

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2622
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 46 DP 9224, 65 Hillside Road NEWPORT NSW 2106
Proposed Development:	Alterations and additions to a dwelling house including a secondary dwelling and swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Erik Arthur Salomon Altmann Anita Maria Altmann
Applicant:	Rapid Plans Pty Ltd

Application Lodged:	12/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/04/2022 to 27/04/2022
Advertised:	Not Advertised
Submissions Received:	8
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 765,000.00
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EXECUTIVE SUMMARY

The application seeks consent for alterations and additions to a detached dwelling house.

The proposed additions achieve a maximum building height of 9.9m and result in a notable side boundary envelope variation up to 157.1%. However, variation to Clause 4.3 Height of Buildings PLEP and D10.11 Building envelope of the P21 DCP is permitted in this instance as the building footprint is situated on a slope of 44%.

Notification of the application resulted in eight (8) individual objections to the proposed development. The received submissions raised concern with the following matters;

- Secondary dwelling,
- Built form non-compliances,
- Landscaped area,
- Maximum building height,
- Inclinator,
- Swimming pool,
- Schedule of finishes,
- Excavation,
- Overshadowing,
- Traffic impacts,
- Characterisation of development.

The application has been referred to the Development Determination Panel (DDP) as the development has eight (8) individual objections.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

Development application for alterations and additions to a detached dwelling house. The works include;

Garage:

- Construction of new bin storage.
- Construction of pergola over existing terrace.

Lower ground floor:

- Construction of rumpus, entry and bathroom.

Ground floor:

- Internal alterations, including a new gym, office, retreat and bathroom.
- Construction of new internal stair.
- 500mm extension of eastern facing balcony.

First floor:

- Internal alterations, including a new laundry, kitchen, cellar and WC.
- Installation of sliding privacy screen to the northern elevation of existing deck.

Second floor:

- Internal alterations, including a new master bedroom, office, ensuite and WIR.
- Enclosure of existing deck.
- Roof alterations.

External:

- Construction of inclinator that runs parallel to the northern boundary.
- Associated landscaping works.

Amended plans

Following a preliminary review of the application Council raised concern with the proposal's streetscape and amenity impacts. Amended plans were received on 31 March 2022, which included removing the secondary dwelling and relocating the swimming pool and inclinator. The revised pool location promoted a formal re-notification of the proposal, as the changes created additional environmental impacts. The re-notification period was from 13 April 2022 to 27 April 2022.

An assessment of the amended plans indicated that the revised design resulted adverse building bulk. As such, an additional set of amended plans were prepared including the removal of the elevated swimming pool. These amended plans were submitted to Council to 01 June 2022. Northern Beaches Community Participation Plan refers to re-notification not being required for amendments where the *"changes result in a lesser or reduction of environmental impacts"*. In this regard, the proposal was not formally re-notified and the amended plans were uploaded to Council's website. These plans have been used to complete the assessment of this proposal.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways

Pittwater 21 Development Control Plan - D10.4 Building colours and materials

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)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 46 DP 9224 , 65 Hillside Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Hillside Road, Newport.</p> <p>The site is regular in shape with a frontage of 12.195m along Hillside Road and a maximum depth of 39.885m along the southern side boundary. The site has a surveyed area of 481.6sqm.</p> <p>The site is located within the C4 Environmental Living zone and accommodates a three (3) storey detached dwelling house. The dwelling contains a number of split levels that are constructed into the sloping site.</p> <p>The front yard contains a double garage with a tiled veranda above. The rear yard is primarily occupied by the existing building, with numerous small trees and shrubs.</p> <p>The site experiences a fall of approximately 21m that slopes from the north-western rear corner towards the eastern front boundary.</p> <p>The site is mapped as being located within the 'Littoral Rainforest Proximity Area' under the provisions of the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP).</p> <p>The site is mapped as being located within the 'Biodiversity' and 'Geotechnical Hazard H1' areas under the provisions of the Pittwater Local Environmental Plan 2014 (PLEP 2014).</p> <p>Detailed Description of Adjoining and Surrounding Development</p> <p>Adjoining and surrounding development is characterised by two (2) and three (3) storey detached dwelling houses, many of which containing split levels that are constructed in the steep topography that is prevalent along Hillside Road.</p>

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:

BC0122/03

Building certificate for a split level rendered dwelling with a metal roof together with a detached garage and storeroom with a concrete roof. This application was approved on 01 March 2004 subject to reinstating the unapproved studio located above the detached garage to storeroom.

BLD2022/01228

Compliance investigation for the conversion of a storeroom to a studio.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration	Comments
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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans.</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>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>
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by Bushfire Planning Services, dated 2 December 2021). The report stated that the bushfire attack level of the site is "BAL-29".

The application was referred to the NSW Rural Fire Service for further assessment under Council's discretion. The NSW RFS requested additional information on 1 February 2022 as the submitted Bush Fire Report did not adequately demonstrate the management of hazards on the lot to the west of subject site. Additional information was provided on 10 February 2022, which addressed the abovementioned issue. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/04/2022 to 27/04/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 8 submission/s from:

Name:	Address:
Mr Luigi Eero Prezioso	PO Box 410 AVALON BEACH NSW 2107
Mr John William Nolan	42 Hillside Road NEWPORT NSW 2106
Mrs Susan Alison Linda Lawrence	50 Hillside Road NEWPORT NSW 2106
Mr Julian Mark Levy	63 Hillside Road NEWPORT NSW 2106
Doyle Consulting Group	3A Kendall Road CASTLE COVE NSW 2069
Mr Nicholas Walter Holcombe	67 Hillside Road NEWPORT NSW 2106
Mrs Sara Ann Levy	63 Hillside Road NEWPORT NSW 2106
Mrs Diane Louise Nolan	42 Hillside Road NEWPORT NSW 2106

The following issues were raised in the submissions:

- **Secondary dwelling,**
- **Built form non-compliances,**
- **Landscaped area,**
- **Maximum building height,**
- **Inclinators,**
- **Swimming pool,**
- **Schedule of finishes,**
- **Excavation,**
- **Overshadowing,**

- **Traffic impacts,**
- **Characterisation of development.**

The above issues are addressed as follows:

- **Secondary dwelling**

The submissions raised concerns that the proposed secondary dwelling located above the existing garage will result in adverse streetscape and neighbouring impacts.

Comment:

This matter was resolved with the submission of amended plans, which involved the removal of the secondary dwelling.

- **Built form non-compliances**

The submissions raised concerns that the proposal results in numerous built form non-compliances.

Comment:

This matter is discussed in detail under the following sections of this report; D10.7 Front building line, D10.8 Side and rear building line, and D10.11 Building envelope.

In summary, the proposal incorporates sufficient design solutions to minimise the non-compliances on a constrained site, and as a result the bulk and scale of the development does not give rise to any unreasonable impacts upon the adjoining properties.

This matter does not warrant the refusal of this application.

- **Landscaped area**

The submissions raised concerns that the proposal involves a reduction of landscaped area on a site that is currently devoid of significant environmental features.

Comment:

The amended plans included the removal of the proposed swimming pool and associated paved areas, which increased the site's landscaped provision towards existing levels. It is acknowledged that the proposal still results in a minor reduction (0.63% or 3.01sqm) of landscaped area, as such the merits of this non-compliance have been discussed in detail under part D10.13 Landscaped Area - Environmentally Sensitive Land. In summary, the proposal does not involve the removal of any significant vegetation and will enhance the site's natural features with a high quality landscape design.

This matter does not warrant the refusal of this application.

- **Maximum building height**

The submissions raised concerns that the proposed alterations to the upper roof and first floor privacy screen project above the 8.5m height limit.

Comment:

This matter has been discussed in detail under Part 4.3 Height of Buildings of this report. In

summary, variation is afforded to the 8.5m development standard, as the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%) and the additions remain below 10.0m. Furthermore, the areas of non-compliance are relatively minor and remain consistent with the objectives of Part 4.3 Height of Buildings of PLEP2014.

This matter does not warrant the refusal of this application.

- **Swimming pool**

The submissions raised concerns that the proposed pool will result in adverse amenity impacts.

Comment:

This matter was resolved with the submission of amended plans, which involved the removal of the swimming pool.

- **Schedule of finishes**

The submissions raised concerns that the proposed schedule of finishes and materials is incompatible within the locality and will give rise to unreasonable visual impacts, when viewed from the surrounding public and private spaces.

Comment:

Details of the chosen colours have not been adequately provided. Accordingly, a suitable condition has been included with this consent to ensure the chosen colours are consistent with the dark and earthy tones required by Pittwater 21 DCP.

- **Excavation**

The submissions raised concerns that the amended proposal involves additional excavation and the potential impacts this will have on adjoining sites.

Comment:

An addendum to the Geotechnical report was provided by AscentGeo Consulting Geotechnical Engineers (dated 08 June 2022), which indicated that the revised design does not require any modifications to the recommendations contained within the original report. In addition, the Geotechnical Engineer has certified that an acceptable risk is achievable with the amended design.

This matter does not warrant the refusal of this application.

- **Overshadowing**

The submissions raised concerns that the amended proposal will unreasonably overshadowing No. 63 Hillside Road.

Comment:

The applicant has submitted shadow diagrams and detailed analysis of the overshadowing impact of the development and Council are satisfied that the adjoining site's will receive adequate solar access to living room windows and private open space in accordance with the Pittwater 21 DCP.

This matter does not warrant the refusal of this application.

- **Traffic impacts**

The submissions raised concerns that the construction of the proposal will result in adverse traffic impacts for the residents of Hillside Road.

Comment:

Given the scale of works proposed under this application it is not expected to result in any unreasonable construction related traffic impacts. In addition, the submitted plans have indicated a suitable area on the subject site for the storage of construction materials. Furthermore, the application was referred to Development Engineering who raised no concern with the proposal, subject to conditions ensuring that public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

This matter does not warrant the refusal of this application.

- **Inclinorator**

The submissions raised concerns that the proposed inclinorator will result in unreasonable visual privacy and acoustical impacts to No. 67 Hillside Road, given the proposal's proximity to adjoining living areas.

Comment:

This matter has been discussed in further detail under part C1.19 Incline Passenger Lifts and Stairways of this report. In summary, the amended inclinorator design included alterations to the track location, such that it gradually deviates away from the northern boundary as it passes No. 67 Hillside Road's side balcony and ground floor living areas. In addition, imposed conditions will require a 1.7m privacy screen to be affixed to the northern elevation of the inclinorator carriage, while ensuring that the incline lift is operated appropriately so as not to cause 'offensive noise'. It is considered, that the proposal as conditioned will not give rise to any unreasonable visual privacy and acoustical impacts to No. 67 Hillside Road.

- **Characterisation of development**

Concern is raised with the development's characterisation of alterations and additions to an existing dwelling.

Comment:

The consideration of the proposal against the planning principle outlined within the Land and Environment Court Case of *Coorey v Municipality of Hunters Hill [2013] NSWLEC 1187* shows that the proposal retains key characteristics of the existing dwelling and on-site natural features. As such, it is concluded that the proposal has been correctly exhibited as alterations and additions to a dwelling house.

This matter does not warrant the refusal of this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to

Internal Referral Body	Comments
	<p>inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p> <p>PLANNER COMMENT</p> <p>Amended plans were submitted to Council after the completion of this referral and involved removing the secondary dwelling. As such, the conditions recommended within this referral do not form part of the conditions of consent as they are no longer relevant.</p>
Landscape Officer	<p>The development application is for alterations and additions to an existing dwelling, new incline lift, and associated works, as described in the reports and plans.</p> <p>Council's Landscape Referral section have assessed the application against the Pittwater Local Environment Plan C4 Environmental Living Zone, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • C1.5 Visual Privacy • C1.11 Secondary Dwellings and Rural Workers Dwellings • C1.19 Incline Passenger Lifts and Stairways • D10 Newport Locality <p>No Arboricultural information has been provided however it is noted that no trees are to be removed within the property boundary. One tree, shown in the architectural plans and supported by satellite imagery, has previously been removed.</p> <p>It is noted the landscape open space area has a requirement of 60% for C4 Environmental Living however the existing landscape open space is 39%. The proposal will result in 40% landscape open space and this matter shall be assessed to the planners merit discretion.</p> <p>A Landscape Plan accompanies the application and is assessed as part of this Landscape Referral. The proposed incline lift may directly impact the existing vegetation, which is identified to remain, along the northern boundary. Upon further investigation of available satellite imagery, extensive clearing of this area has already occurred. Should the Development Application be approved, vegetation will be required to be re-established along the northern property boundary to all existing disturbed garden beds, including screen planting, subject to imposed conditions. All other existing vegetation is to be retained and protected subject to imposed conditions. Any on slab landscaping must provide adequate soil depth to establish and maintain plant growth, subject to the imposed conditions.</p> <p>One (1) small native tree, with fire retardant properties, shall be</p>

Internal Referral Body	Comments
	<p>installed to help reduce the impact of the built form and satisfy the Pittwater DCP. The tree shall be installed between the dwelling and garage, subject to imposed conditions.</p> <p>All new landscaping should be implemented in accordance with the Asset Protection Zone requirements as specified within Appendix 4 of Planning for Bushfire Protection 2019, and the recommendations of the Bushfire Assessment Report.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for alterations and additions to an existing dwelling, including, inclinator, granny flat, swimming pool, deck, pergola, and internal refurbishments. The application also seeks to establish an Asset Protection Zone (APZ) over the entirety of the site in perpetuity.</p> <p>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 (Coastal Management) 2018</p> <ul style="list-style-type: none"> • Clause 11: Development on certain land within coastal wetlands and littoral rainforests 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"> • B4.17 Littoral Rainforest - Endangered Ecological Community <p>Aerial imagery shows the site as being wholly absent of prescribed trees and vegetation, despite the depicted removal of one tree from within the centre of the site within Architectural Plans (Rapid Plans 2021). It is noted that the site benefits from the 10/50 clearing eligibility which would encompass the entire site, therefore no objection is raised to the proposed establishment of an APZ over the entire site. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Coast and Catchments)	<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 (Coastal Management) 2018 (clauses 13, 14 & 15); and • Relevant LEP and DCP clauses. <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies.</p>

Internal Referral Body	Comments
	The application is supported without conditions
NECC (Development Engineering)	Applicant seek approval for alteration and addition. Geotechnical Engineer has certifies that an acceptable risk is achievable. No Development engineering objection subject to conditions.
Parks, reserves, beaches, foreshore	<p>The development application is for alterations and additions to a dwelling house including a secondary dwelling, new swimming pool and an incline lift.</p> <p>The property is located downslope of Kanimbla Reserve. No encroachment beyond the property boundaries is permitted.</p> <p>Parks Referral raise no concerns subject to the imposed conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who raised no objections.
NSW Rural Fire Service – local branch (s4.14 EPAA)	The application was referred to the NSW Rural Fire Service for further assessment under Council's discretion. The NSW RFS requested additional information on 1 February 2022 as the submitted Bush Fire Report did not adequately demonstrate the management of hazards on the lot to the west of subject site. Additional information was provided on 10 February 2022, which addressed the abovementioned issue. The conditions from the NSW RFS have been included as part of the recommended conditions 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 condition has been included in the recommendation of this report requiring an amended BASIX Certificate to be provided prior to the issue of the Construction 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 raised no objections.

SEPP (Coastal Management) 2018

The site is mapped as being located within the 'Littoral Rainforest Proximity Area' under the provisions of the CM SEPP. Accordingly, the proposal is assessed against Clauses 11 and 15 of the CM SEPP as follows:

11 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 application was referred to Council's Natural Environment team for comment and consideration of the above potential impact. The proposal will not result in impact to the protected native vegetation and it is considered that the proposed development will not significantly impact on that listed above.

Conditions have been included within this consent as further measures to ensure the above is minimally impacted.

The application was also referred to Council's Development Engineer who has included conditions within this consent that will ensure stormwater from the site is appropriately disposed of.

15 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:

Following a full assessment, Council is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

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:	*10.0m	9.9m	N/A	Yes

*As per Clause 2(D) development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%). The building footprint is situated on a slope of 44%.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes

Detailed Assessment

4.3 Height of buildings

(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

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

Comment

The projections above the 8.5m height limit are localised to a portion of the upper roof alterations and first floor privacy screens, as depicted in the below diagram. In this regard, it is considered that the variations to the height standard are minor.

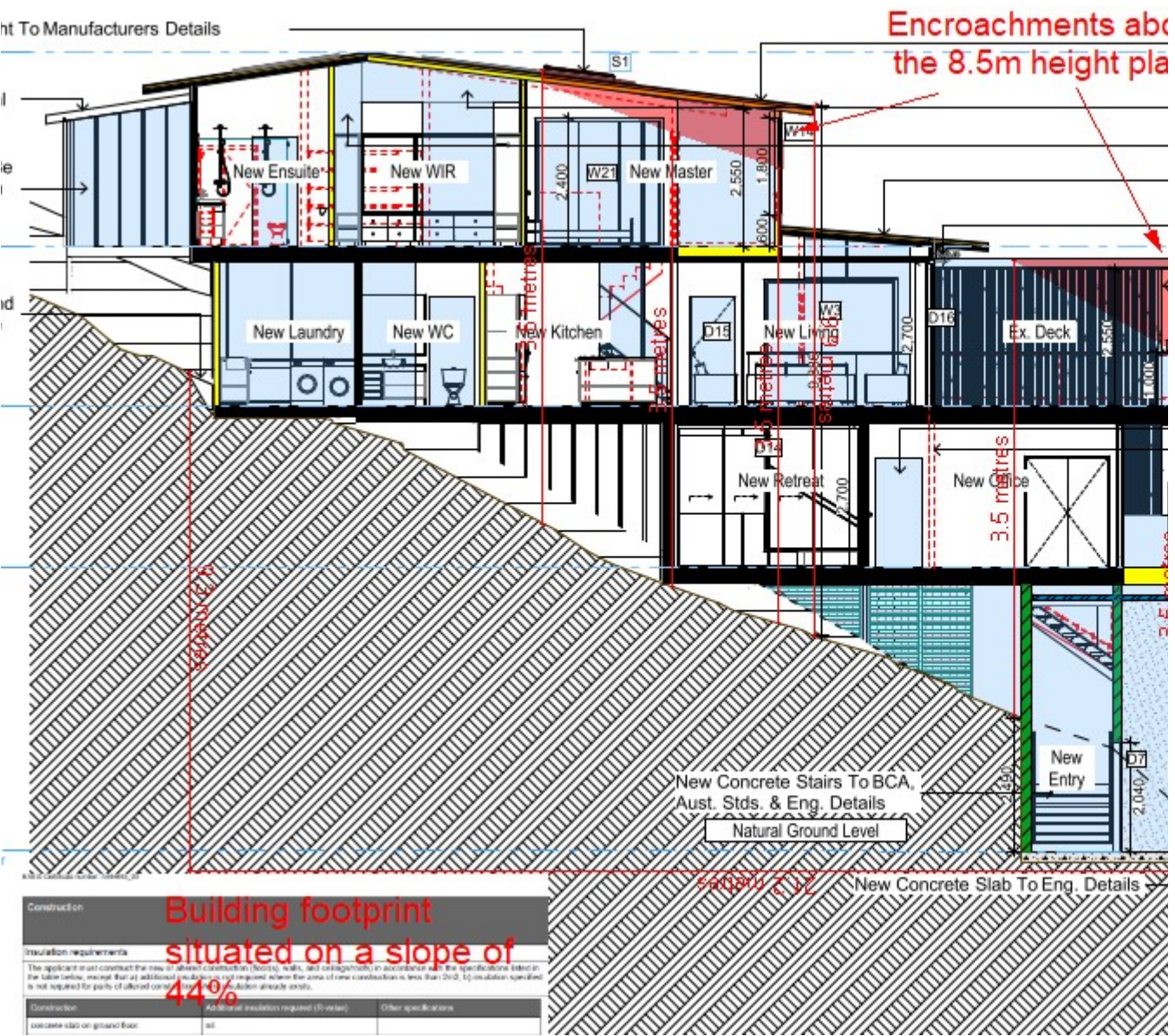


Figure 1. Height plane diagram.

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

Comment

An assessment against the objectives of this clause are detailed below;

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

Comment

The proposed additions are appropriately articulated using recessed and modulated walls, fenestration, balconies, eaves and changes in materials and roof formation to break up built form. In addition, the proposal has been well designed through sensitively responding to the slope of the land by making appropriate level changes where required and limiting the portions of the development that exceed two-storey. Further, the proposal will provide adequate areas for the retention and establishment of sufficient deep soil planting, particularly around the built form. Overall, the building, by virtue of its height and scale, remains consistent with the desired character of the locality

The development satisfies this objective.

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

Comment

The development is located on the high (western) side of Hillside Road, which is characterised by a fluctuating slope from Kanimbla Reserve. As such, this creates a range of varying built forms along Hillside Road, with regards to height and scale.

The projections above the 8.5m height limit are located at the eastern edge of the upper roof and first floor privacy screens (demonstrated in figure 1 above) due to the topographical nature of the site. These encroachments are considered to be relatively minor and does not result in unreasonable neighbouring impacts. Overall, the proposed height is considered to be compatible and commensurate with the existing built form.

The development satisfies this objective.

(c) to minimise any overshadowing of neighbouring properties,

Comment

The solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms and private open space of the adjoining properties. In this regard, the proposal satisfies requirements of Clause C1.4 Solar Access of the Pittwater 21 DCP.

The development satisfies this objective.

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

Comment

The proposal will allow for a reasonable sharing of views.

The development satisfies this objective.

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

Comments

The proposal has been well designed through sensitively responding to the slope of the land by making appropriate level changes. In addition, the proposal will be constructed relatively within the existing

dwelling's footprint, thereby minimising additional land disturbance.

The development satisfies this objective.

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

Comment

Notwithstanding the sloping nature of the site, the development's design creates additional articulation, and visual interest and the additions are sufficiently set back from the boundaries such that the visual impact of the building will be appropriately managed.

Existing landscaping is retained and additional landscaping will soften and moderate the built form. As a result, the proposal will be sufficiently integrated into the existing landscaped setting.

The development satisfies this objective.

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

Comment

The building footprint is situated on a slope of 44%.

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

Comment

As above, the proposal minimises additional site disturbance and the new dwelling appropriately responds to the slope of the land.

7.6 Biodiversity protection

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

(a) whether the development is likely to have:

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

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

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

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

Comment:

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

disturb, or diminish the biodiversity structure, function, or composition of the land.

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

Comment:

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

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

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

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

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

Comment:

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

7.7 Geotechnical hazards

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

(a) site layout, including access,

(b) the development's design and construction methods,

(c) the amount of cut and fill that will be required for the development,

(d) waste water management, stormwater and drainage across the land,

(e) the geotechnical constraints of the site,

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

Comment:

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

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

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

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitably managed on

site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

(i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or

(ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or

(iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.

Comment:

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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	0.2m - 0.7m (Pergola)	89% - 97%	No
Rear building line	6.5m	3.6m (First floor laundry) 0.8m (Second floor sauna)	44.6% 87.7%	No No
Side building line	2.5m - North	1.3m (Dwelling)	48%	No
	1.0m - South	1.0m (Dwelling)	N/A	Yes
Building envelope	3.5m - North	Outside envelope (Four encroachments)	Up to 97%	No
	3.5m - South	Outside envelope (Three encroachments)	157.1%	No
Landscaped area	60%	40% (191.2sqm)	33.3%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	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
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	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	No	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.19 Incline Passenger Lifts and Stairways

Description of non-compliance

The control requires inclinator lifts to be setback at least 2m from side boundaries. The proposed inclinator is located within the 2m side setback area (northern boundary). Therefore, the proposed inclinator fails to meet the control.

Merit Assessment

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

- *Incline passenger lifts and stairways that cause minimal visual and acoustic disturbance to the environment and neighbours.*

Comment:

Due to the constraints of the site, including the footprint of the existing dwelling, compliance with the 2m setback requirement is not achievable.

Therefore, to determine consistency with this outcome the development is considered against the remaining provisions of this control as follows:

- be designed and located so they do not involve excessive excavation, or the removal of

natural rock or trees,

Comment:

The excavation works for footings are not significant. The inclinators do not result in the removal of natural rocks and the development's impact upon vegetation is considered to be acceptable by Council's Landscape Officer.

ii) be erected as near as possible to the ground level (existing) of the site, and shall not involve the erection of high piers or visible retaining structures,

Comment:

The height of the inclinators structure is heavily constrained by the sloping nature of the site and the existing floor levels to which access is proposed to. Notwithstanding, the proposed inclinators track will remain low-lying, as it travels past No. 67 Hillside Road's ground floor living areas and does not exceed the 1.0m height requirement until past the lower ground floor landing (when travelling up-slope). In this regard, the proposal will not give rise to any adverse visual impacts, commensurate to the low density residential context.

iii) be located and designed to minimise the effects of noise from the motor and overlooking of adjoining dwellings,

Comment:

A suitable condition has been included with this consent that requires noise to remain at an acceptable level. Moreover, a privacy screen has been conditioned for the northern elevation of the incline lift to minimise any unreasonable privacy impacts prompted from overlooking.

iv) be painted to blend in with surrounding vegetation and screened by landscaping,

Comment:

The proposal will be finished in dark and earthy tones, which will soften the visual impacts of the incline lift.

vi) be located wholly on private land, and

Comment:

The proposal is located entirely on private land.

vii) have a privacy screen where there is a direct view within 4.5m to a window of a habitable room of another dwelling.

Comment:

A privacy screen has been conditioned on the northern elevation of the incline lift.

Concluding Remarks

Whilst the proposal is numerically non-compliant with the 2m setback requirement, this assessment has concluded that the development is consistent with the remaining controls and outcome of this control. The proposal will provide safe and convenient access across the steep site, with conditions being included to minimise the amenity and acoustic impacts. Therefore, the application is supported on merit, subject to conditions.

D10.4 Building colours and materials

Details of the chosen colours have not been provided. Accordingly, a suitable condition has been included with this consent to ensure the chosen colours are consistent with the dark and earthy tones required by this control.

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

Description of non-compliance

The proposed pergola has a varied front setback between 0.2m - 0.7m. This control requires structures to be set back at a minimum of 6.5m.

As discussed in further detail under the 'Site History' section of this report, no approval can be found for the existing studio to which this pergola relates to. In fact, a previous approval (BC0122/03) required this unapproved studio to be reinstated to a minimal storeroom.

The regularisation of this studio space and extension of built form towards the front boundary is not supported under this application. In this regard, imposed conditions will require the pergola structure be deleted from the approved plans.

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 proposal as conditioned will maintain the desired future character of the locality.

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

Comment:

The proposal will not result in the loss of views.

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

Comment:

The site does not adjoin a main road and as such, this objective is not of relevance.

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

Comment:

The proposal as conditioned maintains adequate vegetation, which visually commensurate to the built form.

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

Comment:

The existing on site parking will not be altered by this proposal.

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

Comment:

The proposal as conditioned is in keeping within the height and scale of the existing streetscape.

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

Comment:

The proposal as conditioned will not adversely impact the street frontage.

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

Comment:

The proposal as conditioned responds to established development within the locality.

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 condition), in this particular circumstance.

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

Description of non-compliance

Side building line

The control requires structures be setback a minimum of 1m from one side boundary and a minimum of 2.5m from the other side boundary.

The proposed additions are sited 1.3m at its closest point to the northern side boundary, therefore representing a 48% variation of the 2.5m.

Rear building line

The control requires a minimum rear setback of 6.5m.

The proposal involves two encroachments within the rear setback, including the first floor laundry on a 3.6m setback and the second floor sauna that is sited 0.8m from the rear boundary.

It must be noted that the above setback encroachments are consequence of following the existing building alignment. In this regard, variation to the numerical requirement is permitted when the outcomes of this clause are achieved.

Merit consideration

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

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

Comment:

The proposal is well articulated such that the dominance of the built form is reduced. The

development remains within the maximum allowable building height for constrained sites, and it is also noted that the proposal generally complies with P21DCP landscaped area provisions, so that native vegetation is retained and protected. In turn, the built form will remain sufficiently screened as presented to the public domain and surrounding properties. The proposal is therefore considered to achieve the desired future character of the locality.

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

Comment:

The proposed additions are appropriately articulated using recessed and modulated walls, fenestration, balconies, eaves and changes in materials and roof formation to break up built form. In addition, the proposed built form is sensitively staggered down-slope to limit any portion of the development exceeding two storey. Furthermore, the proposal would retain and introduce suitable landscaping to minimise the visual impact of the development from adjoining properties and the public realm. Overall, the proportions of the encroaching elements are not considered to be unreasonably scaled or bulky.

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

Comment:

The proposal is considered to equitably preserve the available views and vistas to and/or from public and private places.

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

Comment:

The proposal is considered to achieve a reasonable level of view sharing as a result of the complimentary siting of the built form, in conjunction with its site-specific design.

- *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 considered to provide reasonable amenity for the dwelling occupants and those of adjoining and surrounding properties as a result of adequate building separation, site orientation and aspect and landscape treatment. In addition, the proposal involves affixing new privacy screens to existing balconies, which will assist in enhancing the level of privacy between buildings.

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

Comment:

The proposal has included a detailed landscape plan which seeks to enhance the site's natural features, such that the landscape outcomes of Pittwater 21 DCP are achieved. Furthermore, Council's Landscape Officer has reviewed the proposal and raised no objection subject to conditions requiring protection of existing vegetation and adequate screen planting along the northern boundary. As a result of the site's topography in conjunction with the provision of landscaping, the built form will remain largely consistent as existing when viewed from the streetscape.

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

Comment:

The development has been sited appropriately in accordance with the site constraints and the surrounding residential context, ensuring reasonable amenity can be maintained for the dwelling occupants and those of adjoining and surrounding properties.

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

Comment:

As above, the proposed development will provide high quality landscaping outcomes. In turn, the built form will remain significantly screened from the existing provision of vegetation. In addition, no significant vegetation is required to be removed in order to facilitate the proposed development.

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

Comment:

Not applicable, given the subject site does not adjoin and commercially zoned property.

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.

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of non-compliance

The control requires a building envelope to be projected 45 degrees from a height of 3.5m above ground level at the side boundaries to the maximum building height.

The proposal involves encroachments to the northern and southern side building envelopes as displayed in red within figure 1 and 2 below.



Construction		
Insulation requirements The applicant must construct the new or altered construction (floor(s), walls, and ceiling(s)) in accordance with the minimum insulation requirements set forth in the table below. The new construction or the new or altered construction where insulation is already existing.		
Construction	Additional insulation required (R- value)	OR
concrete slab on ground floor	nil	
suspended floor with open subfloor: board and joist	R2.0 (down to R1.70 including construction)	
external wall: framed (weatherboard, clins, cement-lum)	R1.30 (up to R1.70 including construction)	
external wall: concrete block/claystone/brook	R1.70 (up to R1.70 including construction)	



Merit consideration

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

Comments:
As discussed throughout this report the proposal remains generally consistent with the desired future character of the locality.

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

Comment:

The subject site does not contain any significant canopy trees that define the natural environment. Notwithstanding, the proposed additions provide a compliant building height for constrained sites, which is compatible with the locality's established building scale and density. In addition, the proposal involves a comprehensive landscaping design, which will enhance the site's natural features. Overall, the works as a whole improve the streetscape.

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

Comment:

The encroachments outside of the prescribed envelopes are consequent of following the existing building lines of the house and the sloping nature of the site. However, by following the existing building line of the house, it is found that the development has a lesser visual dominance compared to a design that did comply, which would result in an awkward building step that would draw more attention to the additions than what is proposed. Notwithstanding this, the additions are not of an excessive scale and are designed in a contextually appropriate way to ensure it is compatible to the streetscape.

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

Comment:

The proposed additions are appropriately articulated using recessed and modulated walls, fenestration, balconies, eaves and changes in materials and roof formation to break up built form. In addition, the proposed built form is sensitively staggered down-slope to limit any portion of the development exceeding two storey. Furthermore, the proposal would retain and introduce suitable landscaping to minimise the visual impact of the development from adjoining properties and the public realm. Overall, the proportions of the encroaching elements are not considered to be unreasonably scaled or bulky.

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

Comment:

The proposal will not result in the loss of views.

- *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 complies with the requirements of the C1.4 - Solar Access and has been designed so that there are no unreasonable impacts on the adjoining neighbours. The proposal involves the construction of new privacy screens to existing balconies, which will enhance neighbouring amenity. Additionally, adequate building separation between the proposed development and habitable areas of the adjoining properties has been maintained to protect privacy and amenity of the site and adjoining properties. Overall, the proposed development ensures adequate light, solar access and privacy is obtained between dwellings.

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

Comment:

The development does not require the removal of significant vegetation. The existing and proposed landscape treatments on site are sufficient and ensure the site is not dominated by

the built form. The application has been reviewed by Council's Landscape Officer who have raised no objection to the proposal subject to recommended conditions for tree protection and adherence to the proposed landscape plan. Overall, it is considered that remaining and proposed vegetation will adequately reduce the visual impact of the built form.

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.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance:

The proposal provides 40% (191.58sqm) of the site towards landscaped area.

The control requires a minimum of 60%.

It is noted that with the inclusion of impervious areas permitted under this control, the total landscaped area is 46% (220.5m²).

The existing provision of landscaped area is 40% (194.21sqm).

Merit consideration:

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

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

Comment:

As discussed elsewhere within this report, the proposal reasonably achieves the desired future character of the Newport locality.

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

Comment:

The proposal achieves general compliance with the relevant development controls used to assess the bulk and scale of a development on a constrained site, including; building envelope and maximum building height. Additional planting is proposed within the frontage, which will reduce the visual impact of the development when viewed from the street. In this regard, it is considered that the bulk and scale of the development is modest and appropriately integrated into the landform and landscape.

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

Comment:

The proposal will allow for sufficient provisions of privacy, amenity and solar access to be maintained throughout the subject site and adjoining properties.

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

Comment:

As discussed elsewhere in this report, the proposal's design is adequately sited to maintain ample landscaped areas around the development that will assist in visually reducing the built form.

- *Conservation of natural vegetation and biodiversity.*

Comment:

The proposed development will enhance the site's natural features with a high quality landscape design; therefore, providing adequate opportunities for natural vegetation and biodiversity.

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

Comment:

The proposal has been reviewed by Council's Development Engineer having regard to provisions of stormwater management and has raised no objection to the proposal subject to conditions. In turn, Council can be satisfied that stormwater runoff will be appropriately reduced, preventing soil erosion and siltation of natural drainage channels.

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

Comment:

Development within the subject streetscape and surrounding locale consists of low density residential developments of varying styles and scales within altered landscaped settings, such that the character of the area would not be classified as rural or bushland. However, the site is sufficiently landscaped and the proposed development being within the rear yard will remain unseen as viewed from the streetscape.

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

Comment:

The site will remain afforded with sufficient soft surface so as to provide for infiltration of water to the water table, 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, 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 \$7,650 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$765,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

The proposal seeks consent for alterations and additions to an existing dwelling house.

The development includes several non-compliances, including a breach of the side boundary envelope, landscaped area and front, side and rear building line.

The proposal attracted eight submissions to the formal notification.

This assessment has concluded that the non-compliances are reasonable.

Overall, the proposal will be an upgrade to the existing dwelling, while satisfying the objectives of the zone and being consistent with character of the locality.

Accordingly, the application is recommended for approval subject to conditions.

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 DA2021/2622 for Alterations and

additions to a dwelling house including a secondary dwelling and swimming pool on land at Lot 46 DP 9224, 65 Hillside Road, 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
DA1004 - Rev2: Site plan front	27 May 2022	Rapid Plans
DA1005 - Rev2: Site plan rear	27 May 2022	Rapid Plans
DA1011 - Rev2: Demolition garage	27 May 2022	Rapid Plans
DA1012 - Rev2: Demolition studio	27 May 2022	Rapid Plans
DA1013 - Rev2: Demolition ground floor	27 May 2022	Rapid Plans
DA1014 - Rev2: Demolition first floor	27 May 2022	Rapid Plans
DA1015 - Rev2: Demolition second floor	27 May 2022	Rapid Plans
DA2001 - Rev2: Garage	27 May 2022	Rapid Plans
DA2002 - Rev2: Studio	27 May 2022	Rapid Plans
DA2003 - Rev2: Ground floor	27 May 2022	Rapid Plans
DA2004 - Rev2: First floor	27 May 2022	Rapid Plans
DA2005 - Rev2: Second floor	27 May 2022	Rapid Plans
DA2006 - Rev2: Roof	27 May 2022	Rapid Plans
DA3000 - Rev2: Section 1	27 May 2022	Rapid Plans
DA3001 - Rev2: Section 2	27 May 2022	Rapid Plans
DA3002 - Rev2: Section 3	27 May 2022	Rapid Plans
DA3003 - Rev2: Section inclinator 1	27 May 2022	Rapid Plans
DA3004 - Rev2: Section inclinator 2	27 May 2022	Rapid Plans
DA3005 - Rev2: Section stairs	27 May 2022	Rapid Plans
DA4000 - Rev2: Elevation north 1	27 May 2022	Rapid Plans
DA4001 - Rev2: Elevation north 2	27 May 2022	Rapid Plans
DA4002 - Rev2: Elevation south 1	27 May 2022	Rapid Plans
DA4003 - Rev2: Elevation south 2	27 May 2022	Rapid Plans
DA4004 - Rev2: Elevation east/west	27 May 2022	Rapid Plans
DA5001 - Rev2: Material & colour sample board	27 May 2022	Rapid Plans

Reports / Documentation – All recommendations and requirements contained within:

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Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Risk Assessment	2 December 2021	Bushfire Planning Services
Geotechnical Assessment	9 December 2021	Ascent Geotechnical Consulting

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
DA1015 - Rev2: Landscape plan	27 May 2022	Rapid Plans

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	22 December 2021	Rapid Plans

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
NSW RFS	Response RFS Referral	27 February 2022

(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. **Approved Land Use**

Nothing in this consent shall authorise the use of site 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:

“means a building containing only one dwelling”

(development is defined by the Pittwater Local Environmental 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.

4. **No Approval for Studio Use**

No retrospective approval is granted under this Development Consent for the 'studio' located above the garage.

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 7.12 Contributions Plan 2021

A monetary contribution of \$7,650.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$765,000.00.

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

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

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

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

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

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. On Slab Landscape Works

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for succulents,
- ii) 600mm for shrubs.

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

10. 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 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.

11. Geotechnical Report Recommendations have been Incorporated into Designs and

Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Acent Geotechnical Consultant dated 9 December 2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

12. **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.

13. **Amendments to the approved plans**

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

- The pergola located above the existing front terrace is to be deleted.
- The northern elevation of the inclinator lift must be affixed a 1.7 metre high privacy screen (measured from the finished floor level). The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 30mm), in materials that complement the design of the approved development.

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.

14. **BASIX Certificate**

An amended BASIX Certificate to be prepared for the approved plans referenced in Condition No.1.

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

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

15. **Compliance with Standards**

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

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

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

16. **External Finishes to Roof**

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

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

17. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the 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.

18. **External Colours and Finishes**

The external colours and finishes to the external walls and roof shall have a medium to dark range (BCA classification M and D). Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure building colours and materials compliment and enhance the natural landscapes and to ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. **Protection of Landscape Features and Sites of Significance**

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed during demolition, excavation and construction works, except where affected by works detailed on approved plans.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

20. **Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

21. **Road Reserve**

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

Reason: Public safety.

22. **Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

23. **Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Reason: To protect and/or restore any damaged public asset.

24. **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.

25. **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.

26. **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

27. Required Screen Planting

Screen planting shall be planted in accordance with the following:

- i) Along the northern boundary starting 2 metres east of the first inclinor stop (D6) and finishing at least 2 metres west of the last inclinor stop (D15). Appropriate species shall be selected to ensure sustained growth and adaptability to the site conditions,
- ii) be a suitable pot size so that plant height is at least 1.5 metres at installation.

The selected planting is to comprise of species capable of attaining a height of 2.6 metres at maturity.

Plants are to be installed at minimum 1 metre intervals and in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

Reason: To maintain environmental amenity.

28. Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- i) All new landscaping and any vegetation re-establishment of disturbed areas, is to incorporate a minimum 80% locally native species as a proportion of the total number of plants and species. Locally native species are to be consistent with the Littoral Rainforest Endangered Ecological Community and the Northern Beaches Native Plant Species Guide - Pittwater Ward,
- ii) mass planting (other than the required screen planting) shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- iii) one (1) small native tree, with fire retardant properties, shall be planted between the dwelling and garage to achieve at least 6 metres height at maturity, and shall be selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward, Council's Tree Guide, or consistent with the Littoral Rainforest Endangered Ecological Community, and in accordance with iv), v) and vi),
- iv) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- v) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, 2.0 metres from structures, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- vi) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any

conditions of consent.

Reason: Environmental amenity.

29. **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.

30. **New Vegetation Planting**

Any new landscaping is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the Littoral Rainforest Endangered Ecological Community (per <https://www.northernbeaches.nsw.gov.au/node/16568>).

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

Reason: To ensure compliance with the requirement to retain and protect native planting on the site.

31. **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.

32. **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.

33. **Geotechnical Certification Prior to Occupation Certificate**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

34. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

35. **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.

36. **Maintenance of Asset Protection Zones**

Vegetation clearing for ongoing APZ maintenance must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Reason: To protect native vegetation and wildlife.

37. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife in accordance.

38. **Incline Lift Noise**

The incline lift must be installed and operated at times so as not to cause 'offensive noise'. It must be demonstrated that the noise level will not exceed 5dB(A) above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997. The assessment shall include all mechanical features of the incline lift.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

39. **Incline Lift hours of Operation**

Use of the Incline lift is restricted to between the hours of:

- 7:00am to 10:00pm Monday to Saturday
- 8:00am to 10:00pm Sunday

The inclinor must only be used between the hours of 10:00pm and 7:00am in an emergency.

Reason: To protect the amenity of adjacent residences during night hours.