

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2059
----------------------------	-------------

Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 12 DP 539274, 90 Alameda Way WARRIEWOOD NSW 2102
Proposed Development:	Alterations and additions to a dwelling house including garage
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Shae Kathleen Knights Daniel David Knights
Applicant:	Joanne Willmore

Application Lodged:	02/11/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	11/11/2021 to 25/11/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 510,000.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The application seeks development consent for the alterations and additions to an existing dwelling house.

Specifically, the works comprise of:

- Construction of a first floor addition to the west of the dwelling house to accommodate for a new dining/living area, kitchen and master bedroom.
- Replacement of existing garage and driveway.
- Construction of an external stairway along the side (west) of the dwelling connecting to the rear proposed deck.

- Construction of a first floor balcony to the front façade.

Herein this report these works are described as the 'development'.

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 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D14.3 Building colours and materials

Pittwater 21 Development Control Plan - D14.8 Side and rear building line

Pittwater 21 Development Control Plan - D14.11 Building envelope

Pittwater 21 Development Control Plan - D14.13 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D14.15 Fences - General

SITE DESCRIPTION

Property Description:	Lot 12 DP 539274 , 90 Alameda Way WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Alameda Way.</p> <p>The subject site is legally identified as Lot 12 in Deposited Plan 539274, No. 90 Alameda Way, Warriewood.</p> <p>The site is rectangular in shape with a frontage of 19.210m with an average depth of 37.9m. The site has a surveyed area of 728.7m².</p> <p>The site is located within the C4 Environmental Living zone</p>

under the Pittwater Local Environmental Plan 2014 and accommodates a dwelling house including a swimming pool.

The site slopes downwards from north to south by approximately 8.32m.

The site has a well maintained lawn area, both within the front and rear yard, including various shrubs and trees.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by single and two-storey dwelling houses with a variation of architectural designs.

Map:



SITE HISTORY

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

DA2020/1210

Development Application for the construction of retaining walls and associated landscaping.
Determined on 16 November 2020 by Delegated Authority.

MOD2021/0181

Modification of Development Consent DA2020/1210 granted for the construction of retaining walls and associated landscaping.
Determined on 4 June 2021 by Delegated Authority.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 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 50(1A)</u> of the EP&A Regulation 2000 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 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 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 93 and/or 94</u> of the EP&A Regulation 2000 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 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition</p>

Section 4.15 Matters for Consideration	Comments
	of consent. Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/11/2021 to 25/11/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Mr Carlos Ulysses Serrano Lopes	92 Alameda Way WARRIEWOOD NSW 2102
Withheld Withheld	AVALON BEACH NSW 2107

The following planning issues were raised in the submissions and each have been addressed below:

- **Privacy**

Comment:

Concern has been raised in relation to a reduction of privacy to the western adjoining property's living room, caused by the proposed first floor addition, in particular the location of the kitchen windows. This has been requested to be addressed by planting 6m trees for screening. The planting of 6m trees is not a practicable solution, due to the insufficient space to plant significantly tall vegetation along the area of concern. A more permanent solution has been conditioned to add frosted glazing to the kitchen window (W4) and pantry window (W5) to minimise potential overlooking.

This issue does not warrant the refusal of the application.

- **View Loss**

Comment:

View loss has been raised by an objector in relation to the first floor addition. A view loss analysis and a site inspection at the objectors property was conducted with the results addressed in detail elsewhere in this report (refer to Clause C1.3 - View Sharing).

This issue does not warrant the refusal of the application.

- **Unauthorised Works - Excavation**

Comment:

Concern has been raised by the objector in relation to unauthorised works at the subject site. The objector is advised to contact Northern Beaches Council's Compliance Team to investigate this matter further, reference no. BLD2020/00990.

This issue does not warrant the refusal of the application.

- **Rear Dividing Fence**

Comment:

The existing fence to the rear of the subject property does not form part of the proposed development application, therefore no further comments can be made. However, the objector is advised to contact Northern Beaches Council's Compliance Team.

This issue does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
NECC (Development)	No objections to approval subject to conditions as recommended.

Internal Referral Body	Comments
Engineering)	

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. A response has been received within the 21 day statutory period, no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A431970 dated 27 October 2021).

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.

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

Comment:

The proposal was referred to Ausgrid. A response has been received within the 21 day statutory period, no objections were raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.3m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (Southern Boundary)	10m - 10.8m (Dwelling)	-	Yes
Rear building line	6.5m (Northern Boundary)	13.1m (Dwelling)	-	Yes

Side building line	2.5m (Eastern Boundary)	1.8m (Existing + Additional Verandah)	28%	No
	1m (Western Boundary)	0.5m (Retaining Wall + Stairway) 1.4m (Dwelling)	-	Yes
Building envelope	3.5m (Eastern Boundary)	Outside Envelope (Existing)	N/A	No Change to Existing
	3.5m (Western Boundary)	Within Envelope	-	Yes
Landscaped area	60% (437.2m ²)	51.6% (376m ²)	14% (61.2m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.14 Warriewood Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	No	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D14.1 Character as viewed from a public place	Yes	Yes
D14.2 Scenic protection - General	Yes	Yes
D14.3 Building colours and materials	No	Yes
D14.7 Front building line	Yes	Yes
D14.8 Side and rear building line	No	Yes
D14.11 Building envelope	Yes	Yes
D14.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D14.15 Fences - General	No	Yes
D14.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

Merit consideration

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.

One submission was received, which raised concern regarding view loss. The submission received has elected to stay anonymous and therefore no site images of the property will accompany the following view loss analysis.

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

The first affected view is to the south and consists of an outlook over the Warriewood Locality including a distant and partial outlook of a ridgeline associated with Ingleside Chase Reserve. The view is considered to be heavily obscured by the existing dwelling and established vegetation on the subject site, No. 90 Alameda Way.

The second view of concern is to the south-east and consists of a distant view of long reef and a partial water horizon view. The view is considered to be partially obscured due to well-established native trees and other existing vegetation along the shared boundary of both the affected property and 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:

Both views are primarily obtained from the rear of No. 146 Elimatta Road, this includes the upper floor balcony and bedroom windows from both a standing and sitting position. The views can also partially be obtained from the ground floor outdoor dining area and pool from a standing position.

3. **Extent of impact**

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

Comment to Principle 3:

The view to the south over the subject site (90 Alameda Way) when viewed from the upper floor balcony and bedrooms will retain the ridgeline of Ingleside Chase Reserve, only a minor section will be obliquely impacted both by a sitting and standing position which is currently heavily obstructed by a well established canopy tree. Based upon the floor level of the upper floor balcony to the affected site (RL 56.35), plus a typical eye height of 1.5m (RL 57.85) and compared to the ridge height of the proposed development at No. 90 Alameda Way (RL 55.94 which lowers gradually to the south-west to RL 53.54) it is considered that majority of the outlook to Ingleside Chase Reserve will be retained to the upper floor. It is noted that the views will continue uninterrupted by the proposed development when viewed further to the south-west also consisting of an outlook to Ingleside Chase Reserve, with no additional impact to the views towards Long Reef.

The partial view of the ridgeline of Ingleside Chase Reserve when viewed from the ground floor outdoor dining area and pool will be obliquely impacted when viewed directly over the subject site from a standing position (note that this view is not obtained from a sitting perspective). A section of the reserve may be retained through a narrow view corridor between No. 90 Alameda Way and 92 Alameda Way from a standing position. As mentioned above, the view to the south-east of long reef and a distant water horizon view will be maintained and not affected by the proposed development.

The extent of impact is considered to be **minor**.

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

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A

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

Comment to Principle 4:

The development area that impacts the main view lines to the south presents a compliant Building Height Standard of 8.5m (proposing 7.3m) and a compliant Building Envelope Control along the western elevation (existing non-compliance to the eastern elevation). The proposal has been found to exhibit non-compliance in relation to the side setback to the western adjoining boundary. However, compliance with this control would generally result in a similar view loss outcome to the ground floor of the affected site. The ground floor view to the south towards Ingleside exists as a partial outlook and can be deemed more difficult to retain. Due to the portion of view being lost determined as a minor impact, it is considered reasonable in this instance.

In context to the elevated position of the affected property and the range of available views obtained to all rooms and the balcony on the upper floor, it can be concluded that the extent of the breaches of the planning controls is reasonable and a more compliant design would not significantly improve the view loss outcome to the south.

Therefore, the proposed alterations to the dwelling house is considered reasonable in the circumstances of this application and does demonstrate a reasonable sharing of views.

- ***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 will not impact upon views and vistas from roads and public places.

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

Comment

The proposed development retains all existing canopy trees and significant vegetation within the subject site, therefore ensuring that the existing canopy trees have priority over views.

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

C1.5 Visual Privacy

Description of Non-Compliance

Clause C1.5 Visual Privacy stipulates that private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation.

The proposed development consists of alterations and additions to the existing dwelling, which includes a large kitchen window and smaller pantry window to the upper ground floor within 9.0m of the adjoining property's living room window to the west (No.92 Alameda Way). Due to the orientation and placing of

both windows of the subject site, concern has been raised in relation to the potential overlooking it may cause.

Privacy has been addressed through the use of the retention of the existing vegetation that runs along the perimeter of the adjoining site. To further ensure privacy to the property to the west a condition has been imposed to include frosted glazed windows to the kitchen (W4) and butler pantry window (W5). This is likely to enhance visual privacy and mitigate potential for overlooking from the upper ground floor kitchen windows.

It can also be noted that privacy in relation to the proposed rear deck has been addressed via a 1.8m - 2.2m fence/screen, which is considered adequate in preventing unreasonable privacy impacts.

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment. Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

D14.3 Building colours and materials

Clause D14.3 Building Colours and Materials require that buildings are to utilise medium to dark colour ranges with natural and earthy tones.

The proposed development indicates that the primary materials for the dwelling house and garage are to consist of rendered brick and weatherboard cladding of a light to mid grey colour range. A portion of materials would consist of white timber and aluminum used for the external window architraves, trimmings and posts. It can be considered that the proposed development colour range will not be deemed out of character in the subject sites location, due to the multiple light coloured dwellings in the immediate vicinity. Hence, complimenting the existing visual character of the street and is considered acceptable in this instance.

A condition is to be imposed to ensure the proposed roof maintains a medium to dark range (BCA classification M and D) and that any roof with a metallic steel finish is not permitted in order to minimise solar reflections to neighbouring properties.

D14.8 Side and rear building line

Description of Non-Compliance

Clause D14.8 Side and Rear Building Line prescribes a side setback of 2.5m to one side and 1m to the other, with a rear setback of 6.5m. For this assessment, the 2.5m side building line is applied to the western boundary and the 1m side building line applied to the eastern boundary.

The proposal presents an existing compliant setback of 1.8m to the eastern boundary. Whereas the western boundary presents a varying side setback of 0.5m -1.5m, revealing a non-compliance with a variation of 40 - 80%.

The side setback encroachment to the west is primarily due to the proposed alterations to the lower ground floor and upper floor including the external stairway and proposed outdoor deck.

Merit Consideration

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

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

Comment

The proposal presents a low density residential design, sited below existing tree canopy height and utilises a variety of building materials that will compliment the nature of the street, achieving the desired future character of the Warriewood Locality.

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

Comment

The side setback encroachment to the western boundary of 0.5m - 1.5m provides adequate dimensions to maintain the existing establishment of vegetation and future planting. The utilisation of vegetation and building orientation below the canopy tree height, will result in mitigation of dominant bulk and scale of the dwelling house when viewed from adjoining properties and the public domain.

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

Comment

The side setback encroachment to the west is not considered to result in unreasonable view loss. Refer to *Clause C1.3 View Sharing* for further detail.

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

Comment

As above, refer to *Clause C1.3 View Sharing* for further detail.

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

Comment

Privacy is seen to be maximised through the incorporation of a 2200mm privacy screen/fence located on the western boundary to minimise potential overlooking, accompanied by conditioned frosted glazing to the kitchen window (W4) and pantry window (W5), providing reasonable privacy to the adjoining western neighbour.

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

Comment

The proposal is sited below mature tree canopy level in the immediate vicinity and provides adequate spacing for landscaping within the front and side setback area, aiding in the presentation of an attractive street frontage to Alameda Way.

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

Comment

The encroachment will not negatively impact on the flexibility and access of the building, however it will be seen to be improved. The proposed external stairway located within the side setback area will provide for easy access into the rear yard, where currently no access is provided due to the slope of the land.

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

Comment

Vegetation and established trees have been retained and will continue to maintain the visual aesthetic of the area reducing the built form. The dimensions of the landscaped open space area is sufficient in providing for the new proposed vegetation, assisting in softening and providing visual relief of the development along the western elevation.

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

Comment

The subject site is located within, and is surrounded by, residential zones, however the proposal has addressed the incorporation of appropriate landscaping and retention of well established trees. Furthermore, preserving the bushland character that may be present in the Warriewood area.

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

Comment

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

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

D14.11 Building envelope

The building envelope encroachment present on the eastern elevation is caused by the current dwelling house and will remain as existing. Therefore, will not form part of this assessment. The proposed alterations and additions to the west elevation is sited within the building envelope requirement as stipulated in Clause D14.11 Building Envelope.

D14.13 Landscaped Area - Environmentally Sensitive Land

Description of Non-Compliance

Clause D14.13 requires a minimum of 60% landscaped area which equates to 728.7m².

The subject site provides a landscaped area of 51.6% which equates to 376m², representing a variation of 14% or 61.2m² to the requirements of the clause.

Provided that the outcomes of the clause have been achieved, impervious areas up to 6% of the site area can be included in the landscaped area calculation. These include impervious areas less than 1.0m in width and areas used for outdoor recreational purposes. The inclusion of this variation increases the landscaped area to 405.1m² or 55.6%, however remains non-compliant.

Merit Consideration

The proposed development will be considered against the underlying outcomes of the clause as follows:

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

Comment

The proposed alterations and additions maintain the form of a low density residential design consisting of a two storey development. The built form is sited below existing tree canopy height and utilises a variety of building materials that will compliment the nature of the street, achieving the desired future character of the Warriewood Locality.

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

Comment

The development includes landscaped areas accommodating existing vegetation such as native canopy trees and is of dimensions capable of accommodating for landscaping that shall, over time, screen the building to enhance the mitigation of its bulk and scale when viewed from the public domain and neighbouring properties.

- ***A reasonable level of amenity and solar access is provided and maintained.***

Comment

A reasonable level of privacy, amenity, and solar access will be maintained to the residents of the subject site and adjoining properties.

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

Comment

No existing vegetation has been proposed to be removed within the application. The retention of significant vegetation and established trees, will continue to maintain the visual aesthetic of the area and will continue to reduce built form.

- ***Conservation of natural vegetation and biodiversity.***

Comment

The proposal involves substantial landscaping and vegetation across the site to provide for appropriate conservation of natural vegetation and biodiversity.

- ***Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.***

Comment

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

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

Comment

Due to the retention of majority of existing vegetation the subject site will continue to preserve the bushland character of the surrounding vicinity.

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

Comment

As above, the proposal has been reviewed by Council's Development Engineer, having regard to provisions for Stormwater management and has raised no objections subject to conditions included in the recommendation of this report.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been

achieved. Therefore, the application is supported on merit in this particular circumstance.

D14.15 Fences - General

Description of Non-Compliance

Clause D14.15 specifies that side fences (other than within the front building setback) are permitted to a maximum height of 1.8 metres.

The proposal seeks to construct a side boundary fence located on the west adjoining property No. 92 Alameda Way, with the highest point measured at 2.2m.

The purpose of the non-compliant height of the proposed fence is to increase privacy between both neighbours, in relation to the location of the proposed deck and external stairway access. It is noted that the owners at No. 92 Alameda Way, Warriewood have provided a letter to Council confirming the agreement of the 2.2m side boundary fence.

The proposed 2.2m fence will not be seen to unreasonably impact on the existing character of the street, and will be accompanied by screen planting which will provide visual relief to the adjoining properties and public domain.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$5,100 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$510,000.

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 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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 DA2021/2059 for Alterations and additions to a dwelling house including garage on land at Lot 12 DP 539274, 90 Alameda Way, WARRIEWOOD, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-01 Site Plan	October 2021	Jo Wilmore Designs
DA-02 Lower Floor Plan	October 2021	Jo Wilmore Designs
DA-03 Upper Floor Plan	October 2021	Jo Wilmore Designs
DA-04 Elevations	October 2021	Jo Wilmore Designs
DA-05 Elevations	October 2021	Jo Wilmore Designs
DA-06 Sections	October 2021	Jo Wilmore Designs
Colour Schedule	25 October 2021	Jo Wilmore Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By

Geotechnical Assessment Report (AG 21344)	18 October 2021	Ascent Geotechnical Consulting
BASIX Certificate (#A431970)	27 October 2021	Jo Wilmore Designs

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	14 October 2021	Jo Wilmore Designs

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **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 Certifying Authority 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 Certifying Authority 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 Certifying Authority 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.

3. 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 a final 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 Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% 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.
- (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.) or on the land to be developed shall be removed or damaged during 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

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$5,100.00 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 2021. The monetary contribution is based on a development cost of \$510,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

5. Security Bond

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

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

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. Stormwater Disposal

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

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

7. 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 Ascent Geotechnical Consulting dated 18/10/2021 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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. Amendments to the approved plans

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

- Frosted glazing is to be added to the proposed kitchen window (W4) and pantry window (W5) located on the upper ground floor level, to prevent over looking into the living room of the western adjoining property.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

9. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

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

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

Reason: To provide public and private safety.

10. Vehicle Crossings Application

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

11. 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 Certifying Authority prior to the issue of the Construction Certificate.

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

12. External Finishes to Roof

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

Details demonstrating compliance are to be submitted to the Certifying Authority 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. (DACPLC03)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **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.

14. **Survey Certificate**

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

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

15. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 4EH and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

16. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

17. **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 Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

Signed



Brittany Harrison, Planner

The application is determined on 21/02/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments