

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1139
---------------------	-------------

Responsible Officer:	Jordan Howard
Land to be developed (Address):	Lot 6 DP 17127, 83 Crown Road QUEENSCLIFF NSW 2096
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool and carport
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Applicant:	Matt Elkan

Application Lodged:	28/08/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	05/09/2024 to 19/09/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 15.3%
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,307,397.00
--------------------------	-----------------

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to a dwelling house including a swimming pool and carport.

The application is referred to the Development Determination Panel (DDP) due to a proposed breach of the height of buildings development standards of greater than 10%.

Following a period of public exhibition, Council has received no submissions on this application.

Critical assessment issues included assessment of the Applicant's request to vary a development

standard established by Warringah Local Environmental Plan (WLEP) 2011 Clause 4.3 Height of buildings, as well as assessment of Warringah Development Control Plan built form non-compliances with wall height, building envelope, side setbacks and front setbacks controls.

The 4.6 request for the non-compliance with the height of buildings development standard arises from the replacement of the existing roof with a new flat parapet and pop-up skillion roof design over the existing first floor, which exhibits a maximum height of 9.8m, representing a 15.4% non-compliance with the 8.5m building height development standard. However, the proposed alterations and additions will reduce the overall building height. The existing dwelling roof profile reaches a maximum height of 11.2m, represent an existing 31.8% non-compliance that is to be reduced. The design of the proposed roof form will also provide visual relief and reduce the amount of the roof above the height limit, whilst enabling solar access from the north. As such, the the alterations and additions, particularly the roof form changes, will reduce the overall bulk, scale and height of the dwelling house, whilst enabling the reuse / adaptation of an existing structure for the changing needs of owners and occupants.

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

PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks development consent for alterations and additions to a dwelling house including a swimming pool and carport. Specifically, the following is proposed:

- Removal of some existing internal walls at the mid-level to reconfigure the floorplan to best suit the owner's needs and future requirements and increase solar access to all spaces.
- Addition of internal stairs to allow the owner to navigate all three storeys without being exposed to the outside elements.
- Relocation of mid-level deck and shared living spaces to the upper floor to maximise natural light, ventilation and distant ocean views.
- Reconfiguration of basement level to establish a more useable and welcoming space.
- Reconfiguration of windows to existing house to accommodate reconfigured floor plans and to improve performance.
- Extending the upper deck to enhance access to district views and connection with the back garden.
- New roof structure including skillion roofs over upper level living space to improve solar access, ventilation and quality of internal spaces while providing articulation to built form.
- Replacement of all cladding and roofing to existing house to allow for walls, ceilings and roof to be effectively insulated.
- Enhancing the existing entry to demarcate a formal entrance and core to the building.
- New, small swimming pool in the rear garden.
- New open carport to protect parked vehicles adjacent to Highview Avenue.
- No new fencing proposed. Minor alterations will be necessary to the existing brick wall on Highview Avenue to facilitate a sliding security gate.

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 R2 Low Density Residential
Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - D16 Swimming Pools and Spa Pools

SITE DESCRIPTION

Property Description:	Lot 6 DP 17127 , 83 Crown Road QUEENSCLIFF NSW 2096
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Crown Road and southern side of Highview Avenue.</p> <p>The site is irregular in shape with a primary frontage of 13.715m along Crown Road, a secondary frontage of 15.24m along Highview Avenue, and a maximum depth of 34.6m along the western side boundary. The site has a surveyed area of 486.1sqm.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house.</p> <p>The site slopes from the primary frontage (south) down towards the secondary frontage (north), with a fall across the site of 3m.</p>

The site contains lawn areas, garden beds, trees and vegetation. There are no details of threatened species at the subject site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by 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:

Development Application No. DA2024/1064 for "Alterations and additions to a dwelling house including a swimming pool and carport" was returned at lodgment on 8 August 2024 due to inadequate and / or insufficient information being provided to assess the proposed development.

Pre-Lodgment Meeting No. PLM2021/0243 for "Alterations and Additions a dwelling house to relocate the driveway" was held on 12 October 2021 to discuss a proposed development.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 05/09/2024 to 19/09/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><i>Supported, subject to conditions.</i></p> <p>The proposal is supported with regard to landscape issues.</p> <p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation <p>Two trees are proposed to be removed in the rear setback. Council has sighted these trees and due to their size no concerns are raised</p>

Internal Referral Body	Comments
	<p>with their removal subject to native tree replacement. All other trees and vegetation shown to be retained shall be protected during works.</p> <p>New planting is shown indicatively on the plans and any new planting shall be installed in accordance with the requirements outlined in the conditions of consent.</p>
NECC (Coast and Catchments)	<p><i>Supported, subject to conditions.</i></p> <p>The applicant seeks development consent to undertake the following:</p> <ul style="list-style-type: none"> • Alterations and additions to existing dwelling, and proposed new carport, swimming pool and ancillary works <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act (2016) • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.10, & 2.12); • Relevant LEP and DCP clauses. <p>Comment: SUPPORTED WITH CONDITIONS</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021</p> <p>The subject land has been included on the 'Coastal Environmental Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clause 2.10 & 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Warringah LEP 2011 and Warringah DCP 2011</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</p>
NECC (Development Engineering)	<p><i>Supported, subject to conditions.</i></p> <p>The proposed development is in Region 2. On-site detention is not</p>

Internal Referral Body	Comments
	required for alterations and additions. Vehicle crossing construction is proposed. Development engineering raises no objections to the proposed development, subject to conditions.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Supported, subject to conditions.</i></p> <p>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.</p>

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. A1757599_02, issued 6 August 2024).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- b) the proposed development:
 - i) is not likely to alter coastal processes to the detriment of the natural environment or
 - ii) other land, and
 - iii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:

There is currently no adopted Coastal Vulnerability Area Map. Nonetheless, Council's Coasts and Catchments team has reviewed the proposal and considers that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021, supporting the proposal, subject to conditions.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,

- c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

Council's Coasts and Catchments team has reviewed the proposal and considers that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021, supporting the proposal, subject to conditions.

- 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 Coasts and Catchments team has reviewed the proposal and considers that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021, supporting the proposal, subject to conditions.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an
 - ii) adverse impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

if that impact cannot be minimised—the development will be managed to mitigate that impact, and

- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

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 Coasts and Catchments team has reviewed the proposal and considers that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021, supporting the proposal, subject to conditions.

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

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

Comment:

Council's Coasts and Catchments team has reviewed the proposal and considers that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021, supporting the proposal, subject to conditions.

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

Chapter 4 – Remediation of Land

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.8m	15.3%	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 R2 Low Density Residential

The proposed development is assessed against the objectives of the R2 Low Density Residential zone as follows:

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

Comment:

The proposed development is for alterations and additions to a dwelling house, which will allow for the adaptation and reuse of an existing dwelling house for the changing housing needs of owners and occupants, and therefore the community, within a low density residential environment.

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

Comment:

The proposed development does not provide for non-residential uses. However, it will provide for the residential needs of owners and occupants.

To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

Comment:

The proposed development is considered to remain appropriate for the low density residential environment and remain in harmony with the natural environment of Warringah.

It is considered that the proposed development is consistent with the zone objectives.

4.3 Height of buildings

The proposed development has a maximum height of 9.8m, representing a 15.4% non-compliance with the 8.5m building height development standard. The Applicant's written request to vary this

development standard is assessed within the section of this report on WLEP 2011 Clause 4.6 Exceptions to development standards.

The proposed development is assessed against the objectives of the height of buildings development standard as follows:

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

Comment:

The proposed development will reduce the overall building height. The existing dwelling roof profile reaches a maximum height (as measured on Section AA to the rumps room floor) of 11.2m. The alterations and additions will reduce the overall bulk, scale and height of the roof form by replacing the existing roof with a flat pop-up skillion roof design. The maximum building height will be reduced to 9.8m, still non-compliant with the 8.5m height control, but reduced from existing. Surrounding development is of a similar height, bulk and scale, with the proposal considered to be commensurate to that of surrounding development. In this regard, the proposal is considered to be an improvement to the existing height non-compliance, and 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.

Comment:

The proposed development will reduce the overall building height. With the overall height of the dwelling house to be reduced, the proposal will reduce overall visual impact, disruption of views, and solar impact. The proposed development is designed such that it is not considered to result in any unreasonable amenity impacts on adjoining properties (including light, solar or privacy impacts).

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments.

Comment:

The proposed development will reduce the overall building height. With the overall height of the dwelling house to be reduced, the proposal will reduce overall visual impact, reducing the visual appearance of the dwelling house within the environment. Nonetheless, this area is already disturbed for residential use and is characterised by low density residential development, and medium density residential development to the south. The proposal complies with the landscape open space requirements of WDCP Clause D1 Landscaped Open Space (LOS) and Bushland Setting. Therefore, sufficient opportunities for landscaping and vegetation are retained to maintain the scenic quality of Warringah within a residential area.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

Comment:

The proposed development will reduce the overall building height. With the overall height of the dwelling house to be reduced, the proposal will reduce overall visual impact, reducing the visual appearance of the dwelling house when viewed from public places such as parks and reserves, roads and community facilities.

It is considered that the proposed development is consistent with the objectives of the height of buildings development standard.

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: 8.5m

Proposed: 9.8m

Percentage of variation: 15.3%

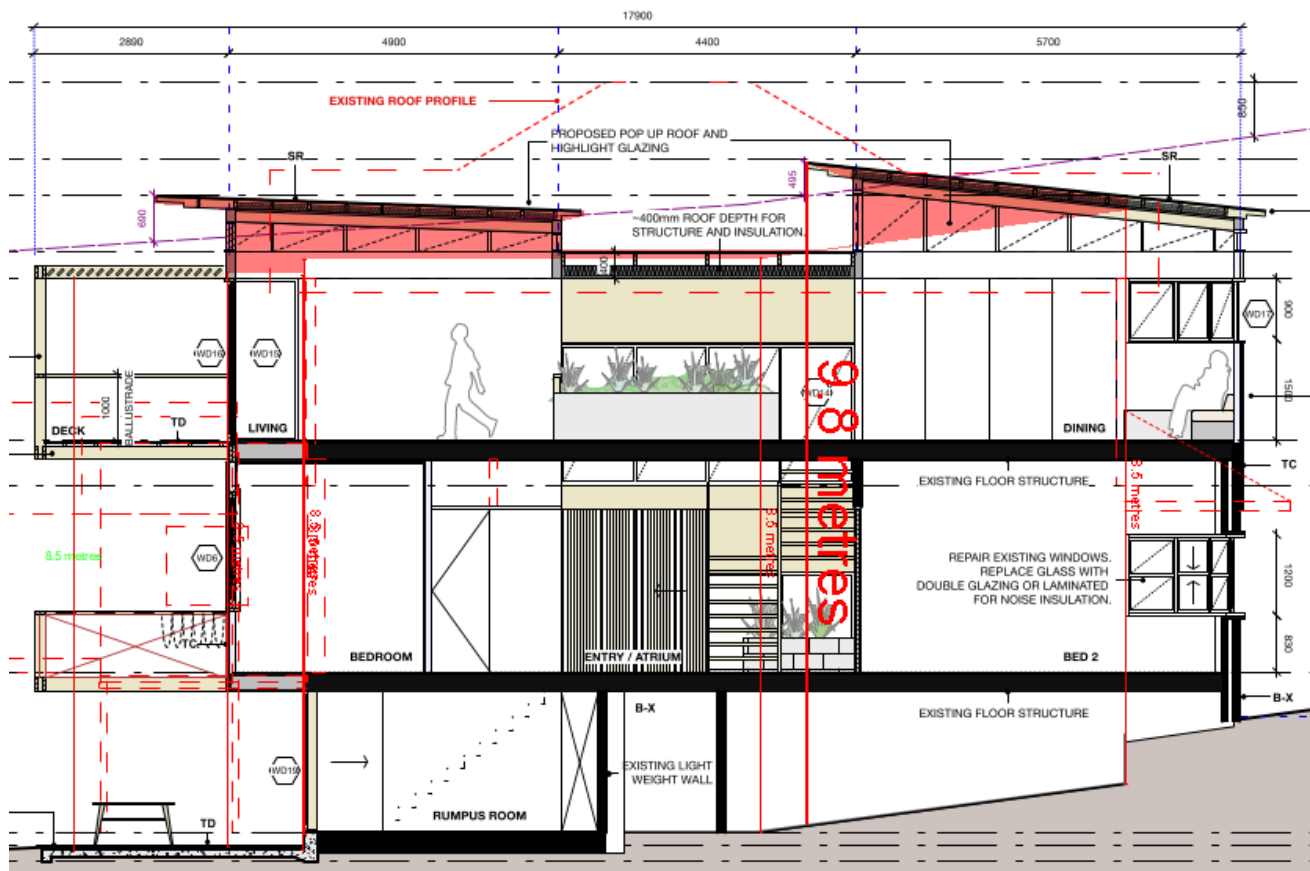


Figure 1 - Extract from Section AA depicting maximum building height (9.8m) and area above 8.5m height standard in red.

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is/is not 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 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:

In considering if compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, the Applicant has sought to establish that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. This is done in reference to *Wehbe v Pittwater Council [2007] NSWLEC 827*, where it was established that demonstrating that the objectives of the development standard are achieved notwithstanding non-compliance with the standard was one of five ways to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The objectives of the development standard and the Applicants arguments, in part, and sorted by objective, are outlined as follows:

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

- The existing tiled gable roof form exceeds the 8.5m height limit, with the proposed development to reduce the highest point of the roof (whilst remaining non-compliant). The proposal therefore reduces overall bulk, scale and height from existing currently.
- Exceedance of the height control is not easily visible from Crown Road and the proposal presents as two-storey to Crown Road.
- The proposal is compatible with the height and scale of surrounding development in an area characterised predominantly by large two and three storey dwelling houses.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

- By renovating the existing roof form, the proposal reduces the bulk of the existing building and improves visual impact and solar access.
- Reasonable sharing of views to and from public and private properties is allowed.
- Neighbouring properties will have improved solar access and maintain the required level of solar access.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

- The proposal has been designed to respond sensitively to the existing topography by following the slope of the land and minimising excavation as far as possible.
- Landscaped Open Space is compliant with the minimum 40% requirement

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

- Reasonable sharing of views to and from public and private properties is allowed.
- The surrounding vicinity is characterised predominantly by large two and part three storey dwellings of a similar scale. This proposal is in keeping with existing bulk and scale of the streetscape.

The arguments provided by the Applicant are generally concurred with. In particular, it is noted that the proposal will reduce the overall building height. The existing dwelling roof profile reaches a maximum height (as measured on Section AA to the rumps room floor) of 11.2m. The alterations and additions will reduce the overall bulk, scale and height of the roof form by replacing the existing roof with a flat pop-up skillion roof design. The maximum building height will be reduced to 9.8m, still non-compliant with the 8.5m height control, but reduced from existing. Furthermore, the size of the breach will be reduced, as the roof form will involve the skillion elements popping up in two sections, providing visual relief and reducing the amount of the roof above the height limit.

The applicant has demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. Therefore, Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Height of buildings is unreasonable or unnecessary in the circumstances of this application.

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

Comment:

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

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

The Clause 4.6 Request argues, in part:

- Compliance with the height of building standard is unreasonable and unnecessary and the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The existing tiled gable roof form exceeds the 8.5m height limit, with the proposed development to reduce the highest point of the roof (whilst remaining non-compliant). The

proposal therefore reduces overall bulk, scale and height from existing currently.

- By renovating the existing roof form, the proposal reduces the bulk of the existing building and improves visual impact and solar access.
- Requiring further reduction to the proposed roof height would result in significant modification to the existing building (noting that the existing building is non-compliant with the development standard) and so result in an unreasonable reduction to the existing habitable floor area and thus impact the overall amenity of the residents.
- The proposal has been designed with articulated facades to minimise the visual bulk from the street and adjoining properties.

The arguments provided by the Applicant are generally concurred with. In particular, it is again noted that the proposal will reduce the overall building height, despite remaining non-compliant with the development standard.

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

- 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.
- Flexibility in the application of the development standard will allow adaptation and reuse of existing built form for the changing needs of owners and occupants. This promotes ecologically sustainable development and the orderly development of land, thereby satisfying objects 1.3(b) and (c) 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 WLEP 2011.

It is considered on balance, that having regard to the particular circumstances, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall height	7.2m	8m	11.1%	No
B3 Side Boundary Envelope	East: 5m	Outside envelope (see <i>Figure 2</i>)	N/A	No
	West: 5m	Outside envelope (see <i>Figure 3</i>)	N/A	No

B5 Side Boundary Setbacks	East: 0.9m	Carport: Nil Entry Porch: 1.1m Dwelling: 2.3m	100% - -	No Yes Yes
	West: 0.9m	Swimming Pool: 1.6m - 1.7m Sauna: 0.9m - 1m Dwelling: 2.5m - 3.1m	- - -	Yes Yes Yes
B7 Front Boundary Setbacks	Primary (Crown Road): 6.5m	Dwelling: 5.9m	9.2%	No
	Secondary (Highview Avenue): 3.5m	Carport: 0.4m Swimming Pool 1.9m - 2.5m Dwelling / Deck 9.5m - 10.1m	88.6% 45.7% -	No No Yes
B9 Rear Boundary Setbacks	N/A - site has two road frontages	N/A	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (194.44sqm)	53% (257.7sqm)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	N/A	N/A
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

Clause B1 Wall Heights requires that walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space).

The proposal presents a wall height of 8m, measured at both the eastern and western side elevations, to the underside of the parapet, representing a 11.1% variation to the control.

Notably, the proposal largely retains external walls, with existing walls exhibiting approximately the same height, and only the altered roof form changing how the roof meets the external walls.

Merit consideration

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

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

Comment:

Notwithstanding the non-compliance, the proposed development is considered to be appropriately sited to minimise visual impacts caused by the proposed wall height. The breach is largely an existing one, occurring in part due to sloping topography down towards the north. It is considered that the visual impact of the development is minimised from adjoining

properties, streets, waterways and land zoned for public recreation purposes, particularly given that the changes will reduce the overall height of the dwelling.

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

Comment:

From the primary frontage (Crown Road), the development appears generally beneath the existing tree canopy level. The development appears larger at the secondary frontage (Highview Avenue), however, the site slopes towards this secondary frontage and there are little to no canopy trees existing on the property or within the Highview Avenue streetscape. It is assumed that the proposed development would be consistent with the general height of canopy trees. It is noted that the height of the development is generally consistent with surrounding development.

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

Comment:

The proposal is not considered to result in any unreasonable view impacts to and from public and private properties. The overall height of the dwelling is reduced due to proposed roof form changes.

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

Comment:

The extent of impacts are considered to be reasonable in the context of the site and adjacent properties. The overall height of the dwelling is reduced due to proposed roof form changes.

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

Comment:

The proposal responds appropriately to the site topography and minimises significant excavation of the natural landform.

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

Comment:

The proposal puts forward an acceptable roof design and roof form. The overall height of the dwelling is reduced due to proposed roof form changes. The roof form changes do not contribute to a significant increase in wall height from existing.

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

Figure 2 - Extract from Eastern Elevation with side boundary envelope encroachment in red.

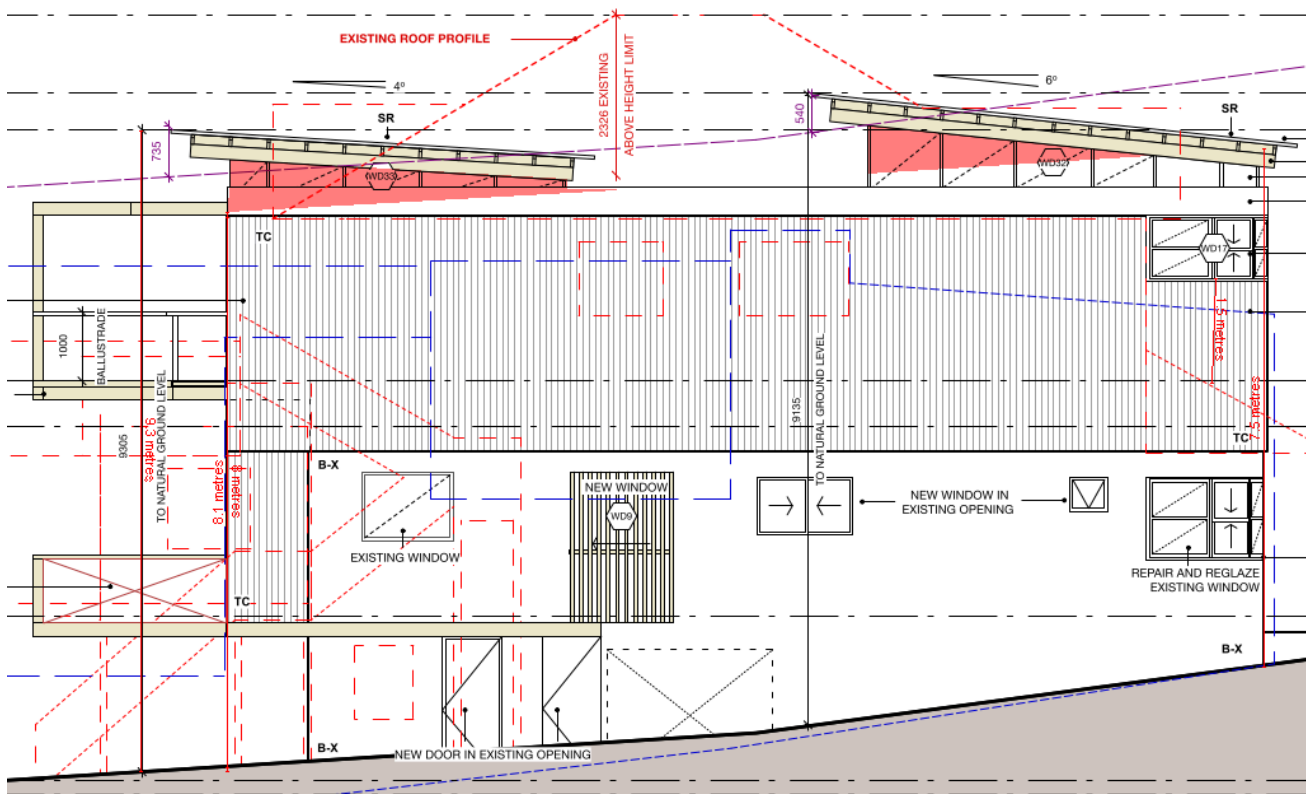


Figure 3 - Extract from Western Elevation with side boundary envelope encroachment in red.

Notably, the proposal largely retains external walls, with portions of these breaches caused by existing walls to be retained. The parapets and pop-up skillion roofs are the proposed elements which breach the side building envelope.

Merit consideration

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

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

Comment:

Notwithstanding the variation, the proposed alterations and additions are well removed from adjoining properties, and provide fully compliant side setbacks to the dwelling house at both eastern and western side elevations. The breach is largely an existing one, occurring in part due to topography sloping down toward the northern end of the site, and due to the reuse / adaptation of an existing structure, with existing non-compliances. The changed roof design reduces bulk, height and scale by lowering the roof height overall, and breaking up the design of the roof with pop-up skillion roof segments. Overall, the proposed alterations and additions are considered to result in a dwelling commensurate to that of surrounding development and not visually dominant by virtue of its height and bulk.

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

Comment:

The proposed alterations and additions to the dwelling house are compliant with side setback requirements, providing an appropriate level of spatial separation between the subject site and surrounding allotments. Furthermore, the proposal is not considered to result in any unreasonable amenity impacts on adjoining properties (including light, solar or privacy impacts), noting in particular that the overall height of the dwelling is reduced due to proposed roof form changes.

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

Comment:

The proposal responds appropriately to the site topography and minimises significant excavation of the natural landform.

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

B5 Side Boundary Setbacks

Description of non-compliance

Under Clause B5 Side Boundary Setbacks of the DCP, development is to maintain a minimum setback from the side boundaries of 0.9m. The control stipulates that the side boundary setback areas are to be landscaped and free of any above or below ground structures, car parking or site facilities other than driveways and fences.

All proposed elements, including the proposed swimming pool, sauna and dwelling house alterations and additions, comply with the west side boundary setback requirement.

At the east side boundary, the proposal has the following setbacks to various elements:

- Carport: Nil, representing a 100% variation.
- Entry Porch: 1.1m, compliant.
- Dwelling: 2.3m, compliant.

The only proposed element to breach the side setback requirement is the proposed carport, which is setback nil from the eastern side boundary. Notably, the property to the east of the subject site (81 Crown Road) has a garage with nil setback to the shared side boundary also at this location.

Merit consideration

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

- To provide opportunities for deep soil landscape areas.

Comment:

The proposal complies with the landscape open space requirements of WDCP Clause D1 Landscaped Open Space (LOS) and Bushland Setting. Therefore, sufficient opportunities for deep soil landscape areas are provided.

- *To ensure that development does not become visually dominant.*

Comment:

The dwelling itself and all other proposed elements are compliant with the side setback requirement. The non-compliant element is a single-storey, single space carport. This element is located adjacent to a solid garage, much larger in design, also with a nil to boundary setback. As such, this non-compliance is not considered to result in a visually dominate development.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

As above, the non-compliant element is a single-storey, single space carport. This element is located adjacent to a solid garage, much larger in design, also with a nil to boundary setback. As such, this non-compliance is not considered to contribute to excessive bulk and scale.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The proposed development is not expected to cause an unreasonable impact to the privacy, amenity or solar access of adjacent properties. Whilst the separation between the carport and the garage adjacent at 81 Crown Road will be nil, both are single-storey parking structures, and there is not anticipated to be any unreasonable amenity impacts as a result.

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

Comment:

The proposal is not considered to result in any unreasonable view impacts to and from public and private properties.

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

B7 Front Boundary Setbacks

Description of non-compliance

Under Clause B7 Front Boundary Setbacks of the DCP, development is to maintain a minimum

setback from the front boundary of 6.5m. Furthermore, an exception is provided for corner allotments or sites with a double street frontage, where the minimum front building setback is 6.5m to both frontages, which allows the front setback to be reduced to 3.5m for the secondary frontage, provided the character of the street is considered.

In this case, Crown Road is taken as the primary frontage and Highview Avenue is taken as the secondary frontage.

At the primary frontage, the proposed alterations and additions will not decrease the existing dwelling front setback, which at its closest is 5.9m at the ground floor. However, the proposal does include minor first floor additions which will expand the first floor over the footprint of the ground floor below, thereby reducing the first floor front setback from 7.5m to 5.9m. This is in line with the existing ground floor below, representing a 9.2% non-compliance with the 6.5m requirement.

At the secondary frontage, the dwelling and rear deck are compliant with the 3.5m control, exhibiting a 9.5m - 10.m setback. However, the proposed carport exhibits a 0.4m setback, representing a 88.6% non-compliance. The swimming pool exhibits a 1.9m - 2.5m setback, representing a maximum 45.7% non-compliance.

It is noted that WDCP Clause D16 Swimming Pools and Spa Pools stipulates that where there are two frontages, swimming pools and spas are not to be situated in the primary street frontage, which has been followed in this case. Furthermore, if the secondary frontage were to be a rear setback area, and subject to the requirements of WDCP B9 Rear Boundary Setbacks instead, swimming pools are permitted in cases where such outbuildings and other structures do not exceed 50% of the rear setback area. In this instance, the carport and swimming pool occupy approximate 50% of the secondary front setback area and are structures which would therefore be permitted in a rear setback area (subject to a merit assessment).

Merit consideration

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

- *To create a sense of openness.*

Comment:

The proposed development complies with the landscape open space requirements of WDCP Clause D1 Landscaped Open Space (LOS) and Bushland Setting. The primary front setback non-compliance is not considered to impinge on the sense of openness of the streetscape, given that it is largely existing, with the proposal only seeking to expand the first floor over the footprint of the ground floor below. The rear setback non-compliances are to small complementary elements to the dwelling house (a single-storey, single space carport and a swimming pool) and are not considered to impinge on the sense of openness of the Highview Avenue streetscape. It is also noted that surrounding development along the secondary frontage exhibit nil or minimal front boundary setbacks to parking structures, such as examples at 81 Crown Road and 3 Highview Avenue.

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

Comment:

The proposed building additions respect existing setback lines. Surrounding development along the secondary frontage exhibit nil or minimal front boundary setbacks to parking structures, such as examples at 81 Crown Road and 3 Highview Avenue. The proposed development is commensurate to the surrounding character and maintains the visual continuity and pattern of buildings and landscape elements.

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

Comment:

The proposal will not detract from the existing quality of streetscapes and public spaces. The proposal is of appropriate design and visual quality, and considers the existing streetscape.

- *To achieve reasonable view sharing.*

Comment:

The proposal is not considered to result in any unreasonable view impacts to and from public and private properties.

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

B9 Rear Boundary Setbacks

The subject site does not have a rear boundary. Rather the site has two front boundaries (a primary frontage to Crown Road and a secondary frontage to Highview Avenue) and two side boundaries. As such, the rear boundary control is not applicable in this case.

D16 Swimming Pools and Spa Pools

It is noted that this Clause stipulates the following:

- *Pools are not to be located in the front building setback.*
- *Where there are 2 frontages, swimming pools and spas are not to be situated in the primary street frontage.*

The subject site has two frontages and the proposed swimming pool is located within the secondary frontage, as required by this Clause. Whilst the proposed swimming pool is not compliant with the secondary frontage setback requirement of WDCP Clause B7 Front Boundary Setbacks, this is addressed a supportable on merit within that section of this report, with reference to the requirements of this Clause on swimming pool positioning.

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 \$13,074 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,307,397.

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 proposal, for alterations and additions to a dwelling house including a swimming pool and carport, has been referred to the Development Determination Panel (DDP) due to a proposed breach of the height of buildings development standards of greater than 10%.

Following a period of public exhibition, Council has received no submissions on this application.

Critical assessment issues included assessment of the Applicant's request to vary a development standard established by Warringah Local Environmental Plan (WLEP) 2011 Clause 4.3 Height of buildings, as well as assessment of Warringah Development Control Plan built form non-compliances with wall height, building envelope, side setbacks and front setbacks controls.

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 Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6. 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 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 Council as the consent authority grant Development Consent to DA2024/1139 for Alterations and additions to a dwelling house including a swimming pool and carport on land at Lot 6 DP 17127, 83 Crown Road, QUEENSCLIFF, 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
DA1	-	Site Plan / Analysis	Incidental Architecture	August 2024
DA2	-	Basement Floor Plan	Incidental Architecture	August 2024
DA3	-	Ground Floor Plan	Incidental Architecture	August 2024
DA4	-	First Floor Plan	Incidental Architecture	August 2024
DA5	-	North and East Elevations	Incidental Architecture	August 2024
DA6	-	South and West Elevations	Incidental Architecture	August 2024
DA7	-	Section AA	Incidental Architecture	August 2024
DA8	-	Demolition Plans	Incidental Architecture	August 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. A1757599_02	-	Incidental Architecture	6 August 2024
Waste Management Plan - 83 Crown Road, Queenscliff	-	-	-
Landscape & Private Open Space Area Calculation Plan, Drawing No. DA12	-	Incidental Architecture	August 2024

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	Undated

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

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

3. **Prescribed Conditions**

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

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

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

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that

applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

- iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

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

5. **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 (located on the First Floor of the approved plans).

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

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$13,073.97 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 \$1,307,397.00.

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. Stormwater Disposal

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

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

9. Vehicle Crossings Application

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 4.0 metres wide on the kerb line and a maximum of 6.0 metres wide on the property boundary in accordance with Northern Beaches Council Standard Drawing A4 3330/1 N in accordance with Section 138 of the Roads Act 1993. The vehicle crossing shall be a minimum of 500mm clear of all utility access covers.

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.

10. 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.

11. Amendments to the approved plans

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

- The Basement Floor Kitchenette is not to contain built in cooking facilities.

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 and to ensure compliance with the terms of this consent.

12. Boundary Identification Survey

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

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

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

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

13. Erosion and Sediment Control Plan

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

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

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

14. **Compliance with Standards**

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

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

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

15. **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

16. **Tree Removal Within the Property**

a) this consent approves the removal of existing prescribed trees on the subject site as listed below:

i) the two trees shown for removal in the rear setback on drawing Basement Floor Plan (DA2) by Incidental Architecture and dated August 2024.

b) identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

17. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment

control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

DURING BUILDING WORK

18. Tree and Vegetation Protection

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

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

b) tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) the Principal Certifier must ensure that:

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

Reason: Tree and vegetation protection.

19. **Road Reserve**

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

Reason: Public safety.

20. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

21. **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.

22. **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.

23. **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.

24. **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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

25. **Required Tree Planting**

a) one locally native tree shall be planted within the rear setback to achieve at least 6 metres height at maturity, and in accordance with the following:

i) tree planting shall be a minimum pre-ordered planting size of 75 litres; generally selected from Northern Beaches Council's Native Planting Guide, or Council's Tree Guide; 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.

b) 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.

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

Reason: To maintain environmental amenity.

26. **Landscape Completion**

a) any new landscape works are to be implemented in accordance with the following conditions:

i) landscape works are to be contained within the legal property boundaries,

ii) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting, and at minimum 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,

iii) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

b) prior to the issue of an Occupation Certificate, details shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

27. **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.

28. Reinstatement of Kerb

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

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

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

29. Certification of Off Street Parking Works

The Applicant shall submit a certificate from a suitably qualified person certifying that the parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

30. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

31. Waste Management Confirmation

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

32. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

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

33. **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) 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.

34. **Swimming Pool & Sauna Noise**

The swimming pool motor / filter & sauna 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.

35. **No Approval for Secondary Dwelling (On-Going)**

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 (located on the First Floor of the approved plans).