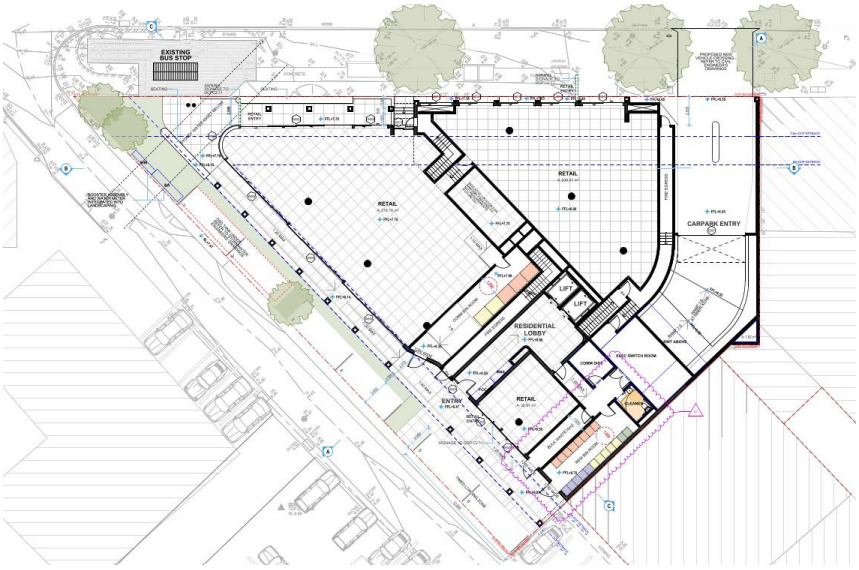


Figure 9: *Ground Floor Plan - Commercial/Retail Uses*

Having regard to the numerical non-compliance, a merit assessment against the underlying outcomes of the control is provided below.

Achieve the desired future character of the Locality.
The density and scale of development reflects the infrastructure capability of the area. (En, S)
Design opportunities and site layout efficiencies are improved through amalgamation of allotments. (En, S)
The development does not adversely impact upon adjoining residential development. (En, S)
An appropriate mix of residential and commercial development is provided, ensuring the functionality of commercial centres. (S, Ec)
Meet the economic and employment needs of Pittwater Community (Ec.S).

Comment

Based on past applications with research into the economic situation within the Mona Vale Town Centre it has been determined that a shortfall in the numerical requirement can be considered acceptable in certain circumstances (previous approvals include 17.5% GFA under DA2025/0143 and 18.52% GFA under DA2024/0460). Previous information provided detailed the current vacancies within the town centre, sought after tenancy size and the need for spaces on ground floor levels. In this regard, the application was amended from the initial Pre-DA Stage from two (2) large tenancies to three (3) of varying sizes. The provided tenancies

are open to the street and will provide the street activation intent that is currently sought after, enhancing the streetscape presence to both Pittwater Road and Bungan Lane.

The application contends that the proposed development will substantially increase the amount of commercial floor space on the site, noting that the current use is largely limited to telecommunications infrastructure. It is also noted that the DSAP expressed support for the extent of commercial floor space proposed at ground level, and did not press any concerns.

It is considered that the layout of the commercial areas has been appropriately designed to ensure functional usability, supporting a diverse range of uses while contributing positively to local economic activity and employment opportunities of the community.

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.

B6.3 Off-Street Vehicle Parking Requirements

Merit Consideration

Council's Traffic Engineers notes that the proposal utlises a combination of the TfNSW Guide and the P21DCP requirements to provide the proposed number parking spaces on site, including the four (4) publicly accessible spaces and a loading zone adjacent to the road reserve in Bungan Lane. In accordance with the parking rates the development would be required to have the following parking provisions:

Land Use	Number of dwellings/GFA	Minimum DCP Parking Rate
Shop Top Housing	2 bed unit x 11	2 spaces per unit
	3 bed unit x 12	2 spaces per unit
	Visitor	1 space per 3 units
	Car wash bay	-
	Retail - 525.5m²*	1 space per 30.0m²
Total		72.5 spaces

*Figure slightly modified due to changes on Ground Floor Level.

Given the proposal is within the Mona Vale Village Centre (Strategic Centre) and within 400.0m of high frequency public transport (B-Line), the applicant is proposing the following carparking provision:

No. Dwellings/GFA	Car Parking Rate	Proposed
2 bed unit x 11	0.9 per dwelling (TfNSW)	Total: 3
3 bed unit x 12	2 per dwelling (P21DCP)	
Visitor	1 space per 5 dwellings (TfNSW)	5 spaces
Car wash bay	1 space (P21DCP)	1 space
Retail	3 basement + 4 at grade	7 spaces
Telstra	1 as per lease agreement	1 space
Total		51 spaces + 2 loading zone

Whilst the provided parking would have a shortfall of twenty (20) spaces when compared to the provision under the P21DCP, Council's Traffic Engineer is satisfied that the proposal achieves the intent to provide parking maximum rates in the Strategic Centres on the Northern Beaches and is aimed at reducing congestion across the road network. The reduced parking rate is supported subject to conditions being

placed on the development and restrictions placed on the title of each strata unit.

B6.5 Access Driveways and Works on Road Reserves on or Adjacent to a Main Road

Applicants will be required to obtain approval under Section 138 of the *Roads Act 1993*, providing authorisation for works on Pittwater Road (section under the care/control of Council) to construct an access driveway and associated structures.

Council's Traffic Engineer provides:

Access to the basement carpark is proposed using a bi-direction driveway on the eastern boundary of the site on Pittwater Road. TfNSW and Council are in concurrence that a median needs to be constructed on Pittwater Road to ensure the carpark operates under a strict left in left out arrangement.

TfNSW requires the following conditions as part of their concurrence:

1. *The driveway shall be restricted to left-turn movements only, on road safety grounds, due to its proximity to the signalised intersection of Pittwater Road and Barrenjoey Road. To enforce this restriction, the required traffic management measures must be designed and constructed to the satisfaction of Council, as the relevant road authority.*

The preferred measure is the installation of a central raised concrete median island on Pittwater Road, subject to a compliant median being able to be accommodated.
If this measure is not feasible, the following alternative traffic management measure shall be implemented:
• An 'All Traffic Left' regulatory sign shall be installed at the exit driveway, facing motorists exiting the site.
• A 'No Right Turn' regulatory sign shall be installed in the verge of Pittwater Road at the entry driveway, facing southbound motorists. This sign shall include an attached plate stating 'at driveway'.
These regulatory signs shall be installed to Council's satisfaction, as the relevant road authority for Pittwater Road.

2. *A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Pittwater Road / Barrenjoey Road during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf.*

Subject to the above, and the detailed conditions from both Council's Traffic and Development Engineers, the access arrangements are considered acceptable.

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.

C1.1 Landscaping

The *State Environmental Planning Policy (Housing) 2021* prevails for controls related to landscaped area requirements. Refer to the Apartment Design Guide (ADG) Assessment, elsewhere in this report. It is noted that Council's Landscape Team are supportive of the proposal and relevant conditions of consent included.

C1.4 Solar Access

Pursuant to Section 149 of the *State Environmental Planning Policy (Housing) 2021,* the Apartment Design Guide (ADG) prevails in relation to solar access requirements when in reference to the proposed residential units on site.

The application is supported by Shadow Diagrams and Sun Eye View analyses, which demonstrate that the proposal will satisfy the requirements under the ADG.

Notwithstanding the above, the application has considered the intent of Clause C1.4 of P21DCP with respect to minimising overshadowing impacts on adjoining properties, And will not result in overshadowing of adjoining residential properties between 9:00 am and 3:00 pm on 21 June.

C1.5 Visual Privacy

Pursuant to Section 149 of the *State Environmental Planning Policy (Housing) 2021*, the Apartment Design Guide (ADG) prevails in relation to visual privacy requirements.

Refer to the discussion on visual privacy within the ADG section of this assessment report for further detail.

Note: There are no immediately adjoining residential properties.

C1.7 Private Open Space

Pursuant to Section 149 of the State Environmental Planning Policy (Housing) 2021, the Apartment Design Guide (ADG) prevails in relation to requirements for private open space areas and balconies.

The proposed development provides primary balconies for all units that generally comply with the minimum area and depth requirements of the Apartment Design Guide (ADG), with the exception of one (1) unit in which does not comply with the required depth. In this instance, while the balcony does not achieve the prescribed minimum depth, it exceeds the minimum area requirement by approximately 80.0%, thereby providing functional private open space to offset the non-compliance.

Refer to the discussion on private open space and balconies within the ADG section of this assessment report, for further detail.

C1.15 Storage Facilities

Pursuant to Section 149 of the *State Environmental Planning Policy (Housing) 2021,* the Apartment Design Guide (ADG) prevails in relation to storage requirements.

An assessment of storage is provided under the section of this report relating to the ADG.

C1.24 Public Road Reserve - Landscaping and Infrastructure

The submitted Landscape Public Domain Plan shall be submitted under a Section 138 application to Council, with sufficient detail design information. Such requirement forms part of the conditions of consent.

D9.3 Building colours and materials

Merit Consideration

Clause D9.3 Building colours and materials stipulates that external colours and materials shall be dark and earthy tones.

A schedule of external finishes has been submitted with the application (refer to **Figure 10**). The proposed palette comprises light to medium tones and incorporates materials such as sandstone, textured brick, timber and metal cladding, and rendered masonry. These elements are considered to respond to the established character and materiality of development within the Mona Vale Town Centre.

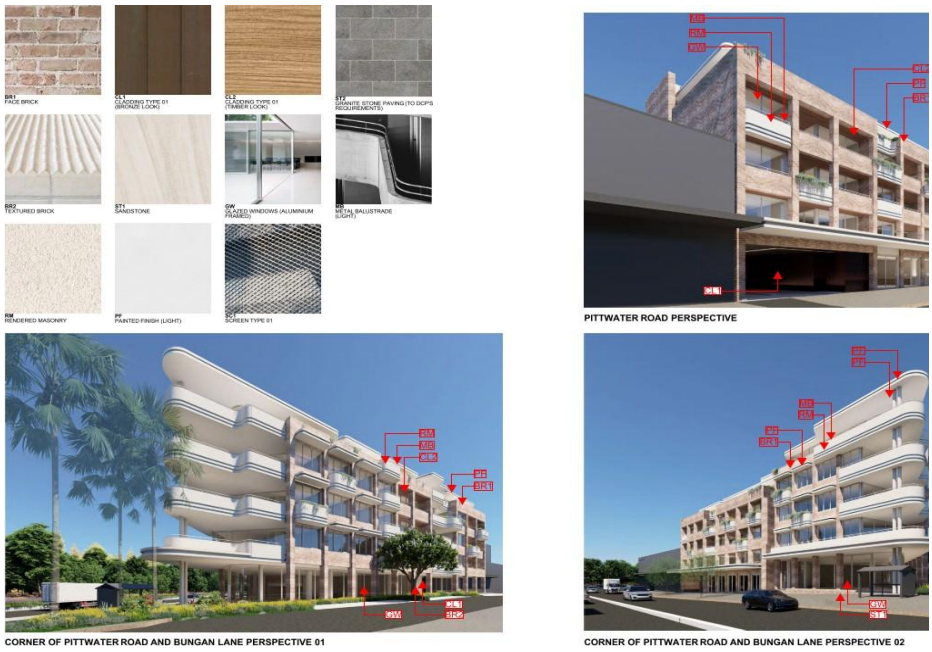


Figure 10: *Schedule of Finishes, prepared by PopovBass.*

The proposed finishes and façade treatment were supported by the Design and Sustainability Advisory Panel (DSAP), particularly in relation to the surrounding urban context, the architectural intent of the building and overall aesthetic outcome.

Notwithstanding the variation from the prescriptive requirement for darker tones, the proposed external materials and finishes are considered appropriate within the existing urban environment and are supported on merit.

D9.6 Front building line

Description of Non-compliance

The provisions under Clause D9.6 Front Building Line stipulate a 3.5 metres setback at ground level up

to 8.49 metres in height, then 6.0 metres to that part of the building 8.5 metres and greater above ground level (existing).

The proposed development provides the following front setbacks as noted in the below extract:

Proposed	% Variation*
Pittwater Road GF: Nil - 2.5m Level 01: Nil - 2.2m Level 02: Nil Level 03: Nil Level 04: Nil -0.8m Roof Terrace: 5.5m **Bungan Lane** GF: 2.3m - 3.5m Level 01: 2.6m - 3.5m Level 02 + 03 + 04: 2.6m - 5.0m Roof Terrace: 11.0m - 17.7m	Max. 100.0%

Figure 11: *Excerpt from Built Form Table - Front Setbacks*

The overall front setback ranges from nil - 5.5 metres to Pittwater Road and 2.3 - 5.0 metres from Bungan Lane.

A variation to this control may be permitted where it can be demonstrated that the intended outcomes are achieved, under the following circumstances:

- *considering 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.*

It is acknowledged the the subject site is irregular in geometry (triangular shaped allotment) and when considering the established building lines of surrounding existing buildings and the new contemporary development, that strict numerical compliance may be unreasonable in the circumstances of the case.

The objectives of this clause are:

- *Achieve the desired future character of the Locality.*
- *Equitable preservation of views and vistas to and/or from public/private places. (S)*
- *The amenity of residential development adjoining a main road is maintained. (S)*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*
- *Vehicle manoeuvring in a forward direction is facilitated. (S)*
- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*
- *To encourage attractive street frontages and improve pedestrian amenity.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

The matters regarding the numerical shortfall to the front building line was expressed at the DSAP meeting held both on the 22 May and 11 December 2025. Whereby the following comments from the DSAP were made:

The Panel would recommend that Council re-consider the DCP provision for a 2-storey street wall in light of neighbouring building alignments and that a 4-storey street wall should be considered. Further discussions should be had with Council as to the strategic direction of the future Mona Vale town Centre controls. However, the Panel is also of the view that the upper-level setbacks along both streets should conform with the DCP requirement of 6m and that the side setbacks achieve 3m in line with the DCP. Furthermore, some variation in height and setback might be considered appropriate at the corner of the site, where the 2 streets converge, to give greater architectural emphasis to the built form of the corner.

Comment
It is considered that, based on the current design, the matters raised by the DSAP have been satisfactorily addressed, with no further comments provided in relation to strategic context or the urban context, including the character of the surrounding area.

Notwithstanding the above, the following concern is relation to the front setback was put to the Applicant:

- *Additional relief to the northern corner at Level 04 should be investigated, with the built form to be pulled into conformity with the setback of the remainder units (particularly 19 and 20). This would include the balcony and associated pergola roof, with the objective to mitigate the perceived visual dominance and improve the articulation of the built form, specially to the upper level when viewed from the public domain.*

In response, the Applicant provided an Architecture & Urban Design Statement prepared by the Architect PopovBass, dated 6 May 2026 which contented the following key points:

"The subject site, situated on the periphery of the Mona Vale town centre along Pittwater Road, occupies a pivotal gateway position within the local urban fabric. Its triangular geometry presents a unique opportunity to mark the transition between the high-volume, arterial nature of Pittwater Road and the more intimate, and potentially more pedestrian-focused laneways and streets that define the town core...

...Central to this proposal is the inclusion of a taller architectural element at the street corner, creating a "prow" effect that serves as a visual anchor. This strategy is grounded in an urban design lineage extending from Classical antiquity to contemporary New Urbanism. By utilising vertical emphasis at the intersection...defining the spatial boundaries of the intersection and providing necessary relief from a continuous street wall...

...Consistent with the surrounding development, the proposal utilizes a zero-setback alignment to Pittwater

Road. This position was supported by the Design Sustainability Advisory Panel (DSAP). While this may appear to diverge from certain numeric controls, it is fundamentally aligned with the outcomes of the Development Control Plan, including that designs must: "ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment." By mirroring the zero-setback character of existing surrounding structures, the project contributes to a consistent and cohesive future street wall...As the surrounding context transitions toward a six-storey baseline, the proposed height and massing ensure the site remains contextually relevant...

...Reconfiguring the northeast corner of the top floor to increase the building setback would negatively impact the amenity of Apartment 21 by reducing its overall floor area and potentially its bedroom count. Such a change would provide no measurable improvement to the views, overshadowing, or privacy of surrounding properties or the public domain.

Comment
The above matters are acknowledged and generally supported, having regard to the evolving character of the Mona Vale Town Centre. Furthermore, is noted that existing development along the northern and southern sections of Pittwater Road is characterised by nil to minimal front setbacks, with a wall-to-wall built form facilitated by permissible nil side setbacks. In contrast, greater setbacks are typically provided to Bungan Lane, reflecting its narrower and more confined streetscape, and allowing for reduced visual dominance.

Recent approvals for shop-top housing developments demonstrate a degree of flexibility in front setback controls. For example, the recent approval by the SNPP (DA2025/0143) at No. 1749 Pittwater Road incorporates setbacks ranging from approx. nil to 3.5 metres to both Pittwater Road and Bungan Lane, while No. 19 Bungan Lane under Mod2021/0870 provides setbacks varying between 1.7- and 4.1 metres (approx.).

Both street frontages of the proposal are designed to be activated to promote pedestrian movement and community interaction. Landscaping has been incorporated where practicable and is supported by Council's Landscape Officer. The proposed landscape treatment, including street trees, on-slab planting, and balcony planter boxes, will assist in mitigating visual mass and enhancing visual interest. The upper level provides an appropriate degree of setback, which, in conjunction with the building façades incorporating punctuated openings and curved elements that weave through the proposed brickwork, enhances the overall articulation of the built form. These design features contribute to a cohesive architectural expression and reinforce the corner treatment as described in the Applicant's Statement.

The proposed design is considered consistent with the relevant objectives and the emerging character envisaged under the Low-Medium Rise Housing Policy, which permits residential flat buildings up to six (6) storeys in height.

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 2024

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

A monetary contribution of $231,851 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of $23,185,077.

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 a development standard, in this case; Section 18 Affordable housing requirements for additional building height; and Section 19(2)(b) and (c) – Landscaped area and Deep Soil zone of the *State Environmental Planning Policy (Housing) 2021* has been 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 demolition works of existing structures and the construction of a five (5) storey shop top housing development with rooftop communal open space, comprising of twenty (23) residential units, three (3)

retail tenancies, two (2) levels of basement parking and at-grade off street parking. This application was referred to the Northern Beaches Local Planning Panel (NBLPP) due to the following:

- The development contravenes a development standard imposed by an environmental planning instrument by more than 10.0%.
- Chapter 4 of the SEPP (Housing) 2021 applies to the development, with the building exceeding four (4) storeys in height.

The application was formally notified in accordance with Council's current Community Participation Plan (CPP) which was for a period of fourteen (14) days and publicly exhibited on Council's website. Four (4) submissions were received during the assessment of the application. The concerns in which have been addressed in detail under 'Submissions' section of this report., the matters raised do not warrant the refusal or further amendment of the proposal.

During the assessment process, Council corresponded with the Applicant outlining the recommendations and matters raised by the Design and Sustainability Advisory Panel (DSAP), as well as Council's referral departments. In response, the Applicant submitted additional information and amended plans to address those matters raised, which included the addition of rooftop communal open space.

The critical assessment matters were:

- Assessment against Clause 4.6 in relation to Section 18 (2) and 19 (2) (b) and (c) of the SEPP (Housing) 2021;
- Chapter 2 - Affordable Housing - Division 1 In-Fill Affordable Housing of the SEPP (Housing) 2021;
- Chapter 4 Design of Residential Apartment Development of the SEPP (Housing) 2021;
- The Apartment Design Guide (ADG) which includes variations to aspects of 3D Communal and public open space, 3E Deep Soil zones, 3F Visual Privacy, 4D Apartment size and layout and 4E Private Open space and balconies;
- Clause 2.6 Dwelling Density and Subdivision of the P21DCP in relation to a variation of commercial GFA; and
- Clause D9.6 Front Building Line of the P21DCP.

On balance, and considering the preceding detailed assessment of the application, particularly those matters as mentioned above, the proposal will result in a development that is acceptable in design for the Mona Vale Town Centre and demonstrated consistency with the objectives of the relevant planning instruments and provisions to complement the surrounding urban context.

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, subject to conditions.

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; Section 18 Affordable housing requirements for additional building height; and Section 19(2)(b) and (c) – Landscaped area and Deep Soil zone of the *State Environmental Planning Policy (Housing) 2021,* pursuant to Clause 4.6 of the Pittwater Local Environmental Plan 2014 as the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2025/1516 for Demolition of existing structures and construction of a shop top housing development that contains affordable housing on land at Lot 1 DP 555463, 1763 Pittwater Road, MONA VALE, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

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

Approved Plans - Architectural Plans				
Plan Number	**Revision Number**	**Plan Title**	**Drawn By**	**Date of Plan**
0673-DA 104	03	Demolition, Excavation and Construction Management Plan	PopovBass	13 April 2026
0673-DA 105	03	Site Plan	PopovBass	13 April 2026
0673-DA 106	03	Basement 2 Plan	PopovBass	13 April 2026
0673-DA 107	03	Basement 1 Plan	PopovBass	13 April 2026
0673-DA 108	03	Ground Floor Plan	PopovBass	13 April 2026
0673-DA 109	03	Level 01 Plan	PopovBass	13 April 2026
0673-DA 110	03	Level 02 Plan	PopovBass	13 April 2026

0673-DA 111	03	Level 03 Plan	PopovBass	13 April 2026
0673-DA 112	03	Level 04 Plan	PopovBass	13 April 2026
0673-DA 113	03	Roof Plan	PopovBass	13 April 2026
0673-DA 114	03	East & South Elevation	PopovBass	13 April 2026
0673-DA 115	03	North-west & South-West Elevations	PopovBass	13 April 2026
0673-DA 116	03	Section AA	PopovBass	13 April 2026
0673-DA 117	03	Section BB	PopovBass	13 April 2026
0673-DA 118	03	Section CC	PopovBass	13 April 2026
0673-DA 119	03	Post Adaption Level 01 Plans	PopovBass	13 April 2026
0673-DA 120	03	Post Adaption Level 02 Plans	PopovBass	13 April 2026
0673-DA 121	03	Post Adaption Level 03 Plans	PopovBass	13 April 2026
0673-DA 122	03	Schedule of Finishes & 3D Perspectives	PopovBass	13 April 2026
0673-DA 123	03	Upper Roof Plan	PopovBass	13 April 2026
Landscape Plans				
DA-2511-01	C	Public Domain Plan	Sturt Noble Associates	18 February 2026
DA-2511-02	C	Ground Floor - Landscape Plan	Sturt Noble Associates	18 February 2026
DA-2511-03	C	Level 1 - Landscape Plan	Sturt Noble Associates	18 February 2026
DA-2511-04	C	Level 2 - Landscape Plan	Sturt Noble Associates	18 February 2026
DA-2511-05	C	Level 3 - Landscape Plan	Sturt Noble Associates	18 February 2026
DA-2511-06	C	Level 4 - Landscape Plan	Sturt Noble Associates	18 February 2026
DA-2511-07	A	Lower Roof - Landscape Plan	Sturt Noble Associates	18 February 2026
DA-2511-08	C	Planting Schedule	Sturt Noble Associates	18 February 2026

Approved Reports and Documentation			
Document Title	**Version Number**	**Prepared By**	**Date of Document**

Transport Impact Assessment (Ref. 25036)	V03	The Transport Planning Partnership	1 October 2025
Preliminary Geotechnical Investigation and Assessment Report (Ref. 2025-058)	01	Crozier Geotechnical Consultants	3 October 2025
Detailed Site Investigation (DSI)		JBS&G Australia Pty Ltd	22 November 2024
Stage 1 Preliminary (Environmental) Site Investigation (PSI) (Ref. EBG-04015.Stage1.PSI.06.25.R00)	-	EBG Environmental Geoscience	10 July 2025
Construction Impact & Management Statement with Preliminary Tree Plan of Management		Growing My Way Tree Consultants	August 2025
BCA Assessment Report (Ref. 250776)	2.1	Jensen Hughes	30 September 2025
DA Acoustic Assessment (Ref. TP800-01F01)	Final	Renzo Tonin & Associates	29 September 2025
NCC Part J Energy Sufficient Report (Ref. 1690)	2 - Final	Sustainable Thermal Solutions	1 October 2025
CPTED	-	Harris Crime Prevention Services	30 September 2025
BASIX Certificate No. 1815629M_02	-	Sustainable Thermal Solutions	24 February 2026
Accessibility Review Report (Ref. 25113)	1.2	ABE Consulting Pty Ltd	26 February 2026
NatHERS Certificate No. KMH9SKJPET	-	LivSmart Solutions	23 February 2026
Acid Sulphate Soils (PASS) Management Plan	-	Crozier Geotechnical Consultants	19 February 2026
Traffic and Parking Assessment (Addendum) (Ref. 25036)	-	The Transport Planning Partnership	23 February 2026
Operational Waste Management Plan (Ref. 708271)	C	Elephants Foot Consulting	13 April 2026
Waste Management Plan	-	-	-

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

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

condition prevails.

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

2. **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	11 November 2025
Transport for New South Wales (TfNSW)	Referral Response - TfNSW	21 November 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.

3. **Prescribed Conditions**

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

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

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

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

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

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

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

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

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

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

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

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

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under

that Act, the number of the owner-builder permit.

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

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

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

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

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

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

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

Reason: Legislative requirement.

4. **Transport for New South Wales (TfNSW)**
TfNSW notes that Pittwater Road, at this location fronting the site, is a 2000 series regional classified road under the care and control of Council.

As such, TfNSW provides concurrence under section 138 of the Roads Act 1993 to the proposed vehicular crossing and kerb works on Pittwater Road subject to Council's approval and the following conditions:

1. The driveway shall be restricted to left-turn movements only, on road safety grounds, due to its proximity to the signalised intersection of Pittwater Road and Barrenjoey Road. To enforce this restriction, the required traffic management measures must be designed and constructed to the satisfaction of Council, as the relevant road authority.

The preferred measure is the installation of a central raised concrete median island on Pittwater Road, subject to a compliant median being able to be accommodated.

If this measure is not feasible, the following alternative traffic management measure shall be implemented:

• An 'All Traffic Left' regulatory sign shall be installed at the exit driveway, facing motorists exiting the site.

• A 'No Right Turn' regulatory sign shall be installed in the verge of Pittwater Road at the entry driveway, facing southbound motorists. This sign shall include an attached plate stating 'at driveway'.

These regulatory signs shall be installed to Council's satisfaction, as the relevant road

authority for Pittwater Road.

2. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Pittwater Road / Barrenjoey Road during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf

Reason: Compliance with conditions imposed by the relevant Roads Authority.

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 directly to the Long Service Corporation. 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.

6. **Approved Materials and Finishes**
The finishes, materials and colour scheme approved under Condition 1 and details approved under any other relevant condition(s) of this consent must not be altered or amended at the construction certificate stage without a separate Section 4.55 approval.

Reason: To ensure that the development is finished in accordance with the approved plans and documentation.

7. **In-fill Affordable Housing**
It is a condition of the development consent that before the issue of an occupation certificate for the development—

(a) a restriction must be registered, in accordance with the Conveyancing Act 1919, section 88E, against the title of the property relating to the development, which will ensure the requirements of subsection (3)(a) and (b) are met, and

(b) evidence of an agreement with a registered community housing provider for the management of the affordable housing component must be given to the Registrar of Community Housing, including the name of the registered community housing provider, and
(c) evidence that the requirements of paragraphs (a) and (b) have been met must be given to the consent authority.

It is a condition of the development consent that during the relevant period—

(a) the affordable housing component must be used for affordable housing, and
(b) the affordable housing component must be managed by a registered community housing provider, and
(c) notice of a change in the registered community housing provider who manages the affordable housing component must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change, and
(d) the registered community housing provider who manages the affordable housing

component must apply the Affordable Housing Guidelines.

In this section—
affordable housing component has the same meaning as in *State Environmental Planning Policy (Housing) 2021*, section 21.

relevant period means a period of 15 years commencing on the day on which an occupation certificate is issued for all parts of the building or buildings to which the development consent relates.

Reason: Prescribed condition under Section 82 of the Environmental Planning and Assessment Act 2021.

FEES / CHARGES / CONTRIBUTIONS

8. **Policy Controls**
Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of $231,850.77 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 $23,185,077.00.

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.

9. **Security Bond**
A bond (determined from cost of works) of $10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

10. **Housing and productivity contribution - Development consents**

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Contribution Type	**Amount**
Housing and Productivity Contribution	$10,812.18 x 23 dwellings + $32.44 x 525.5m² (Commercial GFA)
Total:	**$265,727.36**

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

$$\frac{highest\ PPI\ number}{consent\ PPI\ number}$$

where—

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted.

June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	**Time by which HPC must be paid**
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (https://pp.planningportal.nsw.gov.au/).

5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
   a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
   b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

   If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and

Productivity Contribution) Order 2024 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

11. **Construction, Excavation and Associated Works Security Bond(s)**
The applicant is to lodge a bond with Council for the following:

Drainage Works
As security against any damage or failure to complete the construction of stormwater drainage works required as part of this consent a bond of $50 000.

Crossing / Kerb & Gutter / Footpath Works
As security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent a bond of $35 000.

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

12. **Public Domain Plan**
a) As part of any works within the road reserve, a Public Domain Plan shall be submitted under a Section 138 application to Council, with sufficient detail design information including the following:
i) alignment levels showing existing and proposed levels for altered kerbs and gutters,
ii) existing and proposed pavement levels, with proposed gradients no more than a 2.5% fall from building openings to top of kerb, and to match existing levels along adjoining properties,
iii) details of the proposed pavement finish from building to kerb which is to be granite pavers ('Sesame Green', exfoliated/flamed finish, 600x300x40mm, stretcher bond pattern on concrete slab), and include street furniture (seats, bicycle parking etc.) in appropriate locations,
iv) the areas of lawn along the Pittwater Road frontage shall be replaced with granite paving ('Sesame Green' 600 x 300),
v) details of any utility alignment and level changes,
vi) existing utility pit lids are to be altered to paver infill types to accommodate the granite paving ('Sesame Green' 600 x 300),
vii) tactile ground surface indicators where required in accordance with AS1428.4.1,
viii) the 2 x proposed street trees along Pittwater Road shall be *Waterhousea floribunda*, installed at a pre-ordered 200 litre container size, in a minimum 3400 x 1600mm unobstructed tree pit opening,
ix) details of all understorey planting (species, quantities, pot sizes and locations) to tie into the existing palette of the Mona Vale Town Centre,
x) the unobstructed natural ground area requirement under trees 2 and 3 shall be confirmed by an Arborist.

b) Any work carried out upon public land shall have all the necessary prior approvals and permits from Council in place prior to commencement to conduct such works.

Reason: Compliance with Council standards for works on public land.

13. **On Slab Landscape Planters**
a) Details shall be submitted to the 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 Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections.

b) The Apartment Design Guide soil depths are required to support planting: 300-450mm for groundcovers; 500-600mm for shrubs; 800mm for small trees, 1000mm for medium trees; and 1200mm for large trees.

c) 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 ensure waterproofing and drainage is installed.

14. **On-Site Stormwater Detention Details**
The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by ACOR Consultants, project number NA250637, drawing number C08-0001, C08-0301, C08-0302, C08-0401, C08-0402, dated 12/9/2025. 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 Certifying Authority for approval prior to the issue of the Construction Certificate.

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

15. **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 3/10/2025 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.

16. **Detailed Design of Stormwater Treatment Measures - Major**
A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the ACOR Stormwater plans C08-0001, C08-0401, C08-0302, C08-0402 revision A dated 12.09.25 and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

17. **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 car parking bays and aisle widths in the car park 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.

18. **Vehicular Swept Paths**
Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Details demonstrating compliance with this condition must be submitted to the Principal Certifier prior to the issue of the construction Certificate.

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

19. **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.
- Specify that, due to the proximity of the site to Mona Vale Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable Safe Work 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", TfNSW 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.

20. **On-Street Work Zone**

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. Application forms for work zones are available on Council's website. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

21. **Submission of Engineering Plans (standard from development engineers).**

The submission is to include four (4) copies of Civil Engineering plans for the design of:

- Median Island and signage in Pittwater Road

- Construction of the parallel parking bays and associated signage including the time restriction proposed on both the parking bays and the loading zone.

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Transport Forum for review prior to approval.

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

22. **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.

23. **Services and Fire Hydrant Enclosure**
Prior to the issue of a Construction Certificate for works above ground level, Council's Executive Manager of Development Assessment is to be provided with plans to their satisfaction demonstrating that all Services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) are enclosed in a manner that compliments the building, do not visually dominate the streetscape and are in accordance with the requirements of the BCA.

An updated landscape plan is also to be provided to reflect the changes resulting from the fire hydrant and sprinkler booster detailed design.

Reason: To ensure essential services are appropriately screened.

24. **Submission Roads Act Application for Civil Works in the Public Road**
The Applicant is to submit an application (using form number 4025 available on Council website) 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 vehicle crossing, pit and pipe connection to Council system and associated works in the road reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. A vehicular crossing 6.0 meters wide to be constructed in accordance with Council's standard Normal profile. The driveway shall be restricted to left turn movements in accordance with TfNSW letter dated 21 November 2025 Ref SYD25/00854/02.
2. Details of dish drain construction along the Bungan Lane frontage of the site.

3. Details of pit, pipe extension of Council system in Bungan Lane generally in accordance with concept plans by ACOR consultants, project number NA250637, drawing number C08-0001, dated 12/9/2025 and Council specifications.
4. Pipe extension to Council system shall be Ø 375mm RRJ RCP extension
5. 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.
6. Details of the proposed protection measures for the existing street light pole in Bungan Lane opposite the intersection.

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.

25. **Tanking of Basement Level**
The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of Water NSW are to be complied with and a copy of the approval must be submitted to the Certifier.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

26. **Shoring of Council's Road Reserve (Temporary road anchors)**
Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

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

At the time of determination the following (but not limited to) Australian Standards applied:

(a) AS2601.2001 - Demolition of Structures**
(b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
(c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**

(d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
(e) AS 4970 - 2009 'Protection of trees on development sites'**
(f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
(g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
(h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
(i) AS 2890.5 - 1993 Parking facilities - On-street parking**
(j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
(k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
(l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
(m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Principal Certifier to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website.

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

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

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

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

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

29. **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.

30. **Excavation Management Plan**
Prior to the issue of the construction certificate an Excavation Management Plan shall be prepared and submitted to the Certifier. The plan shall include (but not limited to):

o Provision of vibrations limits that are consistent with the geotechnical report listed in Condition 1 (as measured at adjoining properties) to be complied with during excavations.

o Ongoing vibration monitoring during the course of excavation works, and method of management of excavation works so that the nominated vibration limits of the geotechnical reports are not exceeded.
o Identified plant and equipment to be utilised during excavations. Plant and equipment are to be suitable for the site constraints and of a type which will ensure that the vibration limits won't be exceeded.

Evidence of compliance is to be documented and available on site at all time for Council to inspect. This evidence is then to be provided to the Principal Certifier prior to the issue of the construction certificate.

Reason: To ensure the structural integrity of adjoining properties

31. **Waste and Recycling Requirements**
Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

32. **Project Arborist**
a) 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 AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

b) The Project Arborist shall be in attendance and supervise all works in the tree protection zone of the street trees to be retained (trees 1, 2 and 3).

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

d) The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2025 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.

33. **Tree Removal Within the Property**
a) This consent approves the removal of existing prescribed trees on the subject site as identified in the approved Arboricultural Impact Assessment.

Reason: To enable authorised development works.

34. **Pre-Construction Dilapidation Report**
Dilapidation reports, including photographic surveys, of the below 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. 2 Bungan Lane, Mona Vale
- No. 8 Waratah Street, Mona Vale
- No. 1755 and No. 1757 Pittwater Road, Mona Vale

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal 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.

35. **Sediment and Erosion Controls**
<u>For developments that include more than 2500sqm of disturbance</u>:

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.

<u>For sites larger than 250sqm and less than 2500sqm of disturbance</u>:

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.

36. **Disconnection of Services Before Demolition Work**
Before demolition work commences, all services, such as water, telecommunications, gas, electricity and sewerage, must be disconnected in accordance with the relevant authority’s requirements.

Reason: To protect life, infrastructure and services.

37. **Hazardous Material Survey Before Demolition**
Before demolition work commences, a hazardous materials survey of the site must be prepared by a suitably qualified person and a report of the survey results must be provided to council at least one week before demolition commences.

Hazardous materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint.

The report must include at least the following information:

- the location of all hazardous material throughout the site
- a description of the hazardous material
- the form in which the hazardous material is found, e.g. AC sheeting, transformers, contaminated soil, roof dust
- an estimation of the quantity of each hazardous material by volume, number, surface area or weight
- a brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials
- identification of the disposal sites to which the hazardous materials will be taken

Reason: To require a plan for safely managing hazardous materials.

38. **Construction Noise and Vibration Management Plan**
Prior to the commencement of any works, a Construction Noise and Vibration Management Plan is to be provided to the satisfaction the certifier.

The Construction Noise and Vibration Management Plan is to provide the necessary noise mitigation measures to lessen the impact of noise generated by the development throughout the demolition, excavation and construction phases of the development.

Reason: To minimise noise impacts on surrounding receivers

39. **Road Occupancy Licence (ROL) from TfNSW**
The developer shall apply for a Road Occupancy Licence (ROL) from the TfNSW Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

DURING BUILDING WORK

40. **Acid Sulfate Soils**
All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan accompanying this proposal dated 19 February 2026 ref. no. Project No.: 2025-058, February 2026 by Crozier Geotechnical Consultants

Reason: To ensure management of potential acid sulfate soils.

41. **Requirement to notify about new Acid Sulfate Soils evidence**
Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the

Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

42. **Protection of Existing Street Trees**

a) All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 4970-2025 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

b) All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

43. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:
i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
ii) all trees and vegetation located on adjoining properties,
iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:
i) tree protection shall be in accordance with AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2025 Protection of trees on development sites,
ix) the activities listed in section 4.2 of AS 4970-2025 Protection of trees on development sites,

shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) The Principal Certifier must ensure that:

i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS 4970-2025 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

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

Reason: Public safety.

45. **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.

46. **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.

47. **Handling of asbestos during demolition**
While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material;
- Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA online reporting tool WasteLocate.

Reason: To ensure that the removal of asbestos is undertaken safely and professionally.

48. **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.

49. **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.

50. **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.

51. **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.

52. **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.

53. **Requirement to Notify about New Contamination Evidence**
Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

54. **Traffic Management**
Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Principal Certifier.

Reason: To ensure pedestrian safety and continued efficient network operation.

55. **Fencing Height/Vegetation**
All fencing and/or vegetation along the frontage road(s) shall not impede pedestrian or driver visibility. This requires that vegetation does not exceed one (1) metre in height. Appropriate plants shall be selected within the 2.0 x 2.5m splay to ensure this condition is met.

Reason: To ensure maximum vehicular and pedestrian visibility.

56. **Staff and Contractor Parking**
The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

57. **Existing Bus Stop**
Location of existing bus stop on Pittwater Road along frontage of the site must remain in its current location. Approval of TfNSW is required to relocate any Bus Stops.

Reason: To ensure certain services are not relocated at any stage during the project.

58. **Parking Enclosure**
No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

59. **Waste/Recycling Requirements (Waste Plan Submitted)**
During demolition and/or construction the proposal/works shall be generally consistent with the undated submitted Waste Management Plan registered by Council on 15 October 2025.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

60. **Waste/Recycling Requirements (Materials)**
During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

61. **Acid Sulfate Soil Management Confirmation**
Details demonstrating compliance with the approved Acid Sulfate Soil Management Plan is to be submitted to the satisfaction of the principle certifier prior to the issue of the occupation certificate.

Reason: To ensure management of potential acid sulfate soils.

62. **Certification of Acoustic Measures**
Before the issue of an occupation certificate, a suitably qualified person must provide details demonstrating compliance to the principal certifier that the acoustic measures have been installed in accordance with the acoustic report approved under this consent.

Reason: To protect the amenity of the local area.

63. **Landscape Completion**
a) Landscape works are to be implemented in accordance with the approved Landscape Plan(s), and inclusive of the following conditions:
i) landscape works are to be contained within the legal property boundaries,
ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
iii) substitute the 1 x *Banksia integrifolia* along the Bungan Lane frontage with 1 x *Tristaniopsis laurina* 'Luscious',
iv) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of 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 located either within garden bed or within a prepared bed within lawn,
v) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at minimum 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.

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

Reason: Environmental amenity.

64. **Condition of Retained Vegetation**
a) 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:
i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
ii) extent of damage sustained by vegetation as a result of the construction works,
iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

65. **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 Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

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

66. **Certification for the Installation of Stormwater Treatment Measures**
A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the approved stormwater construction certificate plans. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

67. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

68. **Stormwater Treatment Measures Operation and Maintenance Plan Summary**
An Operation and Maintenance Plan summary must be prepared to ensure the stormwater treatment measures continue to operate effectively.
The Plan must be attached to the Positive Covenant (and to the community or strata management statement, if applicable) and must be provided as a concise summary not exceeding two pages
including:

Summary of stormwater treatment measures
- Simple plan showing locations
- Brief description of each measure and its purpose
- Summary of management responsibilities, funding, and contact details

Ongoing maintenance
- Summary of routine maintenance activities and frequency
- WHS considerations
- Waste disposal requirements
- Renewal/replacement expectations
- Requirement to keep maintenance records and provide them to Council on request

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

Reason: Protection of the receiving environment.

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

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

Reason: Protection of the receiving environment.

70. **Signage and Linemarking – External**
A plan demonstrating the proposed median construction, signage and line marking within Council's Public Domain shall be prepared by a suitably qualified person and submitted to and

referred to the Northern Beaches Council Local Transport Forum for consideration prior to the issue of an Occupation Certificate.

Note: The applicant is advised that the plan will require approval by the Northern Beaches Council after referral to Local Transport Forum and hence, adequate time should be allowed for this process

Reason: To ensure consistent parking amenity.

71. **Shared Zone Bollard**
A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

72. **Convex Mirror at Ramps**
One (1) convex mirror is to be installed and maintained at the curved ramps leading between basement levels. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps.

73. **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.

74. **Waste Disposal Verification Statement**
On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

75. **Positive Covenant for the Maintenance of Stormwater Pump-out Facilities**
The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor), and Civil Engineers' certification.

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

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

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

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

76. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**
The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link:
https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2023-12/guide-for-submitting-legal-documents.pdf?1756256223

The form for the application can be found on Council's website using the following link:
https://applications.northernbeaches.nsw.gov.au/T1PRProd/WebApps/eProperty/P1/eSubmit/Tr=WC.WEBGUEST&f=%24P1.ESB.TERMS.VIW&ReturnUrl=%2fT1PRProd%2fWebApps%2fe

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

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

77. **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.

78. **Garbage and Recycling Facilities**
All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.
Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any columns, other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Doors to residential waste and bulky storage to be minimum 1.2m wide, open outwards and able to be latched in an open position

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

79. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**
The units within the development are to be numbered in accordance with NSW Address Policy and User Manual.

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

80. **Undergrounding of Telecommunications Services**
Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services.

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

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

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

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

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

82. **In-fill affordable housing**
In-fill affordable housing
It is a condition of the development consent that before the issue of an occupation certificate for the development—

(a) a restriction must be registered for the nominated affordable housing units (Units 4, 5, 10, 12, 16, 18), in accordance with the Conveyancing Act 1919, section 88E, against the title of the property relating to the development, and
(b) evidence of an agreement with a registered community housing provider for the management of the affordable housing component must be given to the Registrar of Community Housing, including the name of the registered community housing provider, and
(c) evidence that the requirements of paragraphs (a) and (b) have been met must be given to the consent authority.

It is a condition of the development consent that during the relevant period—
(e) the affordable housing component must be used for affordable housing, and
(f) the affordable housing component must be managed by a registered community housing provider, and
(g) notice of a change in the registered community housing provider who manages the affordable housing component must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change, and
(h) the registered community housing provider who manages the affordable housing component must apply the Affordable Housing Guidelines.
(i) In this section—
affordable housing component has the same meaning as in State Environmental Planning Policy (Housing) 2021, section 21.

relevant period means a period of 15 years commencing on the day on which an occupation certificate is issued for all parts of the building or buildings to which the development consent relates.

Reason: Prescribed condition under Section 82 of the Environmental Planning and Assessment Act 2021.

83. **Waste and Recycling Facilities Certificate of Compliance**
The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

84. **Waste/Recycling Compliance Documentation**
Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

85. **Positive Covenant for Council and Contractor Indemnity**
A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

86. **Authorisation of Legal Documentation Required for Waste Services**
The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. A Compliance Certificate, issued by the Certifying Authority, shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

87. **Landscape Maintenance**
a) If any landscape materials/components or planting under this consent fails, they are to be

replaced with similar materials/components.

b) 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.

c) 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(s) and any conditions of consent.

d) A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

e) The approved landscape planted areas, whether containing lawn, gardens or planters 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.

88. **Maintenance of Stormwater Treatment Measures**
Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

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

Reason: Protection of the receiving environment.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

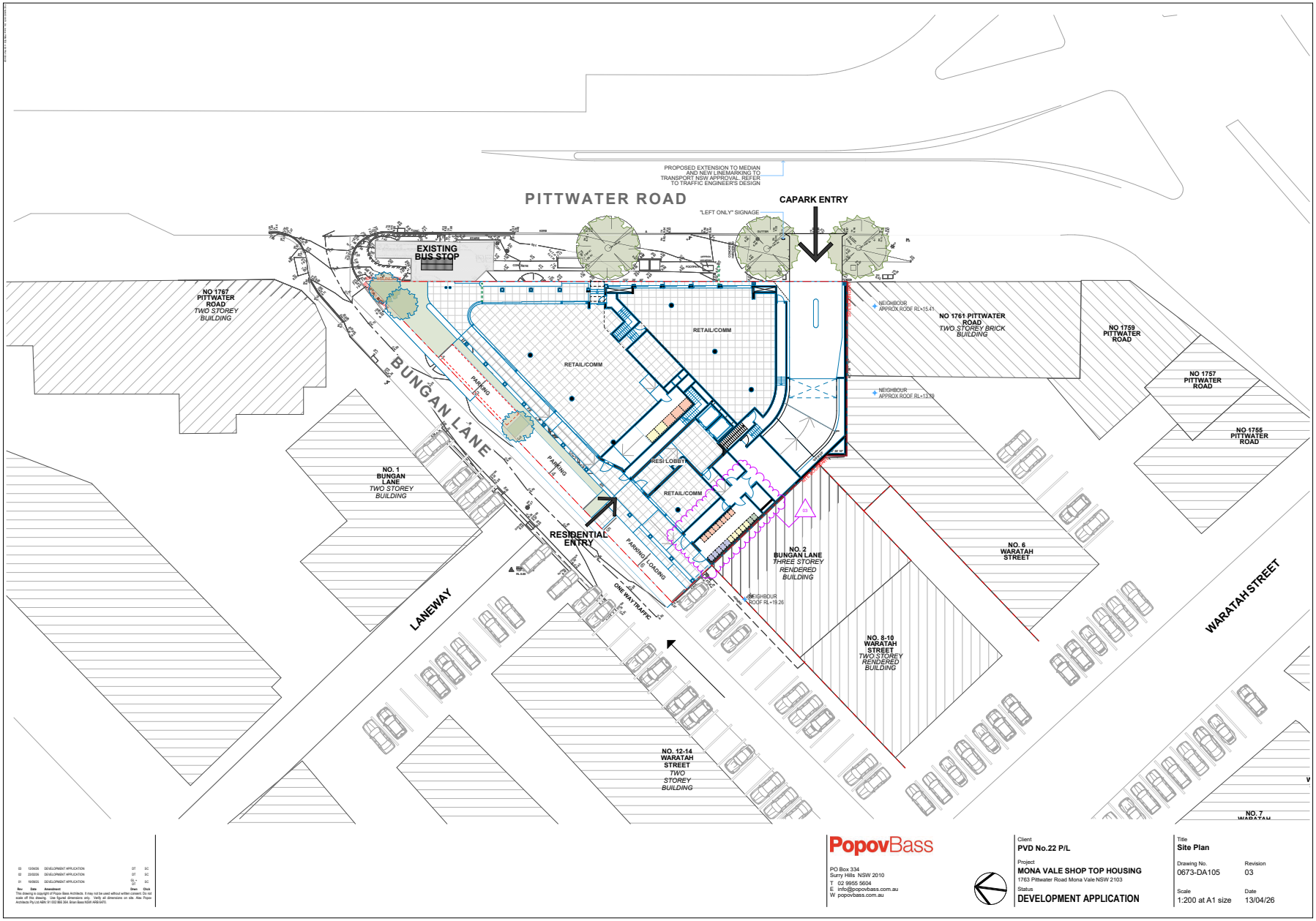
90. **Graffiti removal**
During ongoing use of the premises, ensure graffiti is removed from the exterior of the building or associated structures, including any fences, site services and retaining/planter bed walls.

Reason: To ensure the safe operation of the premises and to protect the amenity of adjoining premises and the surrounding area.

91. **Commercial Waste and Recycling Storage**
Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Doors to commercial waste and recycling rooms must accommodate largest bin size to be used by the development.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.



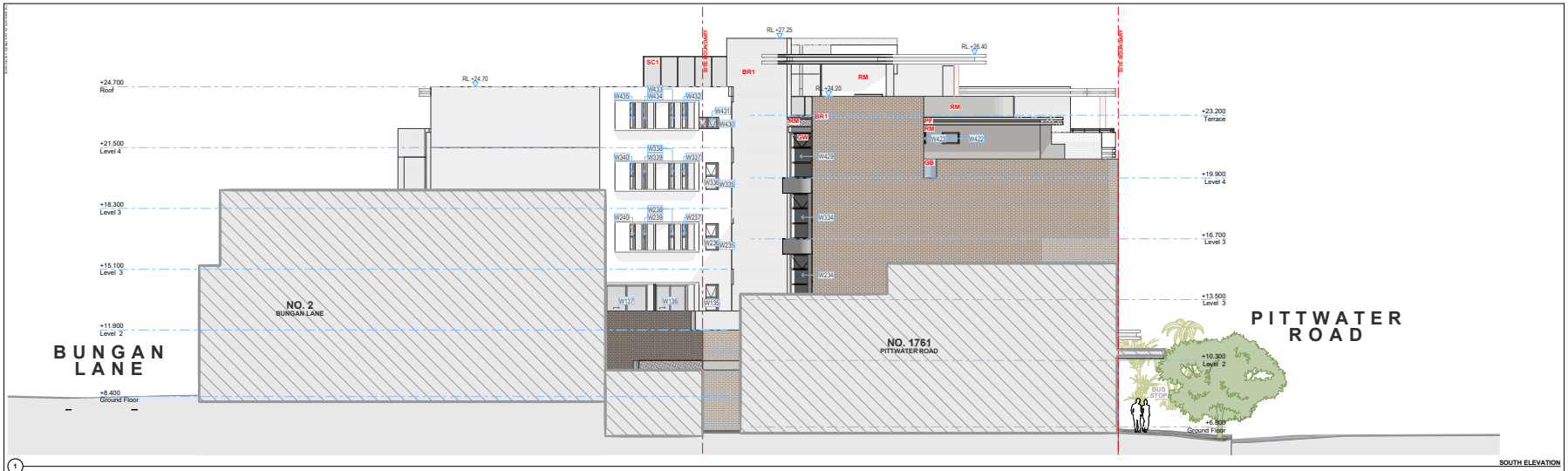
Rev	Date	Amendment	Drawn	Check
03	13/04/26	DEVELOPMENT APPLICATION	DT	SC
02	23/02/26	DEVELOPMENT APPLICATION	DT	SC
01	16/09/25	DEVELOPMENT APPLICATION	GL + DT	SC

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PopovBass
PO Box 334
Surry Hills NSW 2010
T 02 9955 5604
E info@popovbass.com.au
W popovbass.com.au

Client: PVD No.22 P/L
Project: MONA VALE SHOP TOP HOUSING
1763 Pittwater Road Mona Vale NSW 2103
Status: DEVELOPMENT APPLICATION

Title: Site Plan
Drawing No.: 0673-DA105
Revision: 03
Scale: 1:200 at A1 size
Date: 13/04/26





Rev	Date	Amendment	Drawn	Chck
03	13/04/26	DEVELOPMENT APPLICATION	DT	SC
02	23/02/26	DEVELOPMENT APPLICATION	DT	SC
01	19/09/25	DEVELOPMENT APPLICATION	DT	SC

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LEGEND:
BR1 FACE BRICK
BR2 RENDERED BRICKWORK
RM RENDERED MASONRY (LIGHT)
MB RENDERED MASONRY (DARK
STS STONE TRIM
CL1 CLADDING TYPE 1 (BRONZE LOOK)
CL2 CLADDING TYPE 2 (WHITE)
GW GLASS WINDOWS (ALUMINIUM FRAMED)
MB METAL BALUSTRADE
GB GLASS BALUSTRADE
SC1 SCREEN TYPE 1
OFF GLASS SKYLIGHT
PF PAINTED FINISH
GF GUTTER
DP DOWNPIPE
EB EXTERNAL BLIND

PopovBass
PO Box 334
Surry Hills NSW 2010
T 02 9955 5604
E info@popovbass.com.au
W popovbass.com.au

Client
PVD No.22 P/L

Project
MONA VALE SHOP TOP HOUSING
1763 Pittwater Road Mona Vale NSW 2103

Status
DEVELOPMENT APPLICATION

Title
East & South Elevation

Drawing No.
0673-DA114

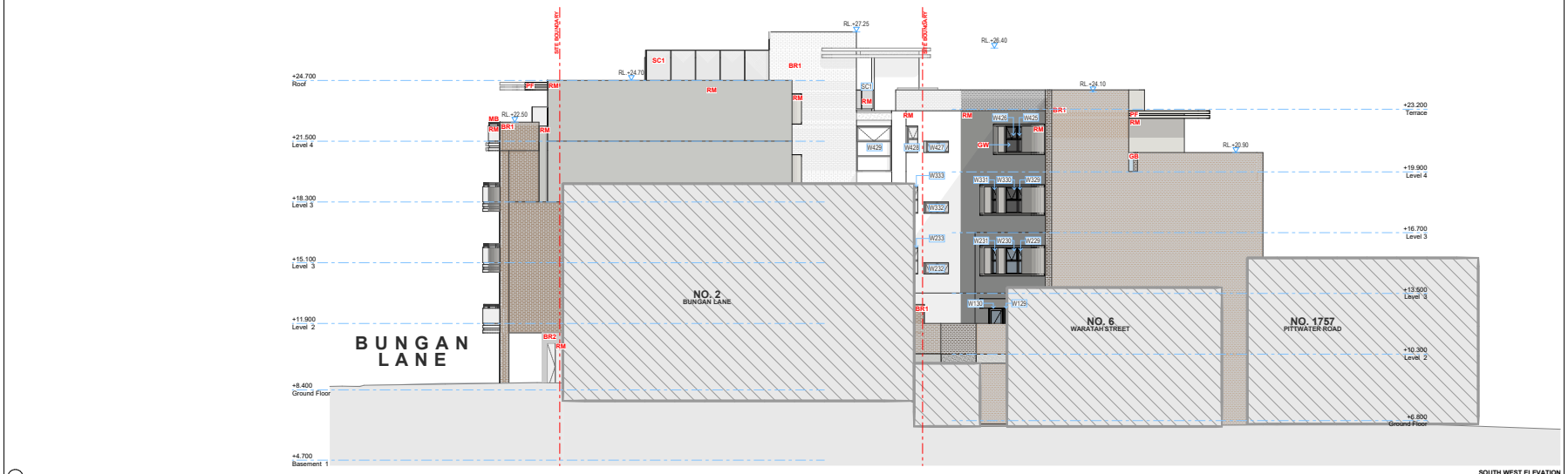
Revision
03

Scale
1:100 at A1 size

Date
13/04/26



1 NORTH WEST ELEVATION



2 SOUTH WEST ELEVATION

Rev	Date	Amendment	Drwn	Chck
03	13/04/26	DEVELOPMENT APPLICATION	DT	SC
02	23/02/26	DEVELOPMENT APPLICATION	DT	SC
01	19/09/25	DEVELOPMENT APPLICATION	GL + DT	SC

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LEGEND:
BR1 FACE BRICK
BR2 FACE BRICKWORK
RM RENDERED MASONRY (LIGHT)
RM2 RENDERED MASONRY
STO STONE FINISH
CL1 CLADDING TYPE 1 (BRONZE LOOK)
CL2 CLADDING TYPE 2 (WHITE)
GW GLAZED WINDOWS (ALUMINIUM FRAMED)
MB METAL BALUSTRADE
GB GLASS BALUSTRADE
SC1 SUNSCREEN TYPE 1
DP2 GLAZED SKYLIGHT
PF PAINTED FINISH
GF GUTTERS
EB EXTERNAL BLIND

PopovBass
PO Box 334
Surry Hills NSW 2010
T 02 9955 5604
E info@popovbass.com.au
W popovbass.com.au

Client
PVD No.22 P/L

Project
MONA VALE SHOP TOP HOUSING
1763 Pittwater Road Mona Vale NSW 2103

Status
DEVELOPMENT APPLICATION

Title
North-West & South-West Elevation

Drawing No. 0673-DA115
Revision 03
Scale 1:100 at A1 size
Date 13/04/26

Suite 1 No.9 Narabang Way Belrose NSW 2085 • acn 121 577 768
t (02) 9986 2535 • f (02) 99863050 • www.bbfplanners.com.au
Boston Blyth Fleming
Town Planners

Updated clause 4.6 variation request – Height of buildings
DA2025/1516 - Demolition and construction of shop top housing
1763 Pittwater Road, Mona Vale

1.0 Introduction

This updated clause 4,6 variation request has bene prepared having regard to the Revision 02 Architectural plans prepared by Popov Bass Architects.

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe)* at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney [2019]* NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v Pittwater Council* [2019] NSWCA 130.

2.0 State Environmental Plan Policy (Housing) 2021 (SEPP Housing)

2.1 Chapter 2, Part 2, Division 1, clause 18(2) - Affordable housing requirements for additional building height

Pursuant to clause 18(2) of SEPP Housing, if the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (3).

I confirm that the application proposes the provision of 6 x 2 bedroom affordable housing apartments, representing a total GFA of 626.3m² or 16% of the total GFA (3934.9m²), in accordance with the affordable housing building height incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing of SEPP Housing. As in excess of 15% of total GFA is proposed as affordable housing an additional height of 30% applies to the maximum prescribed building height standard. Accordingly, the applicable building height standard is the maximum permissible building height for the land plus an additional 30%.

The stated objective of the Division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households. It is also considered appropriate to assess the proposed building height against the objectives of the height of building standard at clause 4.3 of Pittwater Local Environmental Plan 2014 (PLEP 2014) namely:

(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.

Building height is defined as follows:

> ***building height*** *(or* ***height of building****) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

Ground level (existing) is defined as follows:

> ***ground level (existing)*** *means the existing level of a site at any point.*

In this regard, I note that clause 4.3 PLEP prescribes a maximum building height for development across the land of 13 metres. Applying the 30% building height incentive results in a maximum building height for development across the land of 16.9 metres.

It has been determined that minor portions of the roof over the north-eastern corner of the development breaches the height standard by between 250mm (1.4%) and 290mm (1.7%).

The proposed roof top communal open space and associated shade structure, lift/ stair access and roof top plant and screening breach the height standard by between 1.945m (11.5%) and 2.805m (16.5%) with the associated rooftop planter breaching the standard by 800mm or 6.1%.

The building height breaching elements are depicted on the height blanket compliance diagram over page.

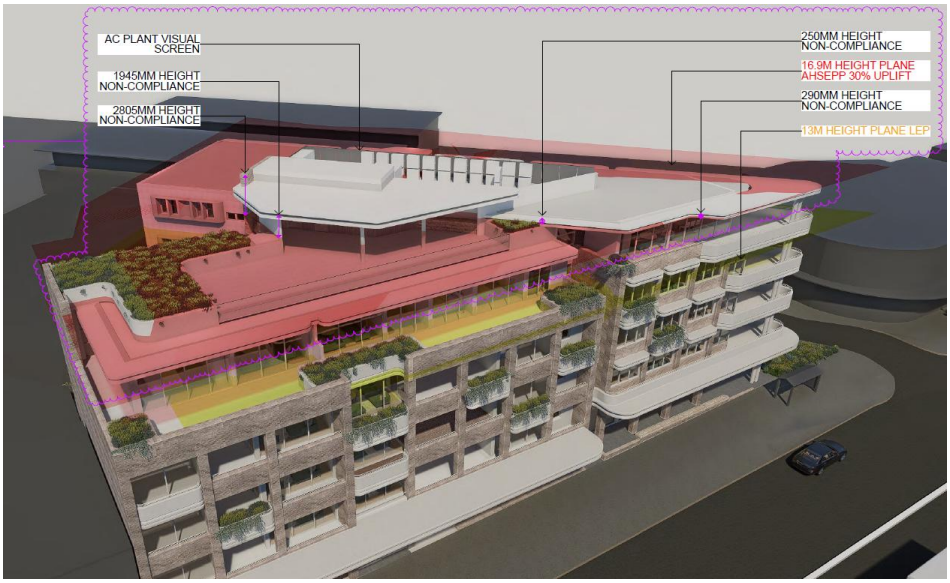


Figure 1 – Height blanket compliance diagram depicting the building height breaching elements.

2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of PLEP provides:

(1) The objectives of this clause are:

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

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

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

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

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

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

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

Clause 4.6(2) of PLEP provides:

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

This clause applies to the clause 18(2) SEPP Housing height of buildings development standard.

Clause 4.6(3) of PLEP provides:

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

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

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

The proposed development does not comply with the height of buildings provision at clause 18(2) SEPP Housing, which specifies a maximum building height. However, strict compliance is considered to be both unreasonable and unnecessary in the circumstances of this case.

There are sufficient environmental planning grounds to justify contravening the development standard. The relevant analysis is set out later in this written request.

3.0 Relevant Case Law

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

17. The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].

18. A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].

19. A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].

20. A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].

21. A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51].

The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.

22. These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

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

1. Is clause 18(2) of SEPP Housing a development standard?

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

   (a) compliance is unreasonable or unnecessary; and

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

4.0 Request for variation

4.1 Is clause 18(2) of SEPP Housing a development standard?

The definition of "development standard" at clause 1.4 of the EP&A Act includes:

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,

Clause 18(2) prescribes height provisions that relate to certain development. Accordingly, clause 18(2) is a development standard.

4.2A Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

The first way, which has been adopted in relation to all objectives, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

First way - Consistency with objectives of the standard

Clause 15A of SEPP Housing states that the objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

I am satisfied that the building height breaching elements do not contribute to building height or massing to the extent that the overall building will be incompatible with the desired future character of the precinct as anticipated through strict compliance with the applicable infill affordable housing incentive provisions which anticipate buildings having a height 30% more than the maximum prescribed by the applicable Local Environmental Planning instrument at both street frontages.

Accordingly, I am satisfied that notwithstanding the building height breaching elements the proposal satisfies the clause 20(3)(b) design requirements of SEPP Housing as it relates to compatibility with the emerging and desired future character of the precinct. Further, notwithstanding the non-compliant building height breaching elements the proposal facilitates the delivery of new infill affordable housing that will meet the needs of very low, low and moderate income households and to that extent achieves the objective of the standard.

I also consider it appropriate to assess the proposed building height against the objectives of the height of building standard contained at clause 4.3 WLEP to the extent that they do not derogate from the infill affordable housing objective at clause 15A of SEPP Housing.

An assessment as to the consistency of the proposal when assessed against the objectives of clause 4.3 PLEP are as follows:

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

Comment: The property is located within the Mona Vale Locality. The desired future character of the locality is described as:

> *The Mona Vale locality will contain a mix of residential, retail, commercial, industrial, recreational, community, and educational land uses.*
>
> *Existing residential areas will remain primarily low-density with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that has less tree canopy coverage, species and habitat diversity and fewer other constraints to development.*

Any medium density housing will be located within and around commercial centres, public transport and community facilities.

Retail, commercial and light industrial land uses will be employment-generating. The Mona Vale commercial centre status will be enhanced to provide a one-stop convenient centre for medical services, retail and commerce, exploiting the crossroads to its fullest advantage and ensuring its growth and prosperity as an economic hub of sub-regional status. The permissible building height limit is increased to promote economic growth within the centre. The Mona Vale Hospital, as a regional facility servicing the Peninsula, is an essential part of the future local economy.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

The design, scale and treatment of future development within the Mona Vale commercial centre will reflect principles of good urban design. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.

Light industrial land uses in Darley and Bassett Streets will be enhanced as pleasant, orderly, and economically viable areas.
A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, and to enhance wildlife corridors.

Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. Improved public transport, pedestrian accessibility and amenity, carparking and an efficient surrounding local network will support the commercial centre, moving people in and out of the locality in the most efficient manner.

The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

In accordance with the Mona Vale desired future character statement the building, with the exception of the lift overrun and portions of the roof slab, is compliant with the 16.9 metre height of buildings development standard and appropriately responds to the topographical characteristics of the site through the provision of a stepped floor plate design.

The proposed design appropriately responds to site topography whilst providing a development of exemplary design quality that will positively contribute to the Pittwater Road and Bungan Lane streetscapes and the wider locality.

The height, design, scale and treatment of the proposed development are compatible with that anticipated within this precinct as reflected by recent approvals. External materials and finishes will be consistent with the colours and materials anticipated in the locality.

The design, scale, and treatment of the proposal reflect the prominent position of the site through building design and landscaping and principles of good urban design. The site is conveniently located within the Mona Vale commercial centre, within immediate proximity of public transport and community facilities, and is supported by adequate infrastructure.

In this regard, the development is consistent with the desired future character of the Mona Vale Locality notwithstanding the non-compliance with building height.

This objective is achieved notwithstanding the building height non-compliance proposed.

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

Comment: The findings of Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 are relevant in this instance:

There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

The size of the development is consistent with the surrounding approved and/or constructed development and anticipated development.

The protruding elements, including the lift overrun and relatively minor roof slab elements will not be readily perceived from the public domain.

The question is whether the building height breaching elements contribute to the height and scale of the development to the extent that the resultant building form will be incompatible with the height and scale of surrounding and nearby development. That is, will the non-compliant building height breaching elements result in a built form which is incapable of coexisting in harmony with surrounding and nearby development to the extent that it will appear inappropriate and jarring in a streetscape and urban design context.

In this regard, I note that the building height breaching elements are limited to minor residential floor plate roof elements including mechanical plant and screening and structures required to facilitate roof top communal open space of appropriate amenity. All breaching elements are non-habitable in nature.

The central location of the communal open space access and roof structures ensure that they will not be readily discernible in a streetscape context and will not to any measurable extent contribute to unacceptable building height, bulk or scale. The overall height, bulk and scale the building as viewed from Pittwater Road and Bungan Lane is entirely consistent with that anticipated for future development taking advantage of the Chapter 2 SEPP Housing infill affordable height incentive provisions.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, I have formed the considered opinion that most observers would not find the height or bulk of the proposed development, in particular the building height breaching elements, offensive, jarring or unsympathetic in the streetscape context.

Notwithstanding the building height breaching elements, the resultant development is compatible with the height and scale of surrounding and nearby development and accordingly the proposal achieves this objective.

(c) to minimise any overshadowing of neighbouring properties,

Comment: The location of the breaching elements will ensure that they do not contribute to unacceptable shadowing of any adjoining property and certainly not to the extent that the shadowing will prevent the orderly development of adjoining land for a mixed-use shop top housing building and land use typology. This objective is satisfied notwithstanding the non-compliant building height breaching elements.

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

Comment: Upon review of the site and its surrounding context, there does not appear to be any view corridors obtained over the subject site, and certainly not to the extent that the non-compliant building height elements will give rise to unacceptable public or private view affectation. A view-sharing outcome is maintained.

This objective is achieved notwithstanding the building height non-compliance proposed.

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

Comment: The topography of the land contributes towards the extent of height breaches proposed with the stepped building form sensitively relating to the natural topography of the land. The building height breaching elements do not themselves require excavation or modification of the landform.

Notwithstanding the building height breaching elements, the proposal is consistent with this objective.

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

Comment: The proposed areas of non-compliance will not adversely impact the natural environment with no site disturbance directly attributed to the building height breaching elements proposed. The site is not listed as a heritage item or within a heritage conservation area.

The proposed development has been designed with a 4 storey dominant façade with recessive upper level and roof top communal open space consistent with nearby more contemporary development. The non-compliant communal open space and associated access, landscaping and shade structures are recessive elements in the overall composition of the development to the extent that they will not be perceived as inappropriate or jarring in the event that they are discernible from the public domain.

The façade of the development is well articulated, with various materials utilised to ensure that the apparent size of the development is appropriately relieved. Landscaping is proposed in the street setbacks to soften and screen the built form. Overall, the proposed development has been designed to ensure that the visual impact of the development is appropriately minimised, with no adverse impacts upon the natural environment.

This objective is achieved notwithstanding the building height non-compliance proposed.

The non-compliant component of the development, as it relates to building height, demonstrates consistency with objectives of the height of building standard. Adopting the first option in *Wehbe,* strict compliance with the height of buildings standard has been demonstrated to be unreasonable and unnecessary in the circumstances of this application.

4.2B Clause 4.6(3)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

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

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

24. The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard".
The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.

The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].

Sufficient Environmental Planning Grounds

In my opinion, there are sufficient environmental planning grounds to justify the building height variation as outlined below.

Ground 1 - Topography

The site falls approximately 2.3 metres across sits surface in a south easterly direction with the topography of the land contributing towards the extent of building height breaching elements proposed.

Ground 2 - Nature of breach and lack of impact

I am satisfied that the building height breaching elements do not contribute to building height or massing to the extent that the overall building will be incompatible with the desired future character of the precinct as anticipated through strict compliance with the applicable in-fill affordable housing incentive provisions, which anticipate buildings having a height 30% more than the maximum prescribed by the relevant Local Environmental Planning instrument.

I am also satisfied that the building height breaching elements will not give rise to adverse streetscape or residential amenity impacts. Consistent with the findings of Commissioner Walsh in *Eather v Randwick City Council* [2021] NSWLEC 1075 and Commissioner Grey in *Petrovic v Randwick City Council* [2021] NSW LEC 1242, the absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

Ground 3 - Objectives of SEPP Housing

Approval of the building height breaching elements will achieve the objective of the Division 1 in-fill affordable housing provisions within SEPP Housing, which is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low, and moderate-income households (clause 15A).

Ground 4 - Objectives of the Environmental Planning and Assessment Act 1979

Approval of height variation will facilitate the provision of rooftop communal open space and, in doing so, promote good design and amenity of the built environment consistent with Objective 1.3(g) of the EP&A Act.

Overall, there are sufficient environmental planning grounds to justify contravening the development standard.

5.0 Conclusion

Pursuant to clause 4.6(4)(a), the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

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

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

As such, I have formed the considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

Boston Blyth Fleming Pty Limited



Greg Boston
B Urb & Reg Plan (UNE) MPIA
Director

2.3.26

Suite 1 No.9 Narabang Way Belrose NSW 2085 • acn 121 577 768
t (02) 9986 2535 • f (02) 99863050 • www.bbfplanners.com.au
Boston Blyth Fleming Town Planners

Attachment 2

Clause 4.6 variation request – Landscaped area
Demolition and construction of shop top housing
1763 Pittwater Road, Mona Vale

1.0 Introduction

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe)* at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney [2019]* NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

2.0 State Environmental Planning Policy (Housing) 2021

2.1 Clauses 19(2)(b) – Landscaped area and 19(2)(c) – Deep soil zone

These clauses are contained within Chapter 2 – Affordable housing, Division 2 – Infill affordable housing of SEPP Housing and prescribe the following:

> *(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—*
> *……..*
>
> *(b) a minimum landscaped area that is the lesser of—*
>
> *(i) 35m^2 per dwelling, or*
>
> *(ii) 30% of the site area,*
>
> *(c) a deep soil zone on at least 15% of the site area, where—*
>
> *(i) each deep soil zone has minimum dimensions of 3m, and*
>
> *(ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,*

Based on the provision of 23 dwellings/ apartments and a site area of 1447m^2 a landscaped area of 434.1m^2 is required together with a deep soil zone of 217.05m^2.

I note that whilst these provisions apply to *residential development* that in this case the proposed residential development forms a component of shop top housing the definition of which requires the residential component to be wholly above ground floor commercial uses. That is, it is the commercial component of the development which establishes the building footprint including landscaped area and deep soil zones.

The relevant definitions are as follows:

> ***landscaped area*** *means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.*
>
> ***deep soil zone*** *means a landscaped area with no buildings or structures above or below the ground.*

Due to the geometry of the site, the desire to provide basement carparking and the nil side boundary setbacks anticipated for development in an MU1 Mixed Use zone the opportunities to provide deep soil landscaping on the site are limited. That said, the proposal provides 82.96m^2 (5.7%) of landscaped area as defined and a deep soil zone of 47.68m^2 (3.3%) as defined which are non-compliant with the prescribed provisions by 351.14m^2 (80.8%) and 169.37m^2 (78%) respectively. The landscaped areas are located adjacent to the Bungan Lane frontage.

2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of WLEP provides:

(1) The objectives of this clause are:

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

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

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

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

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

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

Clause 4.6(2) of WLEP provides:

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

This clause applies to the clause 19(2)(b) – Landscaped area and 19(2)(c) – Deep soil zone of SEPP (Housing) 2021 development standards.

Clause 4.6(3) of WLEP provides:

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

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

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

The proposed development is non-compliant with the clause 19(2)(b) – Landscaped area and 19(2)(c) – Deep soil zone of SEPP (Housing) 2021 development standards which specify landscaped and deep soil areas however strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard.

The relevant arguments are set out later in this written request.

3.0 Relevant Case Law

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

17. The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].

18. A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].

19. A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].

20. A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].

21. A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51].

The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.

22. *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

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

1. Are clauses 19(2)(b) and 19(2)(c) of SEPP (Housing) 2021 development standards?

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

   (a) compliance is unreasonable or unnecessary; and

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

4.0 Request for variation

4.1 Are clauses 19(2)(b) and 19(2)(c) of SEPP (Housing) 2021 development standards?

The definition of "development standard" at clause 1.4 of the EP&A Act includes *provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

(b) the proportion or percentage of the area of a site which a building or work may occupy,
……..

(f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,

Clauses 19(2)(b) and 19(2)(c) of SEPP (Housing) 2021 prescribe landscaped area and deep soil area requirements that seeks to control the percentage of the area of the site which a building can occupy and area available for landscaped space/ tree plantings. Accordingly, clause 19(2)(b) and 19(2)(c) of SEPP (Housing) 2021 are development standards.

4.2A Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approach for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in Wehbe v Pittwater Council [2007] NSWLEC 827.

The first option, which has been adopted in this case, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Consistency with the implicit objective of the standards

In my opinion the implicit objective of the standards is to control the percentage of the area of the site which a building can occupy to provide adequate area for landscaped space/ tree plantings.

Given the size, geometry and double street frontage the basement has been constructed boundary to boundary in locations to facilitate basement carparking. The southern and south-eastern facades have also been partially constructed to the boundary to create a street wall in response to the nil setbacks established by adjoining development. The ability to achieve basement carparking maximises the area available at ground floor level for commercial floor space which given the mixed-use zoning of the land is highly desirable.

That said, the proposal provides appropriately for landscaping adjacent to both street frontages with on slab plantings also proposed through the Level 01 courtyard and on the edges of upper-level balconies. Deep soil street tree plantings are also proposed adjacent to Bungan Lane and Pittwater Road as detailed on the accompanying landscape plan prepared by Sturt Noble.

The proposed landscape regime will ensure that the building will sit within a contextually appropriate landscape setting. The implicit objective of the standard is achieved notwithstanding the non-compliance proposed.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 I have formed the considered opinion that most observers would not find the proposed development by virtue of its landscaped setting offensive, jarring or unsympathetic in a streetscape context.

Having regard to the above, the development will achieve the objectives of the standard to at least an equal degree as would be the case with a development that complied with the landscaped area/ deep soil area standards as reasonably applied to a mixed-use development within a mixed-use zone.

Given the developments consistency with the implicit objective of the standards strict compliance has been found to be both unreasonable and unnecessary under the circumstances.

The non-compliant component of the development demonstrates consistency with the objective of the standards. Adopting the first option in *Wehbe* strict compliance with the landscaped area standard has been demonstrated to be is unreasonable and unnecessary.

4.2B Clause 4.6(4)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

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

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

24. The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard".

The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.

The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].

Sufficient Environmental Planning Grounds

Ground 1 – Appropriate response to MU1 Mixed – use zoning of the land and associated ground floor plate commercial use and setback expectations

Given the size, geometry and double street frontage the basement has been constructed boundary to boundary in locations to facilitate basement carparking. The southern and south-eastern facades have also been partially constructed to the boundary to create a street wall in response to the nil setbacks established by adjoining development. The ability to achieve basement carparking maximises the area available at ground floor level for commercial floor space which given the mixed-use zoning of the land is highly desirable.

That said, the proposal provides appropriately for landscaping adjacent to both street frontages with on slab plantings also proposed through the Level 01 courtyard and on the edges of upper-level balconies. Deep soil street tree plantings are also proposed adjacent to Bungan Lane and Pittwater Road as detailed on the accompanying landscape plan prepared by Sturt Noble.

Strict compliance with the landscaped area and deep soil area standards would require a 379.05m^2 reduction in building footprint and a corresponding reduction in the geometry of the basement to the extent that the orderly and economic development of the land would be compromised.

The proposed landscape regime will ensure that the building will sit within a contextually appropriate landscape setting.

Ground 2 - Achievement of objective of the Division

Approval of the variation will better achieve the objective of Chapter 2, Part 2, Division 1 of SEPP Housing being to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

Ground 3 - Objectives of the Act

Objective (c) to promote the orderly and economic use and development of land

For the reasons outlined in this submission, approval of the variation will promote the orderly and economic use and development of the land and will increase the supply and diversity of residences that will meet the needs of more vulnerable members of the community, including very low to moderate income households.

Strict compliance would require the basement and above ground footprint to be significantly reduced to the extent that the ability to provide efficient basement parking would be significantly compromised potentially requiring the introduction of an additional level or part level of parking and associated excavation. Ground floor commercial floor space would also be reduced in an area where street level commercial floor space and associated activation is encouraged. Such outcome would be neither economic nor orderly.

Approval of the variation will achieve objective (c) of the Act.

Objective (g) to promote good design and amenity of the built environment

The building is of exceptional design quality with the variation facilitating basement carparking and the contextually appropriate distribution of floor space on the site, the delivery of affordable housing and the orderly and economic use and development of the land consistent with objective (g) of the Act.

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

5.0 Conclusion

Pursuant to clause 4.6(4)(a), the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

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

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

As such, I have formed the considered opinion that there is no statutory or environmental planning impediment to the granting of a variation in this instance.

Boston Blyth Fleming Pty Limited



Greg Boston
B Urb & Reg Plan (UNE) MPIA
Director

14.10.25

11 December 2025

DESIGN AND SUSTAINABILITY ADVISORY PANEL MEETING REPORT

DA2025/1516 – 1763 Pittwater Road MONA VALE

PANEL COMMENTS AND RECOMMENDATIONS

General

This Development Application was presented to the Panel at Pre-DA stage on 22 May 2025. The advice provided the following conclusion:

The Panel is supportive of the development subject to the amendments as outlined above being made to the proposal.

Strategic context, urban context: surrounding area character

Recommendations

Previous recommendations from Pre-DA stage:

I. The Panel would recommend that Council re-consider the DCP provision for a 2-storey street wall in light of neighbouring building alignments and that a 4-storey street wall should be considered. Further discussions should be had with Council as to the strategic direction of the future Mona Vale town Centre controls. However, the Panel is also of the view that the upper-level setbacks along both streets should conform with the DCP requirement of 6m and that the side setbacks achieve 3m in line with the DCP. Furthermore, some variation in height and setback might be considered appropriate at the corner of the site, where the 2 streets converge, to give greater architectural emphasis to the built form of the corner.
    - Comment: 11 December 2025 – Resolved, No further Panel comment

Further recommendations for DA:

1. Nil

Scale, built form and articulation

11 December 2025 – Resolved, No further Panel comment

Recommendations

Previous recommendations from Pre-DA stage:

II. Consider allowing opening rear courtyard to street to enhance apartment amenity and ensure ADG compliance for natural ventilation (and indeed light).
    - 11 December 2025 Comment: Not pressed

III. Consider introduction of 25% commercial to development
    - Comment: Not pressed

IV. Consider refinements to street façades

- Comment: Resolved

Further recommendations for DA:

2. Nil

Access, vehicular movement and car parking

Recommendations

Previous recommendations from Pre-DA stage:

V. Consideration should be given to a shorter more direct access to the residential lobby from the street.
- 11 December 2025 Comment: Resolved

VI. Entry from Bungan Lane would be encouraged in order to activate this lane and provide un-broken frontage to commercial at street level on both streets.
- 11 December 2025 Comment: Resolved

VII. Applicant to liaise with Council with a view to reducing on-site carparking requirements.
- 11 December 2025 Comment: Not pressed

Further recommendations for DA:

3. Nil

Landscape

11 December 2025: The proposal is supported with regard to landscape issues.
Council's Landscape Referral section have assessed the application against SEPP (Housing) 2021, the Apartment Design Guide (ADG), the Pittwater Local Environment Plan (PLEP), and the Pittwater 21 DCP (but not limited to).

The Arboricultural Impact Assessment (AIA) identified 7 trees. Trees 4, 5, 6 and 7 are located within the property boundary and will require removal to facilitate the proposed works. Trees 4, 6 and 7 are exempt by species or height and as such may be managed or removed at the discretion of the applicant without consent. Tree 5 can be supported for removal subject to native tree replacement planting. Street trees 1,2 and 3 are proposed to be retained. Trees 1 and 2 will be impacted by the proposed driveway works and as such a Project Arborist shall be engaged to supervise the work in the tree protection zone of these trees. The public domain works, within the tree protection zone of trees 2 and 3 will also require supervision from the Project Arborist. The public domain works are generally supported and will be subject to final determination under a s138 application. The areas of lawn in the public domain, shown along the Pittwater Road frontage, shall be replaced with paving. Street tree planting along Pittwater Road shall be Waterhousea floribunda. All understorey planting in the public domain will be subject to approval under a s138 application and shall tie into the existing planting palette of Mona Vale town centre. The landscape proposal is generally supported and all on structure planters shall meet the soil depth requirements outlined in the ADG. Areas of planting adjacent to the parallel parking on Bungan Lane will need to consider circulation space for drivers entering and exiting vehicles. Tree planting along the Bungan Lane frontage shall be Tristaniopsis laurina 'Luscious'.

The proposal is therefore supported.

Recommendations

Previous recommendations from Pre-DA stage:

VIII. Consider areas for planting trees in a nominal setback that takes advantage of the lack of overhead powerlines and by using structural soil cells as well as creating a small open space area in the northeast corner with deep soil landscaping as required.

IX. Consider a use of building articulation to provide areas to plant iconic local Cabbage Tree Palm trees to add to the canopy cover and overall landscape response.

X. The proposed development will need to provide a revised design that is compliant with the recently released DPIE document Tree Canopy Guide for Low- and Mid-Rise Housing.

Further recommendations for DA:

4. See above comments

Amenity

11 December 2025: The Panel considers that rooftop Communal Open Space (COS) should be provided. Skylights to the units below should be modified to ensure adequate visual privacy.

Recommendations

Previous recommendations from Pre-DA stage:

XI. N/A

Further recommendations for DA:

5. 11 December 2025: Provide rooftop COS.

Façade treatment/Aesthetics

Recommendations

Previous recommendations from Pre-DA stage:

XII. Consider substituting faux-look materials for ones that are a direct reflection of each material's inherent characteristics. The degree to which this can also be a reflection of a material's sustainability credentials and longevity is always an added bonus to the aesthetics of a given material.

- Comment: Resolves recommendation

Further recommendations for DA:

6. Nil

northern beaches council

Sustainability

11 December 2025: The Panel is disappointed there is not enough power in the grid for a totally electric building at this time and is pleased to hear there is a strategy in place for transition in the future.

The presentation demonstrated that the majority of the other recommendations from the previous panel have been addressed and commends the architects on achieving this. Further consideration should be given to the following matters.

1. Clean Energy
    - Consider on site battery storage as a highly desirable back-up during the transition to a de-carbonised grid
2. Passive Design & Thermal Comfort
    - Reconsider external blinds for the windows on the north-west facade
    - Include ceiling fans to improve comfort and reduce reliance on air-conditioning.
3. Embodied Carbon Reduction
    - Find a way for materials from demolished buildings to be utilised.
    - Use fewer materials where possible (e.g. exposed concrete floors, reduced tiling).
    - Design for durability and adaptability over time, accounting for different systems.
    - Preference low-carbon or renewable materials (e.g. timber, recycled steel, low-carbon concrete).
4. Lifts
    - Prioritise energy efficient lift systems, considering gearless traction lifts, machine-room-less (MRL) lifts, LED lighting and sleep mode when not in use.
    - Maximise longevity and ease of maintenance
    - Optimise embodied carbon in lift construction by considering manufacturers with low carbon supply chains, materials and equipment.

<u>Recommendations</u>

Previous recommendations from Pre-DA stage:

XIII. Include alternative transport facilities to support a reduction in car parking:

a. Bicycle storage for all apartments

b. Bike parking for staff and end of trip facilities including showers and lockers

c. Bike parking on grade for visitors

d. Motorbike parking

e. Spaces dedicated to car shares

- Comment: Further commitments recommended

XIV. Refine the design to include shading to all north-west facing windows and sliding doors

- Comment: Further work/ commitments recommended

XV. Consider greater variation to the housing type mix to include studio and one-bedroom apartments – to support more affordability options

- Comment: Not pressed

XVI. Demonstrate how the development meets the ADG cross ventilation requirements

- Comment: Not pressed

XVII. The DA proposed design should demonstrate further sustainability initiatives including:

a. Solar panels

b. Rainwater storage

c. Bike parking as described above

d. Services including hot water, A/C and cooking which should be all electric

XVIII. Consider inclusion of a green roof in combination with the solar panels

- Comment: e.g. proposal resolves recommendation/further work required
- Comment: Further consideration encouraged

Further recommendations for DA:

7. See above

PANEL CONCLUSION

The Panel gives its qualified support to the development, subject to the provision of rooftop COS and sustainability recommendations made above.