

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0843
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Responsible Officer:	Luke Zajac
Land to be developed (Address):	Lot 12 DP 13291, 24 Delecta Avenue CLAREVILLE NSW 2107
Proposed Development:	Alterations and additions to a dwelling house including a studio and carport
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Claire Louise Cavanaugh
Applicant:	Claire Louise Cavanaugh

Application Lodged:	03/06/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/06/2022 to 27/06/2022
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 250,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development includes alterations and additions to an existing dwelling house, including the following works:

Demolition

Removal of existing detached cabin located to the front of the dwelling.

Construction

Ground floor

- Front extension to existing house including storage rooms and staircase

First floor

- Front extension to existing house including staircase, landing, wetbar, sitting area, bath room and guest bedroom.

External Works

- Extend driveway to provide 2 ground floor car parking spaces
- Landscaping of demolished cabin area

It is noted that the works do not include consent for a secondary dwelling.

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 - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

Pittwater 21 Development Control Plan - D1.11 Building envelope

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 12 DP 13291 , 24 Delecta Avenue CLAREVILLE NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Delecta Ave, Clareville.</p> <p>The site is irregular in shape with a frontage of 14.6m along</p>

Delecta Ave, Clareville and a depth between 43.84m and 46.74m. The site has a surveyed area of 599.2m².

The site is located within the C4 Environmental Living zone and accommodates a one and two storey clad house, a detached single level studio, spa and associated site landscaping.

The site is relatively flat, sloping roughly 500mm from the high point of the site at Delecta Ave to the rear of the site towards Pittwater.

The site includes turfed area, shrubs and plants and two trees. No endangered species are located on site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised 1-2 storey dwellings set on large blocks fronting Pittwater:

- 22 Delecta Ave (west) - Single storey dwelling
- 26 Delecta Ave (east) - Double storey dwelling
- 108 Hudson Pde (south) - Double storey dwelling

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:

- MOD2019/0262: Modification of Development Consent DA2018/1863 granted for alterations and additions to a dwelling house

- DA2018/1863: Alterations and additions to a dwelling house
- MOD2018/0263: Modification of consent N0451/17 for the alterations and additions to a dwelling including new swimming pool
- T0239/17: Tree/Bushland Works
- N0451/17: Alterations and additions to a dwelling including new swimming pool
- N0301/16: Alterations and additions to an existing dwelling house
- N0409/15: Construction of a separately accessible structure (studio)
- T0229/15: Tree/Bushland Works

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/06/2022 to 27/06/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Ms Amanda Helen Urquhart	108 Hudson Parade CLAREVILLE NSW 2107
Element Environment Pty Ltd	Address Unknown
Mrs Suneve Doris Bidner	22 Delecta Avenue CLAREVILLE NSW 2107

The following issues were raised in the submissions:

- View loss
- Inadequate stormwater management

- Waste Management Area
- Overshadowing
- Scale of development
- Use of proposal as a secondary dwelling
- Unacceptable amenity impacts due to non-compliance with Pittwater DCP 21.

The above issues are addressed as follows:

- **View Loss**

The submissions raised concerns that views of Pittwater would be lost from the property at 108 Hudson Pde, Clareville.

Comment:

A detailed assessment was conducted against clause C1.3 of the P21 DCP, and it was found that view loss would be negligible to minor as a result of the proposal. The alterations will enable a reasonable sharing of views and is not considered unacceptable in this instance.

- **Stormwater Management**

The submissions raised concerns that the inadequate stormwater regime for the site is causing flooding for the adjoining property at 22 Delecta Ave.

Comment:

The proposal has been reviewed by Council's development engineer who did not raise concern with the proposal subject to the implementation of appropriate conditions of consent. It is noted that the proposal will increase the area of soft landscaping on the site, which will reduce water run off and increase infiltration.

- **Waste Management Area**

The submissions raised concerns regarding the location of the waste management area in close proximity to 22 Delecta Ave.

Comment:

Conditions of consent have been implemented to reduce amenity impacts that may occur during construction.

- **Overshadowing**

The submissions raised concerns that the proposed additions will overshadow the principle private open space area of the adjoining dwelling at 22 Delecta Ave.

Comment:

The alterations and additions are sited to the east/south east of the principle private open space area, being the large deck and grassed area within the south-eastern setback of 22 Delecta Ave. As demonstrated on the submitted shadow diagrams, overshadowing from the additions are greatest at 9am June 21, however are limited to the outhouses and garage located to the rear of the site. By 12pm the additions will overshadow a sliver of land to the immediate boundary of the two lots, which does not consist the principle private open space area. The

additions do not cast any shadow over this area between 9am and 3pm 21 June. The application has been assessed against the provisions of clause C1.4 Solar Access of P21 DCP, and was found to comply.

- **Scale of development**

The submissions raised concerns that the additions will increase the apparent bulk and scale of the development when viewed from the adjoining property at 22 Delecta Ave.

Comment:

The alterations extend the existing building envelope along the north-western boundary of the site, for a total length of 18m. Whilst this may be considered bulky, in the context of the subject site and intended use of the additions, the siting of the proposal is considered the best design option. Removal of the cabin and construction of the alterations will increase the landscaped area of the site and the amenity and usability of the site's principle private open space. Locating the additions within this north-eastern side setback would reduce landscaped area, open space and ultimately amenity for the residents. The extension has been designed to continue the envelope of existing house, and is not considered unsightly or intrusive to the extent that would constitute an adverse bulk and scale presentation to 22 Delecta Ave. The site will still enjoy sightlines to the vegetated slope to the rear, sky to the subject property and views over Pittwater and Clareville Beach.

- **Use of the proposal as a secondary dwelling**

The submissions raised concerns that the proposal will operate as a secondary dwelling.

Comment:

A condition of consent has been imposed to ensure the additions are not used as a secondary dwelling.

- **Variations to P21 DCP**

The submissions raised concerns regarding the proposed side and front setback variations.

Comment:

A detailed assessment has been conducted against the provisions of clauses D1.8 front building line and D1.9 side and rear building line of P21 DCP. The assessment found that the variations are minor in context and would not result in adverse impacts to surrounding properties.

- **Privacy**

The submissions raised concerns that the louver windows proposed on the western elevation would result in overlooking to the private outdoor space, front yard and front entry of the adjoining dwelling at 22 Delecta Ave.

Comment:

The windows consist highlight windows with built in louveres designed to reduce opportunity for overlooking, whilst allowing solar access into the rooms. The proposed windows will directly overlook an area of 22 Delecta Ave currently containing out buildings and a detached garage, as opposed to the principle private open space area. These types of windows are common solutions in residential areas and match the highlight windows on the existing dwelling. No adverse overlooking impacts are expected.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The application seeks approval for alterations and additions to existing dwelling. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) State Environmental Planning Policy (Resilience and Hazards) 2021</p> <ul style="list-style-type: none"> • Clause 2.10 Development on land within the coastal environment area <p>Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> • 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> • B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p>As the proposal is located wholly within the existing footprint and does not require the removal of prescribed trees or vegetation nor is it likely to impact on soft open space or nearby biodiversity values, the Biodiversity Referral find the application to be consistent against relevant environmental controls.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 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>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan</p>

Internal Referral Body	Comments
	<p>Development Consulting Pty. Ltd. dated May 2022, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>Estuarine Risk Management 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 Vaughan Milligan Development Consulting Pty. Ltd. dated May 2022, the proposed additions and alterations are located 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>Development on Foreshore Area 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 no works on the foreshores area and hence, the DA does not require to satisfy the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p>
NECC (Development Engineering)	Applicant seeks approval for alteration & addition to the existing dwelling, studio and new car port. No Development Engineering objection subject to recommended conditions.
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy <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>The application meets the requirements of the relevant Environmental Planning Instruments and policies relating to waterways, riparian</p>

Internal Referral Body	Comments
	areas, and groundwater.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1303420S).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 1 Coastal Wetlands and littoral rainforest area

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

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
 - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
 - b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
 - c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
 - d) any other development

Comment:

The site is not identified as 'coastal wetlands' or 'littoral rainforest'.

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

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

The site is not identified as 'proximity area for coastal wetlands' or 'proximity area for littoral rainforest'.

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

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

- a) if the proposed development comprises the erection of a building or works—the building or

works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and

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

Comment:

It is noted that no 'Coastal Vulnerability Area Map' has been adopted under the SEPP yet.

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 site is located within the 'coastal environment area'. The proposal seeks consent for alterations and additions to the front of the property (towards Delecta Ave, not Pittwater). The proposal is minor in nature and will not impact on the coastal environment area items specified by this clause.

- 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 stated above, the proposed alterations and additions to the existing dwelling are located to the front of the property and are not expected to result in adverse impacts to the coastal environment area.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

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

Comment:

The proposal seeks consent for alterations and additions to an existing dwelling on the site. The additions are located to the front of the site towards Delecta Avenue. The site's interface with Pittwater exists to the rear. The additions are consistent with existing scale of development on the site and will not impact access, overshadowing, the visual an scenic amenity, Aboriginal and cultural heritage of the coastal interface.

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 proposal is limited to alterations and additions to an existing dwelling. The works are not cited within the immediate coastal interface, rather fronting Delecta Ave. The works are not expected to increase the risk of coastal hazards on the subject site or surrounding land.

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

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	Complies
Height of Buildings:	8.5m	6.3m	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.8 Limited development on foreshore area	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	6m	500mm (7.7%)	No
Rear building line	Foreshore Building Line	N/A	N/A	N/A
Side building line	NE: 2.5m	Proposed works: 7.4m	N/A	Yes
	SW: 1m	Proposed works: 0.2m	800mm (80%)	No
Building envelope	3.5m	Outside envelope encroachment (between 0.3m and 1.1m for a length of 13m)	8.7% - 31.4% variation	No
	3.5m	Within envelope	N/A	Yes
	60%	Existing: 198.3sqm - 33%	44.8%	No

Landscaped area		Proposed: 221sqm across 599.2sqm - 36.8%	38.5%	No
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh 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
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.15 Fences - General	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes

Detailed Assessment

C1.3 View Sharing

Merit consideration

One (1) submission was received from the following property which included concerns regarding view loss:

- No. 108 Hudson Parade, Clareville.

A site inspection was conducted on 16 August 2022, the photos taken from the inspections will be referenced in this assessment. Height Poles were not considered to be needed as enough information was made available to determine the extent of impact.

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 view from 108 Hudson Pde affected by the proposal is to the north-east towards Pittwater and consists of a water view. The view is partially obstructed by well-established canopy trees and existing development.

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 water view is primarily obtained from the lower ground bedroom and first floor lounge room, both oriented to the northeast over the front boundary. The view is obtained from both sitting and standing positions.



Photo 1: View obtained from lower level bedroom of 108 Hudson Pde of a partial water view to the north east.



Photo 2: View obtained from ground floor lounge room of 108 Hudson Pde of a partial water view to the north east.

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 affected view is towards the north-east consisting of a partial water view which is currently interrupted by vegetation both distantly and within the immediate vicinity. The orientation and siting of the extension is expected to cause minor view loss from both rooms, limited to small area of water immediately adjacent to the dwelling. Both the immediate view of anchored sail boats and distant views of clear water, the shoreline and mountainous bushland on other side of Pittwater will be maintained.

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 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 development area that impacts the main view lines is compliant with the Building Height Standard of 8.5m. The first floor addition has been found to exhibit non-compliance with the side building envelope built form control. The non-compliance is limited to the uppermost portion of the western elevation and does not result from a variation to the side setback control. The variation is minor and is limited to a breach of 0.3m to 1.1m for a length of 13m. Due to the minor nature of the non-compliance and angle of the view from 108 Hudson Pde, a compliant scheme is likely to have a negligible improvement to the resulting view loss. The proposed extensions maintain the profile of the existing dwelling, which features a large eastern side setback that functions as the lot's primary open space, due to its dual frontage to Delecta Ave and Clareville Beach. Shifting the extension to the east to comply with the building envelope control is considered unreasonable in this instance, as it would reduce available private open space, reduce landscaped area and reduce the development potential of the site. To provide a fully compliant building envelope would generally result in a similar view loss outcome, given the proposed loss is considered to be minor.

The proposed alterations are considered reasonable in the circumstances of this application.

- *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:

No views are currently visible from Delecta Ave. Given the minor nature of the additions and rise of the land around the site, no other views from public places are expected to be affected.

- *Canopy trees take priority over views.*

Comment:

The subject site is not proposing the removal of canopy trees, ensuring that any existing canopy trees have priority over views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.8 Front building line

Clause D1.8 Front Building Line prescribes a front boundary setback requirement of 6.5m for all built structures (including swimming pools), other than driveways, fences and retaining walls.

The proposed carport presents a front boundary setback of 6m resulting in a variation of 7.6%. The

carport is being relocated to accommodate the proposed alterations and additions to the existing dwelling. The variation is limited to the front carport for approx. 2m, with the entire dwelling located behind the 6.5m setback control.

Merit consideration

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

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

Comment:

The proposed carport is consistent with the achieving the desired future character of the Avalon Beach Locality.

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

Comment:

Delecta Avenue is not a main road, therefore this outcome is not relevant.

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

Comment:

The proposal increases the overall soft landscaped area of the site. The existing side boundary hedges located forward of the building line will be retained, as will existing garden beds and turf areas in the front setback. Therefore, the proposal retains sufficient vegetation in the front setback area to visually reduce the built form.

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

Comment:

Vehicle manoeuvring in a forward direction has not been demonstrated in the proposed plans and would not be considered achievable on the subject site. Furthermore, Council's Development Engineer has reviewed the proposal and is supportable of the works, subject to conditions.

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

Comment:

The proposal will encourage attractive street frontages through maintenance of the existing fence and vegetation. Pedestrian access to the site via the existing driveway remains unchanged.

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

Comment:

The relocated carport responds appropriately to the spatial characteristics of the existing urban

environment, noting that there is prevalence of double carports or garages in the front setback area in the vicinity. A redesign of the carport to entirely comply with the setback is considered unreasonable due to the lot frontage angle, which would create a skewed presentation to the streetscape.

D1.9 Side and rear building line

Part D1.9 of the P21 DCP requires that setbacks of 1m to one side and 2.5m to the other side boundary of a house be provided. The proposed carport on the western elevation is setback 0.2m from the boundary and therefore varies the control requirements.

Merit Assessment

With regards to the request for a variation, the proposal is considered against the underlying control objectives as follows:

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

Comment:

The variation is limited to a carport proposed as part of alterations and additions to an existing dwelling house. The existing carport on site features the same 0.2m side setback. Given the minor nature of a carport structure, and the rest of the dwelling complying with the side setback control, the proposal is considered to achieve the desired future character of the Avalon Beach Locality, despite the non-compliance.

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

Comment:

The proposed extension is compliant with the height of building control and proposes minor, acceptable non-compliances to the side and front setbacks and the side building envelope controls. The proposal represents an extension to the existing built form and is not expected to cause undue built form impacts to the adjoining dwelling at 22 Delecta Ave. The alterations would be most visible from the rear half of 22 Delecta Ave, which is currently occupied by outhouses, a garage and shrubbery. The principle private open space area of the lot is located in the middle portion featuring a deck and grassed area, with the extension not to have an immediate visual impact on this area. On balance the bulk and scale of the development has been minimised, and will result in an increased percentage of the site being soft landscaped area.

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

Comment:

The development is not found to result in any unreasonable impacts to any existing views or vistas from the public or private domain.

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

Comment:

No views are considered to be unreasonably impacted by the development. An increase to the

side setback of the carport would not markedly improve any existing view corridors.

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

Comment:

The proposal has not been found to result in any unreasonable impacts to the level of privacy or amenity currently enjoyed by neighbouring occupiers.

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

Comment:

The proposal retains sufficient landscaping to ensure that the attractive streetscape is retained.

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

Comment:

The variation is supported by the virtue of utilising the setbacks of the existing carport, which will simply be shifted forward to accommodate the proposed alterations and additions. Requiring strict compliance would result in either the loss of a covered car parking space, or shifting the carport to the east within the site. The eastern elevation consists of soft landscaped area and functions as the site's principle private open space area. The loss of landscaped area and private open space to accommodate a complying carport is not considered reasonable given the lack of any significant impact caused by the non-compliance, it is deemed acceptable to allow flexibility in the siting of buildings.

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

Comment:

As above.

- *A landscaped buffer between commercial and residential zones is achieved.*

Comment:

N/A no commercial zone adjoining.

On balance the development succeeds against the underlying objectives of the control, notwithstanding the variation sought, and thus the non-compliance is supported.

D1.11 Building envelope

Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries.

The proposed modifications breach the northern side building envelope between 0.3m and 1.1m for a length of 13m.

Comment:

The proposal has been assessed against the provisions of clause C1.3 View Sharing of the P21 DCP and found to have negligible to minor view loss impacts, which are considered acceptable in this instance.

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

Comment:

The proposal has been appropriately sited to maintain reasonable neighbouring amenity. In addition, the solar impacts of this proposal are detailed within the submitted shadow diagrams, which demonstrate compliance with Part C1.4 Solar Access of P21 DCP.

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

Comment:

The proposed development does not propose the removal of any trees and will be softened by existing vegetation to the streetscape.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.14 Landscaped Area - Environmentally Sensitive Land

The control requires a minimum of 60% of the site area to be landscaped.

The application proposes a total landscaped area of 36.8% (221sqm) presenting a variation of 38.5%.

The proposal will however increase the total soft landscaped area on the site by 22.7sqm, from the current 198.3sqm (33%), to 221sqm (36.8%).

Upon achievement of the objectives of the Control, the variations provision allows for up to 6% of the site area (35.9sqm across 599.2sqm) to be impervious landscape treatment provided such areas are used for outdoor recreational purposes only. Upon achievement of the aforementioned variation, the landscape area total would increase to 42.8% (256.9sqm), or a variation of 28.5%.

Merit consideration

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

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

Comment:

The proposed development aligns with the desired future character of the locality, providing for a low density residential development that increases the opportunity for soft landscaped area and canopy trees on the site.

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

Comment:

The proposed extension is compliant with the height of building control and proposes minor, acceptable non-compliances to the side and front setbacks and the side building envelope controls. The proposal represents an extension to the existing built form and is not expected to cause undue built form impacts to the adjoining dwelling at 22 Delecta Ave. The alterations would be most visible from the rear half of 22 Delecta Ave, which is currently occupied by outhouses, a garage and shrubbery. The principle private open space area of the lot is located in the middle portion featuring a deck and grassed area, with the extension not to have an immediate visual impact on this area. On balance the bulk and scale of the development has been minimised, and will result in an increased percentage of the site being soft landscaped area.

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

Comment:

The site's primary private open space is located in the northeastern side setback, due to the lots dual frontage to Delecta Ave and Clareville Beach. The removal of the cabin and additions to the south-western portion of the lot will increase the area of soft landscaping, and private open space, that receives solar access. There is currently no substantial vegetation located on the site's boundary with 22 Delecta Ave, with the additions unlikely to impact upon 22 Delecta Ave privacy or amenity. Regarding solar access, shadow diagrams have been submitted by the applicant, which complies with the clause C1.4 Solar Access provisions of the PDCP 21.

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

Comment:

The development involves the removal of exempt trees that do not require council approval. The proposal provides increased opportunities for landscaping along the north-eastern setback and maintains the landscaping across the site.

- *Conservation of natural vegetation and biodiversity.*

Comment:

No native vegetation or wildlife species will adversely be affected by the proposed works.

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

Comment:

It is considered the site contains a reasonable amount of pervious surface which will contribute to the prevention of soil erosion and siltation of natural drainage channels. The DA has been referred to Council's Development Engineering department who did not raise concern with the site's storm water regime, subject to the recommended conditions of consent.

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

Comment:

The rural and bushland character of the area will be maintained as no significant vegetation is required to be removed as a result of the proposed development.

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

Comment:

The proposed development retains the substantial soft surface landscaping in the north eastern setback of the site, provides a permeable gravel parking area and increases the balance of soft landscaping across the site, which will improve infiltration of water to the table to minimise run-off and assist with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, subject to conditions, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$2,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$250,000.

CONCLUSION

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

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

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

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

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

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 DA2022/0843 for Alterations and additions to a dwelling house including a studio and carport on land at Lot 12 DP 13291, 24 Delecta Avenue, CLAREVILLE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. 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.

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA4 - Ground Floor Plan	12/5/22	SketchArc
DA5 - First Floor Plan	12/5/22	SketchArc
DA6 - Roof Plan	12/5/22	SketchArc
DA7 - North and South Elevations	12/5/22	SketchArc
DA8 - East and West Elevations	12/5/22	SketchArc
DA9 - Section E-E and D-D	12/5/22	SketchArc

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	12/5/22	Matthew Power

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.

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	12/8/22

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

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

4. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling"

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

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

5. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

6. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of 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

7. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,500.00 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 2022. The monetary contribution is based on a development cost of \$250,000.00.

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 2022 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.

8. **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

9. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer,

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 the existing drainage system.

Details demonstrating compliance 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 the development.

10. **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 Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation.

11. **Erosion and Sediment Control Plan**

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

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

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

Reason: Protection of the receiving environment.

12. **Compliance with Standards**

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

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

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

13. **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 Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **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.

16. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

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

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

- Work Health and Safety Act;

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

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

18. 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 Certifying Authority.

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

19. Property Boundary Levels

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

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

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

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

20. 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.

21. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

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

22. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from

demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

23. **House / Building Number**

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

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

Reason: Proper identification of buildings.

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

24. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

25. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

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

Signed



Luke Zajac, Planner

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



Daniel Milliken, Manager Development Assessments