

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0331
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Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot 2 DP 713100, 53 The Avenue NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	William David Kerley Margot Kathleen Kerley
Applicant:	William David Kerley

Application Lodged:	06/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	16/04/2021 to 30/04/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 89,265.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for alterations and additions to a residential dwelling pursuant to the *Pittwater Local Environmental Plan 2014*, including the following:

- Demolition works including: the demolition of the northern and western elevations of the existing verandah, rear external stairs and removal of two (2) windows along the northern elevation for Bedroom 2 and Bedroom 3
- Construction of a single vehicle carport
- Landscaping works - including planting locally native species throughout the site
- New internal access to the existing laundry on the lower ground floor
- Construction of a new front deck
- Installation of two (2) windows (W01 and W02) on the first level along the northern elevation
- New rear balcony stairs to connect the ground floor balcony to the lower level and rear lawn

area

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 - D10.7 Front building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 2 DP 713100 , 53 The Avenue NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of The Avenue.</p> <p>The site is irregular in shape with a frontage of 20.47m along The Avenue and a maximum depth of 40.44m. The site has a surveyed area of 719.4m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a one and two storey residential dwelling.</p> <p>The site has a northerly orientation and is located on a gentle slope, falling from east to west.</p>

The site has multiple trees throughout, with palm trees generally located along the eastern side of the site adjacent to the dwelling. The rear yard has areas of garden beds along the western side boundary, with a large area of turf located centrally within the rear yard.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by dwellings of similar sizes.

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:

26 May 2020

A Pre-Lodgment Meeting (PLM2020/0106) was held whereby the Applicant was provided with preliminary planning advice for the proposed development. The current Development Applicant is a result of the advice provided by Council's Planning department.

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 Matters for Consideration'	Comments
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 matter has been addressed via a condition of consent.</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 of consent.</p> <p><u>Clause 143A</u> 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.</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 16/04/2021 to 30/04/2021 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Council's biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:</p> <ul style="list-style-type: none"> • Pittwater LEP cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.6 Wildlife Corridors

Internal Referral Body	Comments
	The development application is for alterations and additions to an existing dwelling and construction of a new carport. The Statement of Environmental Effects (SEE) submitted with the application, states that all existing trees will be retained, protected and managed during construction and in accordance with the accompanying Arboricultural Impact Assessment. Subject to these conditions of consent, Council's biodiversity referrals team are satisfied that the proposed development complies with the applicable biodiversity provisions.

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, 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. A392044_02, dated 19 February 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 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.

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	Dwelling: 5.2m Carport: 2.7m - 3.1m	N/A N/A	Yes Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Front deck: 4.7m Carport: 0.6m	27.69% 90.76%	No No
Rear building line	6.5m	Rear stairs: 18.6m	N/A	Yes
Side building line	2.5m (Eastern boundary)	Front deck: 5.3m Carport: 13.4m Rear stairs: 7.8m	N/A N/A N/A	Yes Yes Yes
	1m (Western boundary)	Carport: 2.4m - 3.2m Privacy screens (rear balcony): 0.1m Rear stairs: 5.4m - 5.8m	N/A 90% N/A	Yes No Yes
Building envelope	3.5m (Eastern elevation)	Within envelope	N/A	Yes
	3.5m (Western elevation)	Outside envelope (Privacy screens)	N/A	No
Landscaped area	60% (431.64m ²)	62.69% (453.0m ²)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

Detailed Assessment

D10.7 Front building line (excluding Newport Commercial Centre)

Detailed description of non-compliance

This control requires development to be setback 6.5m from the front boundary line.

The proposed development will result in the following front setbacks:

- Front deck: 4.7m (resulting in a variation of 27.69%)
- Carport: 0.6m (resulting in a variation of 90.76%)

The Applicant previously had a Pre-Lodgment Meeting (PLM2020/0106) with Council's Development Assessment Planner's and were advised that the proposed carport may be acceptable if it were reduced from two (2) vehicle spaces to one (1). Upon these changes, and notwithstanding the fact that carports are not the predominant built form feature on sites in adjoining properties to the subject site, Council was satisfied that the reduced scope of works would result in a better streetscape and landscape outcome and could thus be supported.

While the current proposal has adequately addressed Council's advice as outlined in the PLM, it still results in numerical non-compliance to this control. In this instance, a merit consideration has been conducted below.

Merit consideration

Achieve the desired future character of the Locality.

Comment:

Notwithstanding the numerical non-compliance, the proposed carport is an open-style structure with a reduced built form that is well below the height of the surrounding natural environment. Similarly, the proposed front deck will achieve the same bulk and scale as the existing front deck. As such, the proposal achieves the desired future character of the Newport locality.

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

Comment:

The numerical non-compliance resulting from the carport and front deck does not give rise to any unreasonable impact upon existing views obtained by the occupants of adjoining properties.

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

Comment:

The Avenue is not considered a main road. However, the amenity of the residential nature of The Avenue will not be adversely affected by the proposed development, particularly the carport.

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

Comment:

The proposed carport is located over the existing driveway and the proposed front deck is located over the existing building footprint. Therefore, the proposal does not include the removal of vegetation. Additionally the proposal includes the planting of locally native species within the front setback area. While the resultant built form will not be unreasonable, the additional planting will further contribute to enhancing the bushland environment as well as continuing to visually reduce the built form.

Vehicle manoeuvring in a forward direction is facilitated.

Comment:

The current vehicle manoeuvring arrangement on the site does not allow for vehicles to exist the site in a forward facing direction. The proposal does not include amendments to the existing driveway or vehicle access/egress. Council is satisfied with the current vehicle manoeuvring.

To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.

Comment:

Notwithstanding the numerical non-compliance, the existing streetscape will be enhanced by providing formal and well designed off-street parking. The scope of works are minor in nature and will generally resemble the existing dwelling house. The carport is not a significant built form and thus the amenity of the streetscape is generally maintained, and the scale and density of the proposal is in keeping with the height of the natural environment.

To encourage attractive street frontages and improve pedestrian amenity.

Comment:

As discussed above, the proposed development will encourage an attractive street frontage that provides for formal and well-designed off-street parking. The existing pedestrian amenity is maintained.

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

Comment:

The siting of the existing dwelling, pedestrian access and amenity and driveway provide site constraints that mean the proposed carport is to be located forward of the existing building. The proposal does, however, generally responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Having regard to the above assessment, it is concluded that the proposed development

is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

Detailed description of non-compliance

This control requires development to be setback 6.5m from the rear boundary line, and 1.0m from one side boundary and 2.5m from the other.

The proposed development generally achieves compliance with the abovementioned requirements except for the proposed privacy screens which are affixed to the existing rear balcony which does not achieve compliance with the 1.0m side setback requirements. In this instance, a merit consideration of the non-compliance has been conducted below.

Merit consideration

To achieve the desired future character of the Locality.

Comment:

As discussed elsewhere in this report, notwithstanding the numerical non-compliance to this control, the overall proposal will generally achieve the desired future character of the Newport locality.

The bulk and scale of the built form is minimised.

Comment:

The proposed privacy screens are excessive in height (being 2.8m when measured from the finished floor level of the existing rear balcony) and, as discussed elsewhere in this report, a condition of consent has been included to minimise these privacy screens to be the standard 1.65m height which still achieves the privacy outcome but is not of an excessive bulk and height. Adherence to the recommended condition of consent will result in a built form that is of a reasonable bulk and scale that provides sufficient privacy and amenity for the occupants of the subject site and those of adjoining properties.

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

Comment:

The privacy screens, as conditioned, will not impact upon the current views obtained by adjoining properties.

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

Comment:

As above, the privacy screens, as conditioned, will allow for the reasonable sharing of views between dwellings.

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

Comment:

The privacy screens, while affixed to a numerical non-compliant existing balcony, will not result in any unreasonable privacy, amenity or solar access impacts upon adjoining properties. As discussed elsewhere in this report, the privacy screens are excessive in height (at 2.8m) and it has not been shown that such a height achieves outstanding levels of privacy. Therefore, the privacy screens have been conditioned to be reduced in height to the standard 1.65m.

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

Comment:

The existing site has multiple trees throughout, existing garden beds in the north-eastern corner and along a portion of the western boundary in the rear yard. The proposal also includes additional planting of locally native species within the front setback area which will contribute to creating an attractive streetscape. No trees or other vegetation are proposed to be removed under this development application.

Flexibility in the siting of buildings and access.

Comment:

No unreasonable amenity impacts are likely to arise as a result of the proposed development. The current access throughout the site will be maintained.

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

Comment:

As discussed elsewhere in this report, the proposed development does not require the removal of any canopy trees or significant vegetation. Additionally, the proposal includes the planting of some locally native species throughout the front setback area. There is an existing tree just across the western boundary within the property boundaries of 53A The Avenue - this tree is approximately 0.6m from the proposed privacy screens however will not be impacted by the proposed development.

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

Comment:

The subject site is located within, and surrounded by, residential zoning.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D10.11 Building envelope (excluding Newport Commercial Centre)

Detailed description of non-compliance

This control requires development to be set within a prescribed building envelope which is measured 3.5m in height from the side boundary and then inwards at 45 degrees.

The proposed vertical privacy screens along the northern and western elevations of the rear balcony give rise to the numerical non-compliance of this control. These privacy screens will result in a maximum height of 2.8m, resulting in an encroachment to the prescribed building envelope by a

maximum height of 1.3m.

Merit consideration

To achieve the desired future character of the Locality.

Comment:

Notwithstanding the numeric non-compliance, the proposal achieves the desired future character of the Newport locality.

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

Comment:

The encroachment beyond the prescribed building envelope along a small portion of the northern and western elevations will not adversely impact upon the existing streetscape. The general bulk and scale of the existing built form will remain thus the proposal will promote a building scale and density that is below the height of the trees of the natural environment.

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

Comment:

Due to the slope of the land (falling from east to west), the existing deck to which the privacy screens will be applied is elevated above the land and is level with the ground level of the existing house. The privacy screening is consistent with developments built on sloping land and is therefore found to adequately respond to the topography of the site.

The bulk and scale of the built form is minimised.

Comment:

The proposed privacy screening, which runs along the northern and western edges of the existing rear balcony, is not dimensioned on the submitted architectural plans, however these have been measured to be 2.8m in height (when measured from the floor level of the balcony). This height is unnecessary and contributes to additional bulk whilst failing to demonstrate that it results in an *enhanced* level of privacy compared to the standard 1.65m high screen. As such, a condition of consent has been included within this report to ensure the proposed privacy screens are reduced in height to 1.65m. This reduction in height eliminates the building envelope encroachment and the proposal is thereby compliant with this control.

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

Comment:

The numerical non-compliance does not give rise to any unreasonable impacts upon current views obtained by occupants of neighbouring properties.

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 is not found to result in any unacceptable loss of light, privacy, or general amenity to that which is currently enjoyed by any neighbours.

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

Comment:

No vegetation is proposed to be removed to facilitate the proposed privacy. A landscape plan has been provided with this application and the additional planting will thus contribute to visually reducing the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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 DA2021/0331 for Alterations and additions to a dwelling house on land at Lot 2 DP 713100, 53 The Avenue, NEWPORT, 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
A200 Issue C Proposed Plan - Site	17 February 2021	Baikie Corr
A202 Issue C Proposed Plan - Ground Level	17 February 2021	Baikie Corr
A203 Issue C Proposed Plan - First Level	17 February 2021	Baikie Corr
A204 Issue C Proposed Plan - Roof Level	17 February 2021	Baikie Corr
A300 Issue C Proposed Elevation - North	17 February 2021	Baikie Corr
A301 Issue C Proposed Elevation - South	17 February 2021	Baikie Corr
A302 Issue C Proposed Elevation - East	17 February 2021	Baikie Corr
A303 Issue C Proposed Elevation - West	17 February 2021	Baikie Corr
A400 Issue C Proposed Section - AA	17 February 2021	Baikie Corr
A401 Issue C Proposed Section - AB	17 February 2021	Baikie Corr
A402 Issue C Proposed Section - BA	17 February 2021	Baikie Corr
A403 Issue C Proposed Section - BB	17 February 2021	Baikie Corr

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Plans (Drawing numbers: SW0, SW0 2, SW0 3, SW0 4, SW0 5)	3 December 2020	Greenwood Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		

Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural - Construction Impact & Management Statement	March 2021	Growing My Way Consultancy
BASIX Certificate (A392044_02)	19 February 2021	Baikie Corr Pty Ltd

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
A201 Issue C Proposed Plan - Landscape; Erosion and Sediment Control	17 February 2021	Baikie Corr

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	25 March 2021	Bill Kerley

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. 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	Response Ausgrid Referral	Not dated

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

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

3. Prescribed Conditions

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

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,

- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

5. **No consent for existing structures within the road reserve**

This consent does not approve any works that are not within the subject site boundaries or any existing structures located within Council's road reserve.

Reason: Consistency with the terms of consent.

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

A bond (determined from cost of works) of \$1,500 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

7. No Clearing of Vegetation

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

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

Reason: To protect native vegetation.

8. Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage

Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

9. Amendments to the approved plans

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

- The proposed privacy screens along the northern and western edges of the existing rear balcony (as indicated on sheet A300 Proposed Elevation - North and A303 Proposed Elevation - West, dated 17 February 2021, prepared by Baikie Corr) is to be reduced in height from 2.8m to 1.65m

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.

10. 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. Dead or Injured Wildlife

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

Reason: To protect native wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. 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.

13. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, 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.

14. 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.

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

15. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified on the NSW WeedWise website) 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.

16. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title

demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

17. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

(a) Construction Impact & Management Statement, dated (March 2021), prepared by ('Growing My Way' Tree Consultancy).

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

18. **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.

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

Signed



Dean Pattalis, Planner

The application is determined on 05/05/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments