

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/0301
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<b>Responsible Officer:</b>	Thomas Burns
<b>Land to be developed (Address):</b>	Lot 1 DP 1076755, 12 Corniche Road CHURCH POINT NSW 2105
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including carport
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Richard Geoffrey Frank Morris
<b>Applicant:</b>	JJ Drafting

<b>Application Lodged:</b>	31/03/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	09/04/2021 to 23/04/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 9.65%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 90,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing dwelling house. Specifically, the proposal comprises the following:

#### Carport/Bin Storage Area

- An extension of the existing carport roof over the bin storage area to provide for under covered storage.

#### First Floor Level

- Demolition of existing sloping roof and replace with a gable roof.
- Portion of existing covered deck between studio and master bedroom to be enclosed to form an ensuite.
- Internal alterations to the existing master bedroom to alter the floor plan.
- Window sill to new walk in robe to be lowered.
- New decking and balustrading on the north-eastern elevation (front) of the master bedroom.
- Existing internal staircase to be enclosed and part of the floor area provide for the master bedroom.

## 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 - 4.6 Exceptions to development standards

Pittwater 21 Development Control Plan - A4.4 Church Point and Bayview Locality

Pittwater 21 Development Control Plan - B3.1 Landslip Hazard

Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D4.3 Building colours and materials

Pittwater 21 Development Control Plan - D4.5 Front building line

Pittwater 21 Development Control Plan - D4.6 Side and rear building line

Pittwater 21 Development Control Plan - D4.8 Building envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 1076755 , 12 Corniche Road CHURCH POINT NSW 2105
<b>Detailed Site Description:</b>	The subject site consists of one allotment located on the south-western side of Corniche Road, Church Point.

The site is irregular in shape with six boundaries and a surveyed area of 1514sqm.

The site is located within the E4 Environmental Living zone pursuant to the PLEP 2014 and accommodates a three level dwelling house, which is generally two storeys in height. The site also contains a double carport forward of the front building line.

The site is well vegetated and contains numerous canopy trees and exposed rock outcrops. Existing trees within the site are representative of the Pittwater Spotted Gum Forest Endangered Ecological Community. The site also has a natural watercourse within the rear yard, which disposes into a stormwater pit.

The site experiences a fall of approximately 27m that slopes away from the rear boundary towards the frontage. This represents an approximate slope of 38.6%.

The site is partially flood prone and subject to landslip hazards.

#### **Description of Adjoining and Surrounding Development**

The surrounding built environment is characterised by similar low density residential development within a bushland setting, ranging from two to three storeys in height. Located to the rear of the site (upslope) contains low density residential development on larger residential allotments, in excess of 4000sqm in area.

Map:



## SITE HISTORY

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

**Development Application N0051/03** for alterations and additions to the existing dwelling approved with a deferred commencement condition on 10 December 2003.

**Building Certificate BC0014/04** for a one and two store and "weathertex" dwelling with a tile roof approved by Council on 3 March 2004.

**Building Certificate BC0048/09** for a one and two store and "weathertex" dwelling with a tile roof together with a detached carport approved by Council on 15 April 2009.

### Application History

The Assessment Officer undertook a site visit at the subject site and examined the site's surrounds on 21 April 2021.

Following preliminary assessment of the application, which included the above site visit, Council wrote to the applicant raising concern of the roof addition over the bin storage area. This addition would require the removal of a large canopy tree and therefore, could not be supported on this basis. The applicant subsequently provided written correspondence to Council requesting that this roof addition be deleted from the plans.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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.



Section 4.15 Matters for Consideration'	Comments
	<p>Clause 92 of the EP&amp;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>Clause 98 of the EP&amp;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>Clause 98 of the EP&amp;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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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	No submissions were received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/04/2021 to 23/04/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>This application is for the alterations and additions to an existing residential dwelling. Alterations include the minor demolition of internal walls and structures to create a larger master bedroom on the first floor inclusive of a new en-suite. Additions include a small roof extension over the existing bin storage area, as well as a new deck on the first floor.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D4.10 Landscaped Area - Environmentally Sensitive Land</li> </ul> <p><b><u>Original Comments - 07/04/2021</u></b></p> <p>The Statement of Environmental Effects provided with the application notes that there will be no changes to the existing vegetation, with no existing trees impacted by the proposed works. The Architectural Plans provided largely support this, as all existing trees have been noted as retained. Concern however is raised regarding the proposed roof over the existing bin storage area, as the current plans indicate a conflict with an existing tree trunk. Currently it appears as though the proposed roof is to be built through/over this tree trunk, which would necessitate the removal of this tree. The removal of this tree would not be supported as it is a large native canopy tree with high landscape significance and amenity value.</p> <p>The retention of this tree, as well as others on site, is vital to satisfy control B4.22, as key objectives include "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as "to protect and enhance the urban forest of the Northern Beaches". This tree also provides valuable built form mitigation and softening, a key outcome of both control C1.1 and D4.10. It is therefore recommended an amended Architectural Plan be provided addressing this tree conflict, highlighting that the proposed extent of the new roof is either reduced or relocated in order to accommodate this existing tree.</p> <p>As a result, in its current form the landscape component of the proposal cannot be supported. However, upon receipt of amended Architectural Plans addressing the above concern, the landscape component of the proposal would be supported subject to typical conditions regarding tree protection measures.</p> <p><b><u>Updated Comments - 27/04/2021</u></b></p>

Internal Referral Body	Comments
	<p>Upon further discussions with the applicant, it has been agreed upon that the proposed roof above the bin storage area is to be removed, hence ensuring no impacts upon the existing significant trees. It is noted the removal of this roof will be a condition of consent which is supported.</p> <p>No further concerns are raised with the proposal and it is therefore supported subject to existing tree and vegetation protection.</p>
NECC (Bushland and Biodiversity)	<p>Council's biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:</p> <ul style="list-style-type: none"> <li>• Pittwater LEP cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</li> <li>• Biodiversity Conservation Act 2016</li> </ul> <p>The Statement of Environmental Effects (SEE) submitted with the Application (JJ Drafting 2021) states that no vegetation will require removal in order to facilitate the proposed additions to the existing dwelling. As such, these conditions of consent require that all native trees be retained and protected, including all <i>Corymbia maculata</i> (Spotted Gum) in proximity to the proposed additions. Retention of all existing native trees within the site demonstrates that the development shall not have an adverse impact on Pittwater Spotted Gum Endangered Ecological Community which is required for compliance with P21DCP cl. B4.7.</p> <p>Any future landscaping should ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community) for compliance with P21DCP cl. B4.7.</p> <p>Subject to these conditions of consent, Council's biodiversity referrals team are satisfied that the proposed development complies with the above listed biodiversity provisions.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The property is affected only by the Low Flood Risk Precinct. There are no applicable flood related controls for residential development.</p>

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

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

#### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted with the application (see Certificate No. A409299 dated 18 March 2021). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

#### **SEPP (Infrastructure) 2007**

##### Ausgrid

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

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

##### Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable



subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

## Pittwater Local Environmental Plan 2014

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.32m (RL 48.27)	9.65%	No

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### 4.6 Exceptions to development standards

##### Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.32m
Percentage variation to requirement:	9.65%

Clause 4.3 of the PLEP 2014 limits the height of buildings to 8.5m above the existing ground level. The proposed gable roof component on the upper floor has a maximum height of 9.32m (RL48.27) above the existing ground level, which represents a 9.65% (820mm) variation from the development standard. The extent of the non-compliance occurs for a horizontal length of 2.81m. It is important to note that the proposed gable roofline is sited 220mm below the existing ridge level, which is sited at RL48.49. It further noted that the slope under the building footprint has a 27.89% gradient and therefore, the 10m



*standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

#### **Clause 4.6 (4)(a)(i) (Justification) assessment:**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

#### Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

#### Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'*

s 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act(cf previous s 5)*

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

*"There are numerous environmental planning grounds for varying the development standard which is the preservation of appropriate residential density and the amenity, maintaining privacy for residents, preserving the natural topography and the biodiversity significance of the locality.*

*The proposal is consistent with the aims of the PLEP as it constitutes a good environmental planning ground justifying a contravention of the maximum height of buildings development standard contained in clause 4.3 of the PLEP.*

*Another good environmental planning ground justifying a contravention of the development standard in this instance is that there is no demonstrable public benefit in maintaining the development standard, clause 4.6 (5)(b) in this instance for to do would not result in any material public benefit in this situation.*

*The proposed development will result in an improved outcome for the occupants and for the wider community in that there are likely to be no significant amenity impacts for residents and neighbours.*

*The proposed development is unlikely to increase the demand on local infrastructure and service and is entirely consistent with such of the zone objectives as are of relevance. The residential environment will remain characterised by a diverse range of low density dwelling styles, whilst not detracting from the consistent natural landscape setting".*

Comment:

Council's Assessment Officer agrees generally with the applicant's justification.

The height breach will not result in unreasonable amenity impacts, having regard to solar access, views and privacy. Properties to the rear area are elevated well above the subject site due to the local topography and will not be subject to view loss. In relation to overshadowing, it is noted that the additional shadowing resulting from the height breach is miniscule and complies with the P21DCP solar access provision. This is demonstrated on the shadow analysis submitted with this application. In

relation to privacy, a condition has been imposed with this consent requiring the south-eastern elevation of the upper level deck to be affixed with a privacy screen. It is noted that the gable roof subject to this non-compliance does not result in unreasonable privacy impacts.

Furthermore, it is agreed that the non-compliance does not impact upon existing native vegetation or alter the site topography, given the height breach pertains to a roof addition to an existing building.

It is also accepted that the height breach will result in greater internal amenity for the occupants of the site, without detracting from the amenity of adjoining properties or the public domain. Compliance with the height standard will not result in a materially better planning outcome in this instance, given the minimal impacts involved. The gable roof addition is visually separated from the street due to the site topography and will not detract from the visual qualities of the streetscape.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying clauses 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

#### **Clause 4.6 (4)(a)(ii) (Public Interest) assessment:**

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

#### **Comment:**

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E4 Environmental Living zone. An assessment against these objectives is provided below.

#### **Objectives of development standard**

The underlying objectives of the standard, pursuant to Clause 4.3 – Height of buildings of the PLEP 2014 are:

(1) The objectives of this clause are as follows:

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

#### **Comment:**

The gable roof addition does not alter the overall height of the existing building, given the addition



is located 220mm below the ridge level of the existing dwelling. The proposal will continue to maintain an appropriate visual relationship with the surrounding environment and will continue to maintain consistency with the desired future character statement of the Church Point and Bayview locality.

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

Comment:

The gable addition is located 220mm below the ridge level of the existing dwelling. The height non-compliance is exacerbated by the steep topography. The dwelling will continue to be compatible with the height and scale of surrounding development, which consists of two to three storey dwelling houses.

*c) to minimise any overshadowing of neighbouring properties,*

Comment:

As noted earlier in this report, the additional shadowing resulting from the gable addition is miniscule and complies with the P21DCP solar access provision.

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

Comment:

Water views of the Pittwater waterway are located to the north-east of the site. Properties to the rear of the site are located at a much higher level due to the steep topography that slopes from west to east. Therefore, the gable addition will not have an adverse view impact upon adjoining properties.

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

Comment:

The gable roof addition subject to the height breach does not alter the natural topography.

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

Comment:

The site is not located in close proximity to heritage items or heritage conservation areas. Furthermore, the gable roof addition is visually separated from the streetscape due to the site topography and therefore, will not detract from the natural amenity of the area.

## Zone objectives

The underlying objectives of the E4 Environmental Living zone are as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The gable roof addition does not result in tree removal or alter the site topography. The addition is also not visible from the street frontage, due to the steep topography. Therefore, the proposal will not detract from the ecological, scientific or aesthetic values of the area.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

As noted above, the proposal will not detract from those values.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment:

The gable addition does not alter the overall building height. Therefore, the dwelling will continue to maintain an appropriate visual relationship with the surrounding built environment, integrated into the landform and landscape.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The gable addition does not impact riparian and foreshore vegetation and wildlife corridors.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E4 Environmental Living zone and Clause 4.3 of the PLEP 2014.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	12.73m (balcony) 5.6m - 8.6m (carport addition)	up to 13.85% (carport addition)	<b>No (carport addition)</b>
Rear building line	6.5m	no change to rear building line and works over 6.5m from rear boundary	-	Yes
Side building line	2.5m (north-west)	12.16m (deck) 0.45m (carport addition)	82% (carport addition)	<b>No (carport addition)</b>
	1m (south-east)	2.21m (deck)	-	Yes
Building envelope	3.5m then projected at 45 degrees (north-west)	Within envelope	-	Yes
	3.5m then projected at 45 degrees (south-east)	Outside envelope	32.57% - 43.78%	<b>No</b>
Landscaped area	60% (908.4sqm)	77.36% (1171.17sqm) - unchanged	-	Yes

**\*Notes:**

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

2. The carport addition is deleted from the approved plans via way of condition. Therefore, the proposal complies with the front building line and side building line provisions when accounting for this condition.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	No	Yes
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	No	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D4.14 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

#### **A4.4 Church Point and Bayview Locality**

The proposed development is considered to maintain consistency with the desired future character statement of the Church Point and Bayview locality for the following reasons:

- The built form steps down in height with the natural topography that slopes from west to east, which minimises building bulk.
- The upper floor addition is located well below the existing tree canopy.
- The proposal does not alter the natural site topography.
- The proposal does not necessitate the removal of vegetation.

#### **B3.1 Landslip Hazard**

The site is subject to landslip hazards. Accordingly, the application was accompanied by a Geotechnical Report and associated forms (prepared by White Geotechnical Group dated 15 March 2021). The report concludes as follows:

*"The property has an 'Acceptable Risk Level' in accordance with the 2009 Geotechnical Risk Management Policy for Pittwater".*

Therefore, Council can be satisfied that the proposal is acceptable from a geotechnical perspective. Conditions have been imposed with this consent to ensure compliance with Council's Geotechnical Risk Management Policy for Pittwater.

#### **B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community**

The proposal involved a roof addition over an existing bin storage area. This addition would require the removal of an existing canopy tree, which could not be supported. The applicant provided written correspondence to Council requesting that Council impose a condition to remove this addition. Subject to compliance with this condition, the proposal will not require the removal of canopy trees and therefore, will comply with this control.

#### **C1.5 Visual Privacy**

##### Description of non-compliance

The control requires private open space on adjoining properties to be protected from overlooking through 9m of building separation or other privacy measures. The proposed deck on the upper level is located within 9m of a terrace above a garage on the south-eastern site (No. 14). No privacy measures are currently proposed to prevent downward overlooking, which is inconsistent with this control.

##### Merit consideration

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

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

##### Comment:

To ensure a reasonable level of visual privacy is maintained between the two adjoining outdoor living areas, a suitable condition has been included with this consent requiring the upper level deck sited at RL44.72 to be affixed with a 1.65m high privacy screen along the south-eastern edge of the deck. Subject to compliance with this condition, the proposal will optimise visual privacy through good design.

- *A sense of territory and safety is provided for residents.*

##### Comment:

It is assumed that a sense of territory and safety will be provided for the residents.

##### Concluding Remarks

Subject to compliance with the condition listed above, the proposed development will demonstrate consistency with the outcomes of this control.

#### **D4.3 Building colours and materials**

The timber deck meets the earthy tones prescribed by this control. A condition has been included with this consent to ensure the roof colour is within the medium to dark range, which will ensure compliance with this control and minimise solar reflectivity.

#### **D4.5 Front building line**



The roof addition over the bin storage area is located within the 6.5m front setback area and therefore, fails to meet the numeric requirement.

However, as noted earlier in this report, a condition has been included with this consent requiring the roof addition to be deleted from the approved plans, due to the impacts upon an existing canopy tree. When accounting for the works being approved under this application, the proposal complies with the 6.5m front setback provision.

No further consideration of this control is required for the purpose of this assessment.

#### D4.6 Side and rear building line

The roof addition over the bin storage area is located within the 2.5m side setback area along the north-eastern boundary and therefore, fails to meet the numeric requirement.

However, as noted earlier in this report, a condition has been included with this consent requiring the roof addition to be deleted from the approved plans, due to the impacts upon an existing canopy tree. When accounting for the works being approved under this application, the proposal complies with the 2.5m side setback provision.

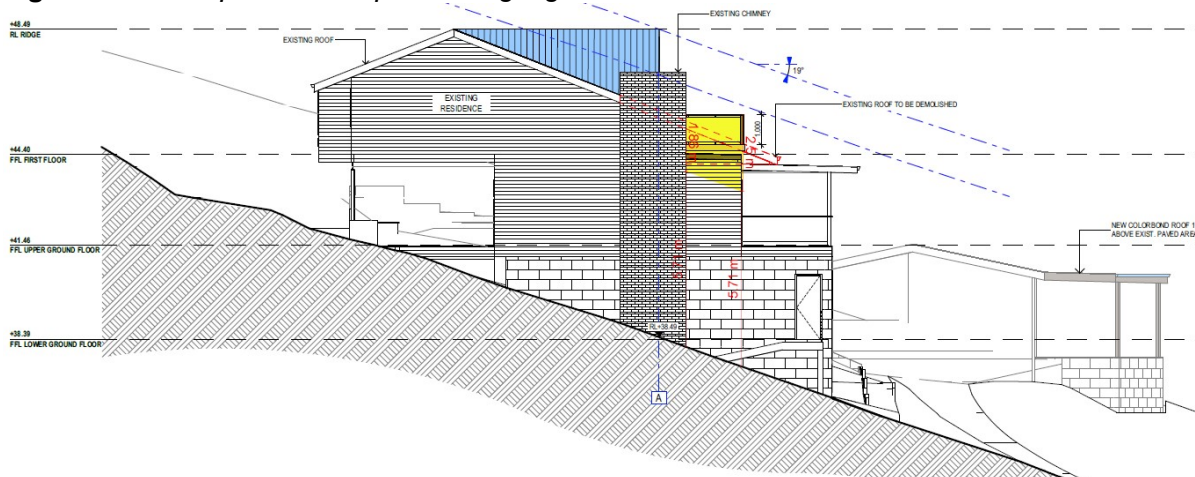
No further consideration of this control is required for the purpose of this assessment.

#### D4.8 Building envelope

##### Description of non-compliance

The control requires buildings to remain within an envelope determined by projecting planes at 45 degrees, when measured from 3.5m above the existing ground level at side boundaries. A portion of the proposed development protrudes outside of the prescribed building envelope, which fails to comply with the numeric requirement. The extent of the non-compliance is depicted in Figure 2 below.

**Figure 2: envelope non-compliance highlighted below**



##### Merit consideration

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

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

Comment:

As discussed in the section of this report relating to Clause A4.4 of the P21DCP, the proposed development is considered to align with the desired future character statement of the Church Point and Bayview 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 upper level extension is located well below the established tree canopy. Moreover, the addition is sufficiently separated from the street frontage and will not detract from the visual qualities of the streetscape.

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

Comment:

The built form steps down with the natural topography that slopes from west to east, which reduces the building bulk.

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

Comment:

As noted above, the bulk and scale of the built form is not considered to be excessive. Furthermore, the envelope non-compliance pertains to an open deck structure, which does not present with excessive bulk.

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

Comment:

As noted earlier in this report, the proposal does not result in adverse view impacts.

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

Comment:

As noted earlier in this report, the proposal, as amended via condition, does not result in unreasonable

amenity impacts, specifically having regard to views, solar access and privacy.

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

Comment:

The proposal, as amended via condition, does not necessitate the removal of vegetation. Existing canopy trees on the site will continue to soften the built form.

Concluding Remarks

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

**THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

**CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

**POLICY CONTROLS**

**Northern Beaches Section 7.12 Contributions Plan 2019**

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

**CONCLUSION**

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

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

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

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

- Consistent with the objectives of the DCP

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case;  
and  
b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

## RECOMMENDATION

That Northern Beaches Council as the consent authority vary Clause 4.3 Height of Buildings development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2021/0301 for Alterations and additions to a dwelling house including carport on land at Lot 1 DP 1076755, 12 Corniche Road, CHURCH POINT, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA.01 (Revision A) - Site Analysis Plan	01/03/2021	JJ Drafting
DA.02 (Revision A) - Lower Ground Floor Plan	01/03/2021	JJ Drafting
DA.03 (Revision A) - Ground Floor Plan	01/03/2021	JJ Drafting

DA.05 (Revision A) - Proposed Ground Floor Plan	01/03/2021	JJ Drafting
DA.06 (Revision A) - North East Elevation	01/03/2021	JJ Drafting
DA.07 (Revision A) - South East Elevation	01/03/2021	JJ Drafting
DA.08 (Revision A) - North West Elevation	01/03/2021	JJ Drafting
DA.09 (Revision A) - South West Elevation & Specification Notes	01/03/2021	JJ Drafting
DA.10 (Revision A) - Section / BASIX	01/03/2021	JJ Drafting

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No. A409299	18/03/2021	JJ Drafting
Geotechnical Report - Minor Works Assessment Ref. J3282	15/03/2021	White Geotechnical Group

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:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	18/03/2021	JJ Drafting

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

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

## 2. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.



- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

### 3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges

paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

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

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

Authority prior to the issue of the Construction Certificate.

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

### **5. 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.

### **6. Stormwater Drainage Disposal**

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

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

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

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

Reason: To ensure satisfactory management of stormwater.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

**8. 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.

**9. 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.

**10. Amendments to the approved plans**

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

- The south-eastern most edge of the upper floor deck/balcony must be affixed with a screening device of either solid panel construction or louvre screening with a maximum spacing of 30 millimetres. The screening device must be 1.65 metres above the finished floor level.
- The roof addition over the bin storage area must be deleted from the plans in its entirety.

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.

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

**11. Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**



## 12. **Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site not approved for removal, 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), vi) and vii) 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) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) 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,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

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.

**13. Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

**14. Survey Certificate**

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

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

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

**15. 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 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**

**16. No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified on the NSW WeedWise website) are to be imported on to the site prior to or during construction works.

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

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

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

### 17. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

**Signed**



**Thomas Burns, Planner**

The application is determined on 30/04/2021, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**