

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2023/1245 |
|----------------------------|-------------|

|   |   |
|---|---|
| <b>Responsible Officer:</b>               | Claire Ryan   |
| <b>Land to be developed (Address):</b>    | Lot 40 DP 13760, 212 Hudson Parade CLAREVILLE NSW 2107<br>Lot PO 6770, 212 Hudson Parade CLAREVILLE NSW 2107<br>Lot LIC 635271, 212 Hudson Parade CLAREVILLE NSW 2107 |
| <b>Proposed Development:</b>              | Demolition works and construction of a dwelling house including swimming pool   |
| <b>Zoning:</b>                            | C4 Environmental Living   |
| <b>Development Permissible:</b>           | Yes   |
| <b>Existing Use Rights:</b>               | No  |
| <b>Consent Authority:</b>                 | Northern Beaches Council  |
| <b>Land and Environment Court Action:</b> | No  |
| <b>Owner:</b>                             | Victor George Micallef<br>Jayne Ann Micallef  |
| <b>Applicant:</b>                         | Victor George Micallef  |

|                                  |  |
|----------------------------------|--|
| <b>Application Lodged:</b>       | 06/09/2023                                 |
| <b>Integrated Development:</b>   | No   |
| <b>Designated Development:</b>   | No   |
| <b>State Reporting Category:</b> | Residential - Single new detached dwelling |
| <b>Notified:</b>                 | 13/09/2023 to 27/09/2023                   |
| <b>Advertised:</b>               | Not Advertised                             |
| <b>Submissions Received:</b>     | 2  |
| <b>Clause 4.6 Variation:</b>     | Nil  |
| <b>Recommendation:</b>           | Approval                                   |

|                                 |                 |
|---------------------------------|-----------------|
| <b>Estimated Cost of Works:</b> | \$ 2,200,000.00 |
|---------------------------------|-----------------|

### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition of the existing dwelling house, and construction of a new three-storey detached dwelling house, as follows:

- Ground floor: Double attached garage, main bedroom suite with ensuite and walk-in robe, music room, storage, and terrace,
- Mid-level: Four bedrooms (each with ensuite), living room, and terrace,

- Lower level: Open plan living room, dining room and kitchen, scullery, laundry, and terrace,
- New driveway with turning bay,
- Swimming pool with spa, and
- Landscaping works.

The above is a description of works based on the amended plans submitted on 12 February 2024 in response to Council's concerns with building height, building envelope, and works in the foreshore area. In accordance with Council's Community Participation Plan, the amended plans were not publicly notified, as they amount to a lesser environmental impact than the original plans.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
 Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks  
 Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection  
 Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards  
 Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area  
 Pittwater Local Environmental Plan 2014 - 7.10 Essential services  
 Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality  
 Pittwater 21 Development Control Plan - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - D1.11 Building envelope

## SITE DESCRIPTION

|                              |   |
|------------------------------|---|
| <b>Property Description:</b> | Lot 40 DP 13760 , 212 Hudson Parade CLAREVILLE NSW 2107<br>Lot PO 6770 , 212 Hudson Parade CLAREVILLE NSW |
|------------------------------|---|

|  |   |
|--|---|
|  | <p>2107<br/>Lot LIC 635271 , 212 Hudson Parade CLAREVILLE NSW 2107</p>  |
| <p><b>Detailed Site Description:</b></p> | <p>The subject site consists of one allotment located on the south-western side of Hudson Parade, Clareville.</p> <p>The site is irregular in shape with a frontage of 10.06 metres along Hudson Parade and a depth of 52.12 metres. The site has a surveyed area of 1,307m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living zone and accommodates a two-storey detached dwelling house with double garage and a boat shed.</p> <p>The site slopes down approximately 14 metres from north (front) to south (rear) to the mean high water mark, and contains some vegetation.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by multi-storey residential developments.</p> |

Map:



## SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site. The land has been used for residential purposes for an extended period of time.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration  | Comments  |
|---|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument   | See discussion on “Environmental Planning Instruments” in this report.  |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | There are no current draft environmental planning instruments.  |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan  | Pittwater 21 Development Control Plan applies to this proposal.   |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement   | None applicable.  |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <p><u>Part 4, Division 2</u> of the EP&amp;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&amp;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&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the building envelope. Sufficient information was provided in February 2024.</p> <p><u>Clause 61</u> of the EP&amp;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&amp;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&amp;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&amp;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,   | (i) <b>Environmental Impact</b><br>The environmental impacts of the proposed development on the   |

| Section 4.15 Matters for Consideration   | Comments   |
|--|--|
| including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>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 13/09/2023 to 27/09/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

| Name:   | Address:                                  |
|---|---|
| Blackwattle Planning  | 64 Nareen Parade NORTH NARRABEEN NSW 2101 |
| Withheld<br>Withheld<br>Ms Lynette Margaret Chalmers<br>R J Chalmers & Co Pty Ltd | CLAREVILLE NSW 2107                       |
| Withheld<br>Withheld<br>Ms Lynette Margaret                                       | 208 Hudson Parade CLAREVILLE NSW 2107     |

| Name:                                 | Address: |
|---------------------------------------|----------|
| Chalmers<br>R J Chalmers & Co Pty Ltd |          |

The following issues were raised in the submissions:

- Insufficient information demonstrating the impact on solar access for 210 Hudson Parade.
- Excessive building height - The proposal cannot rely on Clause 4.3(2D) as it does not achieve the height of building objectives, and is not on a slope of at least 30%.
- View loss to 210 Hudson Parade.
- Excessive building envelope non-compliance.
- Unacceptable development in the foreshore area.
- Concern regarding excavation impacts to adjoining and nearby properties, and request for dilapidation reports to be prepared.

The above issues are addressed as follows:

#### **Amenity - Solar Access and View Loss**

##### Comment:

The proposed development is acceptable with respect to solar access and view loss for the reasons detailed in the sections of this report relating to clauses C1.3 View Sharing and C1.4 Solar Access of the Pittwater 21 Development Control Plan.

#### **Excessive Built Form - Height and Envelope**

##### Comment:

The proposed height and envelope are acceptable for the reasons detailed in the sections of this report relating to Clause 4.3 Height of Buildings of the Pittwater Local Environmental Plan 2014, and Clause D1.11 Building Envelope of the Pittwater 21 Development Control Plan. The proposed development is demonstrated to achieve the objectives of Clause 4.3 and is on a slope of 30%.

#### **Building in the Foreshore Area**

##### Comment:

The amended plans received in February 2024 deleted works that were not considered exemptions in the foreshore area under Clause 7.8 of the Pittwater Local Environmental Plan 2014.

#### **Excavation Impacts**

##### Comment:

The proposed development and supporting geotechnical report have been reviewed by Council's Development Engineer, who is supportive, subject to conditions of consent. Additionally, conditions have been included in the recommendation of this report requiring preparation of pre- and post-construction dilapidation reports for key properties.

As a result of the amended plans, one further submission was received. The following issues were raised:

- Acknowledgement of the reduced building height and amended roof form.
- Reiteration of the solar access concerns, and that elevational shadow diagrams were not provided to depict the impact to 210 Hudson Parade.
- Reiteration of concern with respect to excavation, and request for dilapidation reports.

The Assessing Officer has reviewed the reiterated concerns, and considers that the responses detailed above remain accurate.

## REFERRALS

| Internal Referral Body           | Comments   |
|----------------------------------|--|
| NECC (Bushland and Biodiversity) | <p>The Development Application seeks consent for Demolition works and construction of a dwelling house including swimming pool.</p> <p>Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• Pittwater LEP 2014 cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</li> <li>• SEPP (Resilience and Hazards) 2021 cl. 2.10 Development on land within the coastal environment area</li> </ul> <p>The Arboricultural Impact Assessment submitted with the application confirms retention of all prescribed trees within the site. The proposal will not impact fauna habitat within the site, and as such the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p>The Landscape Plan provides suitable native landscaping within the site, compliant with relevant controls.</p> <p>No objections in relation to biodiversity, subject to conditions.</p> |
| NECC (Coast and Catchments)      | <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience &amp; Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p><b>Coastal Management Act 2016</b></p> <p>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p><b>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</b></p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R &amp; H) apply for this DA.</p> <p><u>Comment:</u></p>   |

| Internal Referral Body           | Comments  |
|----------------------------------|---|
|                                  | <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Nolan Planning Consultants dated August 2023, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&amp;H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021.</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p><b>Estuarine Risk Management</b><br/>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Nolan Planning Consultants dated August 2023 the ground floor level for the proposed additions and alterations is above the applicable EPL for the site. The proposed development is therefore not required to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p><b>Development on Foreshore Area</b><br/>A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>The DA proposes construction of swimming pool and paving works within the foreshores area. All these proposed works are consistent with Clause 7.8(2)(b).</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Nolan Planning Consultants dated August 2023, the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p> |
| NECC (Development Engineering)   | The proposal is for the construction of a new dwelling. The submitted stormwater plan discharging to Pittwater via the existing system is satisfactory. The submitted geotechnical report addresses the DCP controls. No objections to approval subject to conditions as recommended.   |
| NECC (Riparian Lands and Creeks) | <p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards)</li> </ul>  |

| Internal Referral Body | Comments  |
|------------------------|---|
|                        | <p>2021; and</p> <ul style="list-style-type: none"> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>The site abuts Pittwater estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of Pittwater estuary, or the quantity and quality of surface and ground water flows that it receives.</p> <p>Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>On assessment this application meets the requirements of the relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> |

| External Referral Body                                    | Comments   |
|---|--|
| Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48 | The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.   |
| Aboriginal Heritage Office                                | <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1417537S\_02 dated 8 February 2024). The BASIX Certificate indicates that the development will achieve the following:

| Commitment      | Required Target | Proposed |
|-----------------|-----------------|----------|
| Water           | 40              | 40       |
| Thermal Comfort | Pass            | Pass     |
| Energy          | 50              | 50       |

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 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.

### SEPP (Resilience and Hazards) 2021

#### Chapter 2 – Coastal Management

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

#### **Division 3 Coastal environment area**

#### **2.10 Development on land within the coastal environment area**

- 1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

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

Comment:

The proposed development is supported by a geotechnical risk assessment report and architectural plans that demonstrate that the proposed development is of acceptably low risk. As such, the proposed development is not anticipated to result in adverse impact to the above matters.

- 2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
  - a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
  - b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

As demonstrated by the architectural plans and supporting reports, the proposed works are demonstrated to be designed, sited and management so as not to result in any adverse impact.

**Division 4 Coastal use area**

**2.11 Development on land within the coastal use area**

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

*sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

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

**Comment:**

The proposed development is supported by a geotechnical risk assessment report and architectural plans that demonstrate that the proposed development is of acceptably low risk. As such, the proposed development is designed, sited and will be managed so as not to result in adverse impact to the above matters. The proposed development has been reviewed by Council's Development Engineer and the Aboriginal Heritage Office (amongst others), who are supportive of the application, subject to conditions of consent. The proposal has been considered in relation to the coastal and built environment, bulk and scale throughout the assessment, as demonstrated within this report.

**Division 5 General**

**2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

*Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

**Comment:**

The proposed development is not anticipated to result in any increased risk of coastal hazards on the subject site and adjoining sites. The proposed development has been reviewed by Council's relevant officers, who are supportive of the application, subject to conditions of consent.

The application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

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

**Pittwater Local Environmental Plan 2014**

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

**Principal Development Standards**

| Standard                         | Requirement | Proposed  | % Variation | Complies |
|----------------------------------|-------------|-----------|-------------|----------|
| Height of Buildings - CL 4.3(2D) | 10m         | Max. 9.2m | -           | Yes      |

### Compliance Assessment

| Clause                                    | Compliance with Requirements |
|---|------------------------------|
| 4.3 Height of buildings                   | Yes                          |
| 7.1 Acid sulfate soils                    | Yes                          |
| 7.2 Earthworks                            | Yes                          |
| 7.6 Biodiversity protection               | Yes                          |
| 7.7 Geotechnical hazards                  | Yes                          |
| 7.8 Limited development on foreshore area | Yes                          |
| 7.10 Essential services                   | Yes                          |

### Detailed Assessment

#### **4.3 Height of buildings**

The proposed development includes a carport structure (with secondary dwelling below) to a maximum height of 10 metres. Clause 4.3(2D) provides that development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

*(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*

#### Comment:

Recent caselaw (*Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582*) establishes that height of building is measured to ground level (existing), as per the definition in the Dictionary of the Pittwater Local Environmental Plan 2011 to the highest point of the ridge above. The portion of the development above 8.5 metres is for the purpose of the dwelling roof, thereby not being significant in bulk and scale. The non-compliance arises due to the existing excavation of the site, and the development would be compliant with the 8.5 metres if the natural extrapolated ground level were used for height calculation. The portion of the development in question is shown below highlighted in yellow and circled in red:

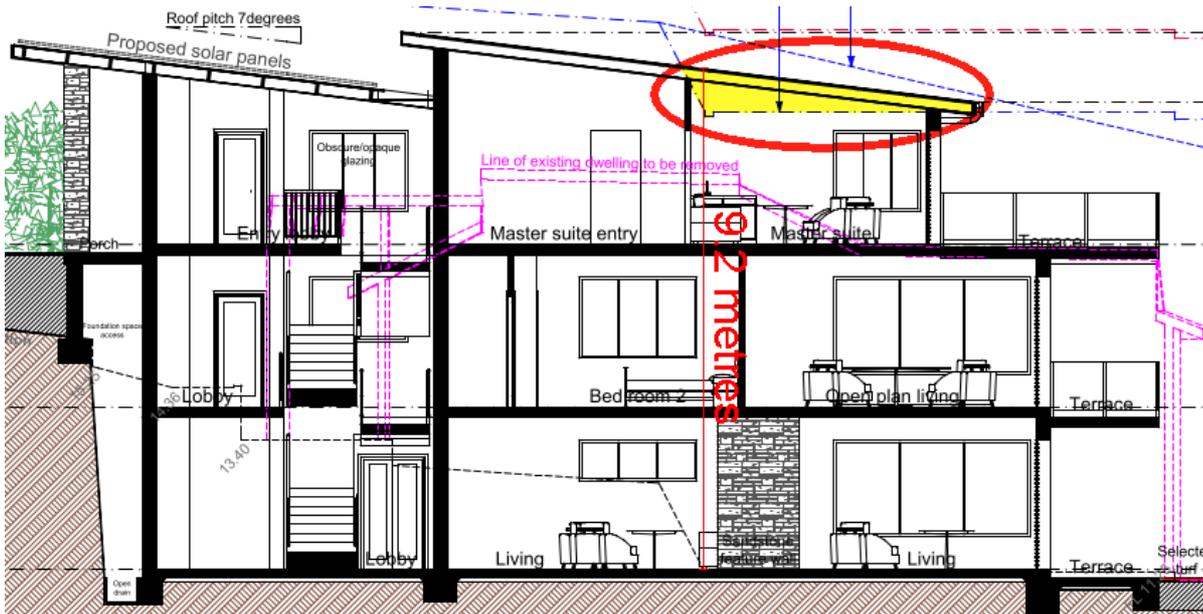


Figure 1: Excerpt from the section highlighting the extent of building height above 8.5 metres.

(b) the objectives of this clause are achieved, and

Comment:

The objectives of Clause 4.3 Height of Buildings are addressed as follows:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

Comment:

The proposed dwelling employs reasonable floor to ceiling measurements of 2.4 to 2.8 metres, contributing to a minimal overall height. The proposed building envelope is acceptable on merit for the reasons detailed in the sections of this report relating to Clause D1.11 Building Envelope of the P21 DCP. The proposal is otherwise compliant with built form controls. As such, the proposed development is of a height and scale anticipated for the site and is therefore consistent with the overall character of the locality.

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

Comment:

The proposed dwelling is of a size and scale anticipated by the built form controls applicable to the subject site on merit (as detailed throughout this report). The proposed development achieves compliance with the numerical requirement of this height of building control, being less than the maximum 10 metres in consideration of the existing excavated levels, and less than the maximum 8.5 metres when calculated from the extrapolated natural ground level. As such, the proposed development is compatible with nearby development.

(c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposed development is acceptable on merit with respect to overshadowing for the reasons detailed in the section of this report relating to Clause C1.4 Solar Access of the P21 DCP.

(d) to allow for the reasonable sharing of views,

Comment:

The proposed development is acceptable on merit with respect to sharing of views for the

reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

*(e) to encourage buildings that are designed to respond sensitively to the natural topography,*  
Comment:

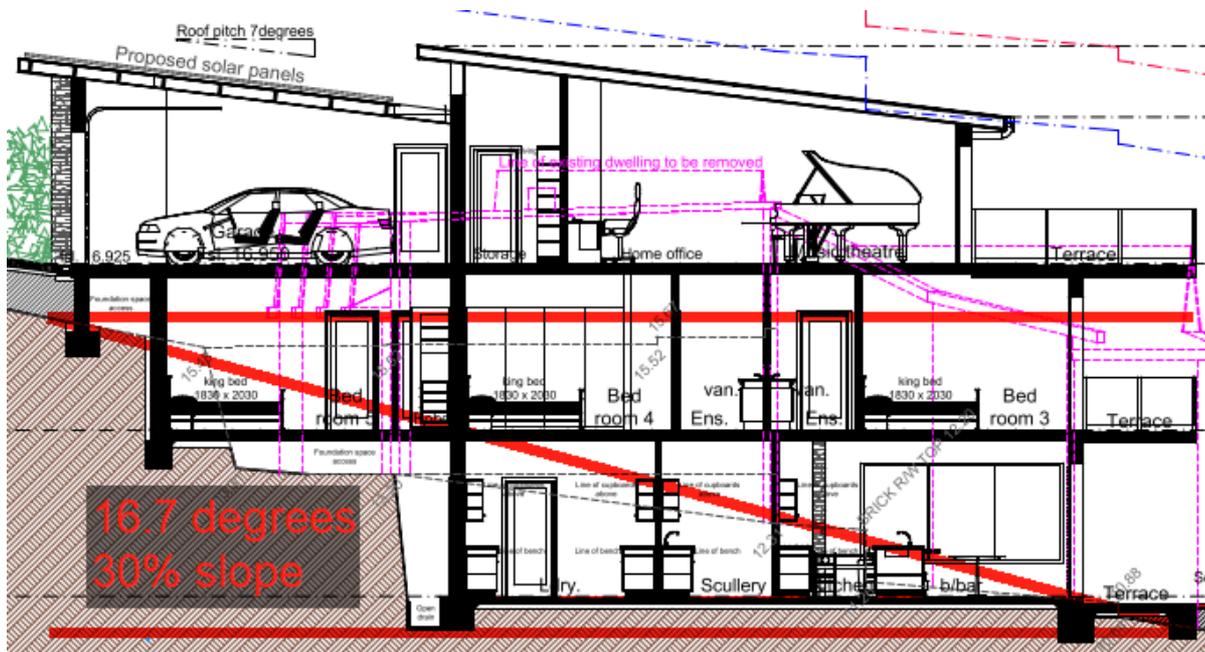
The proposed development relies on reasonable earthworks for its design. The overall extent of excavation is minimised in this regard. The proposal is also supported by a geotechnical assessment report addressing the earthworks required, which establishes that the earthworks are of acceptable low risk in relation to site stability. Further, the height of building does not exceed 10 metres at any point, and steps down with the slope of the land.

*(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*  
Comment:

The subject site is visible from the Pittwater Waterway, though is of acceptable design and character in this regard. The subject site is not a heritage item, adjacent to a heritage item, or in a heritage conservation zone.

*(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*  
Comment:

The proposed development is situated on a slope of 16.7 degrees, being 30%.



Above: The slope of the site, being a gradient of 30%.

*(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

Comment:

The proposed development relies on reasonable earthworks for its design. The overall extent of excavation is minimised in this regard. The proposal is also supported by a geotechnical assessment report addressing the earthworks required, which establishes that the earthworks are of acceptable low risk in relation to site stability. Further, the height of building does not exceed 10 metres at any point, and steps down with the slope of the land.

## 7.1 Acid sulfate soils

Clause 7.1 Acid Sulfate Soils requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map. The works are not anticipated to result in risk associated with acid sulfate soils.

## 7.2 Earthworks

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

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

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

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

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

Comment:

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

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

Comment:

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

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

Comment:

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

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

Comment:

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

*(f) the likelihood of disturbing relics*

Comment:

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

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

Comment:

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

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

Comment:

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

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

Comment:

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

## 7.6 Biodiversity protection

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

*(a) whether the development is likely to have:*

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

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

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

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

Comment:

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

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

Comment:

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

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

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

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

*(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

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

## 7.7 Geotechnical hazards

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

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

Comment:

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

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

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

Comment:

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

- (b) the consent authority is satisfied that:*

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

Comment:

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

## 7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed development is for demolition works and construction of a dwelling house with swimming pool. The works that protrude into the foreshore area are for the swimming pool and associated coping, which are exempt under Clause 7.8(2).

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
  - *pollution or siltation of the waterway, or*
  - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
  - *an adverse effect on drainage patterns, or*
  - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is consistent with the objectives of the C4 Environmental Living zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession,

or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

### 7.10 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

Comment:

The subject site is supplied with the above essential services. The proposed development retains and relies upon these services.

### Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control  | Requirement                        | Proposed   | % Variation* | Complies |
|---------------------|------------------------------------|--|--------------|----------|
| Front building line | Min. 6.5m                          | Min. 10.2m   | -            | Yes      |
| Rear building line  | FSBL                               | >FSBL  | -            | Yes      |
| Side building line  | SE: Min. 2.5m                      | Min. 2.725m  | -            | Yes      |
|                     | NW: Min. 1m                        | Min. 1.43m   | -            | Yes      |
| Building envelope   | SE: 3.5m                           | Max. 800mm outside envelope                        | 12.5%        | No       |
|                     | NW: 3.5m                           | Max. 1m outside envelope                           | 16.95%       | No       |
| Landscaped area     | Min. 60%<br>(622.2m <sup>2</sup> ) | 64.4% (668.12m <sup>2</sup> , incl. 6% hard space) | -            | Yes      |

### Compliance Assessment

| <b>Clause</b>   | <b>Compliance with Requirements</b> | <b>Consistency Aims/Objectives</b> |
|---|-------------------------------------|------------------------------------|
| A1.7 Considerations before consent is granted                       | Yes                                 | Yes                                |
| A4.1 Avalon Beach Locality  | No                                  | Yes                                |
| B1.4 Aboriginal Heritage Significance                               | Yes                                 | Yes                                |
| B3.1 Landslip Hazard  | Yes                                 | Yes                                |
| B3.6 Contaminated Land and Potentially Contaminated Land            | Yes                                 | Yes                                |
| B3.7 Estuarine Hazard - Low density residential                     | Yes                                 | Yes                                |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community | Yes                                 | Yes                                |
| B4.16 Seagrass Conservation   | Yes                                 | Yes                                |
| B4.19 Estuarine Habitat   | Yes                                 | Yes                                |
| B5.13 Development on Waterfront Land                                | Yes                                 | Yes                                |
| B5.15 Stormwater  | Yes                                 | Yes                                |
| B6.1 Access driveways and Works on the Public Road Reserve          | Yes                                 | Yes                                |
| B6.3 Off-Street Vehicle Parking Requirements                        | Yes                                 | Yes                                |
| B8.1 Construction and Demolition - Excavation and Landfill          | Yes                                 | Yes                                |
| B8.3 Construction and Demolition - Waste Minimisation               | Yes                                 | Yes                                |
| B8.4 Construction and Demolition - Site Fencing and Security        | Yes                                 | Yes                                |
| C1.1 Landscaping  | Yes                                 | Yes                                |
| C1.2 Safety and Security  | Yes                                 | Yes                                |
| C1.3 View Sharing   | Yes                                 | Yes                                |
| C1.4 Solar Access   | No                                  | Yes                                |
| C1.5 Visual Privacy   | Yes                                 | Yes                                |
| C1.6 Acoustic Privacy   | Yes                                 | Yes                                |
| C1.7 Private Open Space   | Yes                                 | Yes                                |
| C1.12 Waste and Recycling Facilities                                | Yes                                 | Yes                                |
| C1.13 Pollution Control   | Yes                                 | Yes                                |
| C1.17 Swimming Pool Safety  | Yes                                 | Yes                                |
| C1.23 Eaves   | Yes                                 | Yes                                |
| D1.1 Character as viewed from a public place                        | Yes                                 | Yes                                |
| D1.5 Building colours and materials                                 | Yes                                 | Yes                                |
| D1.8 Front building line  | Yes                                 | Yes                                |
| D1.9 Side and rear building line                                    | Yes                                 | Yes                                |
| D1.11 Building envelope   | No                                  | Yes                                |
| D1.14 Landscaped Area - Environmentally Sensitive Land              | Yes                                 | Yes                                |
| D1.20 Scenic Protection Category One Areas                          | Yes                                 | Yes                                |

### Detailed Assessment

#### A4.1 Avalon Beach Locality

The proposed development includes three storeys, where the locality calls for two-storey development. However, the development involves minimal environmental impact, is set below the general tree canopy height, includes building modulation to minimise bulk, steps with the topography of the land, and provides an appropriate balance between respecting the landform and encouraging development. As such, the development achieves the intention of the desired character of the area and is acceptable in this regard.

#### C1.3 View Sharing

The submission from 210 Hudson Parade raised concern that the proposed development will cause view loss. The development is considered against the underlying outcomes of the control as follows:

*A reasonable sharing of views amongst dwellings.*

Comment:

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

##### 1. Nature of the views affected

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

Comment to Principle 1:

The affected view from 210 Hudson Parade is to the southeast towards Pittwater waterway and its interface with the land. The view does not contain icons. The view is partially obstructed by the existing dwelling house on the subject site.

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

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

Comment to Principle 2:

The affected view is obtained from a standing and seated position across the south-eastern side boundary of 210 Hudson Parade, from the southeastern-most point of the upper floor rear balcony.



Above: The affected view from 210 Hudson Parade, from a standing position on the southeastern-most edge of the upper floor rear balcony, looking south east across the side boundary towards the subject site.

### 3. Extent of impact

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

#### Comment to Principle 3:

The portion of the view affected by the proposed development is proportionally small compared to the panoramic view obtained to the south, west and north west that will remain unaffected. Additionally, the affected portion of view is obtained from the southeastern-most edge of the balcony only, looking somewhat backwards. The overall impact of the proposed development on the view from 210 Hudson Parade (to the south east) is minor. Below is a series of photos joined for the purpose of demonstrating the whole view form the balcony.



Above: The view from a standing position on the upper floor rear balcony at 210 Hudson Parade.

The approximate standing position of the above photos is shown in the figure below by the red spot. Note the existing dwelling house on the subject site is not visible from this point.



Above: The location from which the above photos were taken at 210 Hudson Parade.

#### 4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The proposed development includes non-compliance with the building envelope control for both side elevations. The non-compliance is demonstrated to be acceptable for the reasons detailed in the section of this report relating to Clause D1.11 of the P21 DCP. The main reason for the envelope breach is due to the topography of the land. The proposal is otherwise wholly compliant with the applicable built form controls, so is of bulk and scale anticipated for the site. The portion of view loss resulting from the the proposed development is not attributable to the non-compliant building envelope, as the same level of view loss would be experienced with a compliant development. To retain the portion of view would preclude redevelopment of the site to the same extent, preventing construction of a floor level above the existing dwelling. This is not considered to be a reasonable or orderly development outcome. The proposed development provides for reasonable view sharing, and is therefore acceptable.

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

Comment:

The proposed development is designed and sited so as not to unreasonably obstruct view to or from

public or private places, including to water, headlands, beaches and the bush.

*Canopy trees take priority over views.*

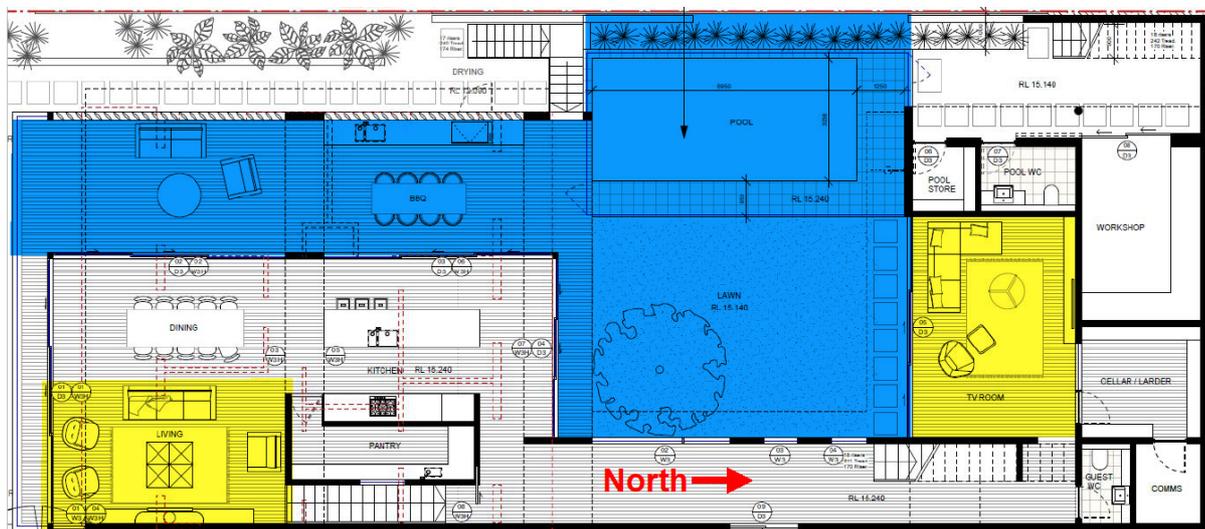
**Comment:**

The proposed development does not prioritise views over canopy trees, as demonstrated by the arborist report that details no tree removal is required.

**C1.4 Solar Access**

The submission from 210 Hudson Parade raised concern about overshadowing impacts resulting from the proposed development. It is clear, given the orientation of the lots, that the proposed development will not result in overshadowing to 210 Hudson Parade between 9am and 3pm at midwinter (being the key time of solar access assessment). 210 Hudson Parade is set to the north-west of the subject site, and the submitted shadow diagrams demonstrate no impact to that property accordingly. As such, the elevation shadow diagrams requested by the owner of 210 Hudson Parade are not required for satisfaction of this control.

The property to the south-east at 214 Hudson Parade is subject to additional shadow resulting from the proposed development. This control requires that the main private open space and windows to the principal living area of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Construction of a recent development (DA2021/1790) at 214 Hudson Parade is underway. Once construction has been completed, the principal living areas (yellow) and private open space (blue) will be located as shown below:



*Above: The private open space (blue) and principal living areas (yellow) of 214 Hudson Parade.*

The northern-most portion of private open space (the pool and lawn) will remain unaffected by the proposed development, given they are set further to the north than the proposed development. The southern-most portion of private open space (the BBQ area and deck) are set behind privacy screening that prevents solar access and creates self-shadow. The two principal living areas of 214 Hudson Parade will be unaffected by the proposed development with respect to solar access as they are set to the east, away from the subject site, with no windows facing the development. The proposed development is therefore compliant with the requirements of this control.

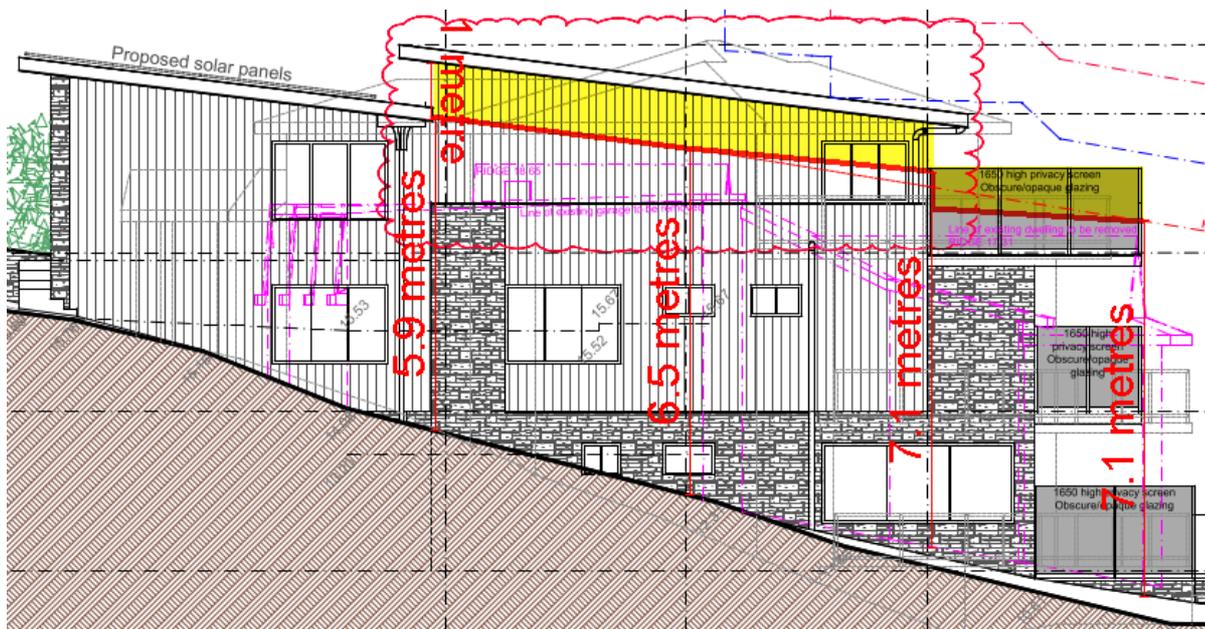
**D1.11 Building envelope**

The proposed development includes breaches to the eastern and western elevations of the dwelling house, as follows:

- South-eastern elevation: Max. 800mm outside envelope
- North-western elevation: Max. 1m outside envelope



Above: The north-western elevation of the dwelling house, with the envelope breach shown in yellow.



Above: The south-eastern elevation of the dwelling house, with the envelope breach shown in yellow.

With reference to the above building envelope breaches, the underlying outcomes of the control are addressed as follows:

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

Comment:

The proposed development is acceptable with respect to the requirements of the locality for the reasons detailed in the section of this report relating to Clause A4.1 Avalon Beach Locality.

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

Comment:

The subject site slopes such that the proposed breaches to the building envelope will not be readily visible from the streetscape. The dwelling house is compliant with the required side setbacks, and overall building height, demonstrating and appropriate bulk and scale. The works are generally set below the general height of surrounding trees.

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

Comment:

The proposed dwelling house is adequately integrated with the landform in that it does not rely on unreasonable excavation, and suitably steps down with the topography of the site to minimise bulk and scale.

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

Comment:

The breach to building envelope for the dwelling house is due to the steep topography. The proposed dwelling has reasonably limited the extent to which it expands to each site boundary, in order to reduce the bulk and scale. The design limits the floor-to-ceiling heights and slab thicknesses, in order to reduce the overall height, and therefore building envelope non-compliance. The proposed dwelling house provides compliant setbacks, and landscaped area, demonstrating that the overall building footprint is as anticipated for the site. The proposed dwelling house does not result in any unreasonable impact with respect to amenity (view sharing, privacy, and solar access), as demonstrated throughout this report.

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

Comment:

The proposed development, despite its non-compliance with the building envelope control, does not result in unreasonable view loss to or from public or private places, as detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

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

Comment:

The proposed development is acceptable in relation to the requirements of Clause C1.4 Solar Access of the P21 DCP, and is compliant with the requirements of C1.5 Visual Privacy of the P21 DCP. As such, the proposed development provides a reasonable level of amenity for surrounding properties and the subject site.

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

Comment:

The proposed dwelling house does not require unreasonable removal of vegetation. The proposal is supported by a suitable landscape plan and arborist report, demonstrating acceptable tree removal and planting is achieved.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

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

A monetary contribution of \$22,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,200,000.

## **CONCLUSION**

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

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

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2023/1245 for Demolition works and construction of a dwelling house including swimming pool on land at Lot 40 DP 13760, 212 Hudson Parade, CLAREVILLE, Lot PO 6770, 212 Hudson Parade, CLAREVILLE, Lot LIC 635271, 212

Hudson Parade, CLAREVILLE, subject to the conditions printed below:

### Terms and Reasons for Conditions

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

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

| Approved Plans |                 |                                       |            |                  |
|----------------|-----------------|---------------------------------------|------------|------------------|
| Plan Number    | Revision Number | Plan Title                            | Drawn By   | Date of Plan     |
| DA.001         | D               | Ground Level Floor Plan               | RJP Design | 29 January 2024  |
| DA.002         | D               | Mid Level Floor Plan                  | RJP Design | 29 January 2024  |
| DA.003         | D               | Lower Level Floor Plan                | RJP Design | 29 January 2024  |
| DA.004         | D               | Roof Level Plan                       | RJP Design | 29 January 2024  |
| DA.007         | D               | North Western Elevation               | RJP Design | 29 January 2024  |
| DA.008         | D               | South Eastern Elevation               | RJP Design | 29 January 2024  |
| DA.009         | C               | Section A/1                           | RJP Design | 29 January 2024  |
| DA.010         | C               | Section A/2                           | RJP Design | 29 January 2024  |
| DA.011         | D               | Section A/3                           | RJP Design | 29 January 2024  |
| DA.012         | D               | Section A/4                           | RJP Design | 29 January 2024  |
| DA.013         | C               | Section A/5                           | RJP Design | 29 January 2024  |
| DA.014         | C               | Section A/6                           | RJP Design | 29 January 2024  |
| DA.015         | C               | Section A/7                           | RJP Design | 29 January 2024  |
| DA.300         | B               | Colours & Finishes Schedule - Sheet 1 | RJP Design | 17 February 2024 |

|         |   |                                       |                                   |                  |
|---------|---|---------------------------------------|-----------------------------------|------------------|
| DA.301  | B | Colours & Finishes Schedule - Sheet 2 | RJP Design                        | 17 February 2024 |
| DA.500  | B | Window Schedule                       | RJP Design                        | 29 January 2024  |
| DA.501  | B | Window Schedule                       | RJP Design                        | 29 January 2024  |
| C01     | B | Roof Stormwater                       | Development Engineering Solutions | 7 February 2024  |
| C02     | B | Ground Floor Drainage                 | Development Engineering Solutions | 7 February 2024  |
| C03     | B | Mid Floor Drainage                    | Development Engineering Solutions | 7 February 2024  |
| C04     | B | Lower Floor Drainage                  | Development Engineering Solutions | 7 February 2024  |
| C04     | B | Longsection Through Building          | Development Engineering Solutions | 7 February 2024  |
| Sht-101 | F | Master Landscape Plan                 | Jamie King Landscape Architect    | 1 February 2024  |
| Sht-102 | F | Planting Plan                         | Jamie King Landscape Architect    | 1 February 2024  |
| Sht-103 | F | Landscape Detail Plan                 | Jamie King Landscape Architect    | 1 February 2024  |

| <b>Approved Reports and Documentation</b>            |                       |                              |                         |
|--|-----------------------|------------------------------|-------------------------|
| <b>Document Title</b>                                | <b>Version Number</b> | <b>Prepared By</b>           | <b>Date of Document</b> |
| BASIX Certificate 1417537S_02                        | -                     | Evergreen Energy Consultants | 8 February 2024         |
| NatHERS Certificate 0008858240                       | -                     | Evergreen Energy Consultants | 8 February 2024         |
| Waste Management Plan                                | -                     | Applicant                    | September 2023          |
| Arboricultural Impact Appraisal and Method Statement | -                     | Ezigrow                      | 25 August 2023          |
| Geotechnical Report                                  | 222043.00.R.001.Rev0  | Douglas Partners             | 30 August 2023          |
| Geotechnical Report Addendum                         | 222043.00.R.002.Rev0  | Douglas Partners             | 5 February 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 | 15 September 2023 |

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

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

## 3. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work

must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

#### 4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1

per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or 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.
- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$22,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$2,200,000.00.

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

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

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

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

## 6. **Security Bond**

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

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

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

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

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

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### 7. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

### 8. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

### 9. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or

Professionals Australia (RPENG) , indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Pittwater via the existing site stormwater system.

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Douglas Partners dated 30 August 2023 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 4.0 metres wide at the kerb and 3meters wide at the boundary in accordance with Northern Beaches Council Standard Drawing Maximum Low in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

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

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

Reason: To facilitate suitable vehicular access to private property.

12. **Off Street Parking Design**

The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

**13. Boundary Identification Survey**

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

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

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

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

**14. Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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

**15. 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.

**16. External Finishes to Roof**

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or reflective finish is not permitted.

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

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

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

**17. 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](http://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.

**18. Construction Traffic Management Plan**

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

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.

- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

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

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

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

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

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

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **19. Pre-Construction Dilapidation Reports**

Dilapidation reports, including photographic surveys, of the following properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation):

- 208 Hudson Parade, Clareville
- 210 Hudson Parade, Clareville
- 214 Hudson Parade, Clareville

The reports must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items. The reports are to be prepared by a suitably qualified person. Copies of the reports must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation reports is denied by an adjoining owner, the Applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

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

## DURING BUILDING WORK

### 20. **Wildlife Protection**

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

Reason: To protect native wildlife.

### 21. **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.

### 22. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

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

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

Reason: To protect the receiving environment.

### 23. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

**24. Survey Certificate**

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

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

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

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

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

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

**25. 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.

**26. Traffic Control During Road Works**

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

Reason: Public Safety.

**27. Aboriginal Heritage**

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

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

**28. Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the

CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

## BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

### 29. **No Weeds Imported On To The Site**

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

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

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

### 30. **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.

### 31. **Post-Construction Dilapidation Report**

Post-construction dilapidation reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction reports with the pre-construction reports,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works, and
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report condition. Copies must also be lodged with Council.

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

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

### 32. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### 33. **Swimming Pool Requirements**

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

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

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

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

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

### 34. **No Approval for Secondary Dwelling**

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

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

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



**Claire Ryan, Principal Planner**

The application is determined on 21/02/2024, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**