

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2022/0943 |
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| Responsible Officer: | David Auster |
| Land to be developed (Address): | Lot 72 DP 10782, 94 Whale Beach Road WHALE BEACH NSW 2107 |
| Proposed Development: | Alterations and additions to a dwelling house |
| Zoning: | C4 Environmental Living |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Kathryn Jane Coburn Anthony Edward Coburn |
| Applicant: | MM+J Architects Pty Ltd |

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| Application Lodged: | 17/06/2022 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 27/06/2022 to 11/07/2022 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 984,500.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The application proposes alterations and additions to the existing dwelling, consisting primarily of works to the eastern side of the dwelling in and above the existing driveway area, and works to the rear private open space areas. The following works are proposed:

Gym Level (RL 41.180):

- Proposed gym area located under the existing swimming pool

Pool Level (RL 44.68)

- New sauna, storage area, wet bar and bathroom to the north of the pool
- Additional decking surrounding the existing pool and sunken lounge fire pit

Ground Floor (RL 50.63):

- New deck along the eastern boundary
- New sliding doors which open out to the new deck area.
- Planter boxes proposal adjacent to the boundary

A landscape plan has also been provided detailing the new private open space areas.

Amendments

During the assessment Council raised concern with the extent of proposed non-compliance with the side boundary envelope control, and the landscaped area control. The applicant amended the plans to reduce the extent of non-compliance by increasing the side setback of the proposed upper level deck and decreasing the overall size, and reducing the extent of the firepit area to the rear to increase landscaped area. These changes generally reduced the scope of the development, and any environmental impacts. As such, in accordance with the Community Participation Plan, the amended plans were not renotified.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - D12.5 Front building line

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

Pittwater 21 Development Control Plan - D12.8 Building envelope

Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

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|-----------------------------------|--|
| Property Description: | Lot 72 DP 10782 , 94 Whale Beach Road WHALE BEACH NSW 2107 |
| Detailed Site Description: | <p>Number 94 Whale Beach Road is predominately rectangular shaped allotment comprising a total site area of 1019m². The site has a primary frontage of 20.12m to Whale Beach Road, approximate depth of 51.5m rear boundary of 20.05m. The topography of the site slopes down from street level to the rear boundary. The rear section of the site includes several large trees and vegetation.</p> <p>The site slopes down from front to rear with a significant fall. There is an existing two storey dwelling on site, with an attic level, and pool and decking to the rear. The driveway access is raised in the eastern side setback area and provides access to an east facing garage on the lower level facing to the side boundary.</p> <p>The rear portion of the site is identified on the NSW Biodiversity Values (BV) map, identifying areas of high biodiversity value. This is shown on the plans submitted with the application.</p> <p>Surrounding development consists of detached dwellings of various heights and styles.</p> |

Map:



SITE HISTORY

The site has a history of residential use, with no recent or relevant applications. The existing dwelling and pool on site was the subject of a building certificate issued by Council on 7 September 2009 (BC0107/09).

The applicants held a prelodgement meeting with Council with regard to the current proposal

(PLM2021/0221) on 2 September 2021. The notes from this meeting raised concerns with visual and acoustic privacy from the proposed raised deck above the driveway, acoustic impacts from the proposed basketball court to the rear, and suggested mitigation measures. Further concerns were raised with regard to the amount of landscaped area and particularly the proposed basketball court to the rear of the site, and impacts on biodiversity. Concern was also raised with respect to the visual impacts, bulk and scale, and side setback and building envelope non-compliance of the proposed raised deck above the driveway.

The proposal as lodged has deleted the basketball court from the rear of the site, and increased the side setback of the upper level deck, and includes a privacy screen and planter box along the eastern side of the deck. Further amendments were required during the assessment process to again increase the side setback of the deck, and rear setback to reduce the extent of non-compliance with the side boundary envelope control. Amendments were also made to increase the front setback of the deck, and to decrease the extent of decking to increase the amount of landscaped area on site.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration | Comments |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | There are no current draft environmental planning instruments. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021</p> |

| Section 4.15 Matters for Consideration | Comments |
|--|---|
| | <p>requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 27/06/2022 to 11/07/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and

Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

| Internal Referral Body | Comments |
|----------------------------------|--|
| Landscape Officer | <p>The development application is for alterations and additions to the existing dwelling, and associated works, as described and illustrated in the reports and plans.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living, 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 • D12 Palm Beach Locality <p>The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone. There is an existing non-compliant landscape area which is to remain, and this matter shall be determined by the assessing planner.</p> <p>An Arboricultural Impact Assessment (AIA) and Landscape Plan is included in the application and will be assessed as part of the Landscape Referral. One tree is proposed to be removed (tree 16), however it is exempt and does not require consent for removal. The AIA identifies a minor encroachment into the tree protection zone of neighbouring tree 13, and tree protection measures must be implemented to ensure no impact occurs to any neighbouring tree, subject to the imposed conditions. All other trees and vegetation shown to be retained shall be protected during the works, subject to the imposed conditions. The proposed landscaping comprises mainly native species found in the Pittwater Spotted Gum Forest Endangered Ecological Community, which is supported, and the planting shall be installed in accordance with the conditions of consent.</p> |
| NECC (Bushland and Biodiversity) | <p>The proposed development has been assessed against the aims, objectives and requirements of the following biodiversity controls:-</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 & Regulation 2017 • Pittwater LEP cl 7.6 Biodiversity • P21 DCP B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor. <p>The SEE and Plans correctly identify that the NSW Biodiversity Values (BV) map, identifying areas of high biodiversity value, occurs within the rear of the property. The removal of any native</p> |

| Internal Referral Body | Comments |
|--------------------------------|---|
| | <p>vegetation from within the BV mapped area, whether or not exempt under the LEP, is one of the triggers into the NSW Biodiversity Offset Scheme (BOS). While the proposed decks will extend into this BV mapped area, based on the review of aerial imagery the vegetation seems to be part of a landscaped yard. The only tree marked for removal is T16 Yucca, a species that is not native to NSW. Trees 9,10,11,14 & 15 while assessed as exempt by the Arborist, are native species and may be a trigger into the BOS, and therefore the development is to ensure that they are retained.</p> <p>The development is proposed in the area of least impact on native vegetation, there will be no net loss of native vegetation and is designed, sited and will be managed to avoid any significant adverse environmental impact</p> |
| NECC (Development Engineering) | <p>The proposal is for the alterations to the existing dwelling . The architectural plans proposes no changes to the existing garage or driveway levels. The stormwater plan proposes connecting the new development to the existing system.</p> <p>No objections to approval subject to conditions as recommended.</p> |

| External Referral Body | Comments |
|---|---|
| Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48 | <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 and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 4 Coastal use area

2.11 Development on land within the coastal use area

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

Comment: The proposal does not significantly impact on any of the above listed matters for consideration in paragraph (a). As such, Council can be satisfied that the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a). The proposal is generally consistent with the surrounding coastal and built environment, and the bulk, scale and size of the proposed development is acceptable in its context.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment: The proposal will not have any significant impacts on any coastal hazards.

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

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m | 7.84m | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|----------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 5.10 Heritage conservation | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |

| Clause | Compliance with Requirements |
|-----------------------------|------------------------------|
| 7.6 Biodiversity protection | Yes |
| 7.7 Geotechnical hazards | Yes |
| 7.10 Essential services | Yes |

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|---------------------|-------------|--|--------------|----------|
| Front building line | 6.5m | 6m - 6.8m, consistent with established building line | 7.7% | No |
| Rear building line | 6.5m | 15.7m | N/A | Yes |
| Side building line | 1m | 1m west | N/A | Yes |
| | 2.5m | Nil east | 100% | No |
| Building envelope | 3.5m | East - Outside envelope by up to 2.1m | N/A | No |
| | 3.5m | West - Within envelope | N/A | Yes |
| Landscaped area | 60% | 45% (458.94sqm) | 25% | No |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.12 Palm Beach Locality | Yes | Yes |
| B1.3 Heritage Conservation - General | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor | Yes | Yes |
| B6.1 Access driveways and Works on the Public Road Reserve | Yes | Yes |
| B6.2 Internal Driveways | Yes | Yes |
| B6.3 Off-Street Vehicle Parking Requirements | Yes | Yes |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition - Site Fencing and Security | Yes | Yes |
| C1.1 Landscaping | Yes | Yes |
| C1.2 Safety and Security | Yes | Yes |
| C1.3 View Sharing | Yes | Yes |
| C1.4 Solar Access | Yes | Yes |
| C1.5 Visual Privacy | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| C1.6 Acoustic Privacy | Yes | Yes |
| C1.7 Private Open Space | Yes | Yes |
| C1.12 Waste and Recycling Facilities | Yes | Yes |
| C1.13 Pollution Control | Yes | Yes |
| C1.17 Swimming Pool Safety | Yes | Yes |
| C1.25 Plant, Equipment Boxes and Lift Over-Run | Yes | Yes |
| D12.1 Character as viewed from a public place | Yes | Yes |
| D12.3 Building colours and materials | Yes | Yes |
| D12.5 Front building line | No | Yes |
| D12.6 Side and rear building line | No | Yes |
| D12.8 Building envelope | No | Yes |
| D12.10 Landscaped Area - Environmentally Sensitive Land | No | Yes |
| D12.14 Scenic Protection Category One Areas | Yes | |

Detailed Assessment

D12.5 Front building line

Description of Non-compliance

The required front building line is 6.5m or the established building line, whichever is the greater. There is a varied established building line in the street due in part to the angled front boundaries compared to the dwellings. The proposed front deck as amended continues the existing front setback of the dwelling on site, and is consistent with the established building line in this regard. It is between 6m - 6.8m from the front boundary, and is consistent with the objectives of the control, but is partly numerically non-compliant with the minimum 6.5m requirement.

Merit Consideration

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

Achieve the desired future character of the Locality.

Comment

The proposed development maintains the low density residential form of the area and thus achieves the desired future character of the Locality.

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

Comment

The proposed development is compliant with the height controls and does not unreasonably impact on any views.

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

Comment

The site does not adjoin a main road.

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

Comment

The proposal retains significant vegetation across the site, particularly to the rear. The non-compliance occurs on the new deck which is above the existing driveway area, and will not significantly impact on landscaped area.

Vehicle manoeuvring in a forward direction is facilitated.

Comment

The proposed deck will not alter the existing vehicular arrangements.

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

Comment

As previously stated, the proposal maintains sufficient vegetation throughout the site which assists in preserving the landscaped character of the locality.

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

Comment

The proposed deck will be lower than the existing dwelling on site, and generally continue the existing front building line. It will be generally in keeping with the area in this regard.

To encourage attractive street frontages and improve pedestrian amenity.

Comment

The proposal involves construction of a deck to the eastern side of the dwelling. This will not unreasonably detract from the visual appearance of the dwelling when viewed from the street or pedestrian amenity.

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

Comment

The proposal will maintain the existing front building line, which is varied due to the angled front boundaries compared to the dwellings in the vicinity. It is generally consistent with the existing spatial characteristics in this regard.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes 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.

D12.6 Side and rear building line

Description of non-compliance

This control requires development to be setback 2.5m from one side boundary and 1.0m from the other side boundary. For this assessment, the 2.5m control is applied to the eastern boundary and the 1.0m control is applied to the western boundary due to the existing dwelling being setback 1m from the

western boundary.

The proposal complies on the western side. On the eastern side, the existing pool deck and is on a nil setback to the boundary, and the existing driveway is setback approximately 500mm. The proposed deck above the driveway is setback 2.696m minimum, and the planter box along the eastern edge 1.696m. The carport roof is proposed on a nil setback to the boundary. The existing pool deck wall and privacy screen is to be replaced with a new wall.

Merit Consideration

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

To achieve the desired future character of the Locality.

Comment

The proposal maintains the low density residential form of the area and is generally consistent with the desired future character of the Locality.

The bulk and scale of the built form is minimised.

Comment

The proposal as amended has increased the side setback of the upper level deck, in part to help minimise the bulk and scale. The deck and carport below is a generally open structure, and will not create an unreasonably large and bulky development overall, as amended. The replacement of the existing eastern wall along the pool deck generally maintains the existing situation in terms of bulk and scale. However, the new wall is slightly higher than the existing privacy screen at the southern end of the eastern edge. A condition is recommended to reduce the wall height to the height of the existing privacy screen to ensure bulk and scale is minimised.

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

Comment

No unreasonable view impacts have been identified.

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

Comment

As above, no unreasonable view impacts have been identified.

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

Comment

The proposed deck includes both a privacy screen and planter box along the eastern edge of the deck. The side facing windows of the neighbouring dwelling to the east are generally high sill windows, translucent glazed, or thin windows that do not offer wide views in or out. The proposed privacy screen and planter box will be sufficient to reasonably protect privacy. The replacement of the existing boundary wall will also provide privacy from the pool deck. Solar access is generally maintained given the north/south orientation of the sites. No unreasonable amenity impacts have been identified.

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

Comment

The proposal provides sufficient landscaped area. This has been assessed and recommended for approval by Council's Landscape Officer and Biodiversity officer.

Flexibility in the siting of buildings and access.

Comment

A degree of flexibility is considered acceptable given that impacts from the proposal will not be unreasonable, as assessed in this report.

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

Comment

Council's Landscape Officer and Biodiversity Officer have assessed the proposal and are generally satisfied with regard to landscaping and preservation of existing landscaping. The proposal maintains the existing landscaped front setback area, and a large landscaped rear setback area. The site setbacks are also essentially retained as existing.

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

Comment

The site does not adjoin a commercial zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P 21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.8 Building envelope

Description of non-compliance

This control requires development to be sited within a building envelope determined by projecting planes at 45 degrees from a height of 3.5m above ground level at the side boundaries.

The proposal encroaches the building envelope on the eastern elevation by up to 2.1m at the rear corner of the proposed upper level deck/planter box.

Merit Consideration

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

To achieve the desired future character of the Locality.

Comment

The proposal maintains the low density residential form of the area and achieves 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 proposed non-compliance occurs at the rear of the development as the topography slopes down away from the road. It will not unreasonably impact on the streetscape. The development maintains the existing residential dwelling, and the new additions are well below the height limit. The dwelling sits at an appropriate height which is in keeping with the height of the canopy trees within and surrounding the site.

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

Comment

The proposed new deck is located off the living area of the dwelling, above the existing hard surface area of the driveway, and generally maintains the existing front building line along the street. The proposed breach to the envelope is caused in large part by the planter box proposed along the eastern edge of the deck, which will provide vegetation to complement the existing natural environment.

The bulk and scale of the built form is minimised.

Comment

The proposed deck and carport below is a generally open structure, which will not unreasonably add to bulk and scale on site.

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

Comment

No unreasonable view impacts have been identified.

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

Comment

The proposed deck includes both a privacy screen and planter box along the eastern edge of the deck. The side facing windows of the neighbouring dwelling to the east are generally high sill windows, translucent glazed, or thin windows that do not offer wide views in or out. The proposed privacy screen and planter box will be sufficient to reasonably protect privacy. The replacement of the existing boundary wall will also provide privacy from the pool deck. Solar access is generally maintained given the north/south orientation of the sites. No unreasonable amenity impacts have been identified.

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

Comment

Council's Landscape Officer and Biodiversity Officer have assessed the proposal and are generally satisfied with regard to landscaping and preservation of existing landscaping. The proposal maintains the existing landscaped front setback area, and a large landscaped rear setback area. The site setbacks are also essentially retained as existing.

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

D12.10 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

This control requires at least 60% of the site area to be landscaped area. The existing landscaped area on site is 48.3% (492.66sqm) not including any impervious areas. The proposal provides 45% (458.94sqm) landscaped area, presenting a variation of 25% to the control. The control allows that up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).

When these areas are added onto the calculation, the proposal achieves approximately 518sqm landscaped area (50.8%).

Merit Consideration

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

Achieve the desired future character of the Locality.

Comment

The proposal maintains the low density residential form of the area and generally achieves the desired future character of the Locality. The additions are generally to the side and rear of the dwelling, and will maintain the large rear setback area that is mapped as having biodiversity value.

The bulk and scale of the built form is minimised.

Comment

The proposal involves additions to the side and rear of the dwelling. The new deck to the eastern side is open in nature, unroofed, and will not have an unreasonable bulk and scale. To the rear the existing decking around the pool is to be extended, and the firepit area is to be reduced in size compared to the existing decking in that area. The proposal is considered to be acceptable with regard to bulk and scale.

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

Comment

The proposal is compliant with the requirements for solar access as demonstrated in the submitted shadow diagrams. Amendments have been required to reduce the extent of the proposed upper level deck to the east of the dwelling. Privacy will be reasonably maintained by privacy screening and planting.

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

Comment:

The existing vegetation areas in the front and rear setback areas are to be generally maintained.

Conservation of natural vegetation and biodiversity.

Comment

The proposal includes a small encroachment into the land at the rear of the site that is mapped as having biodiversity value, but generally maintains a large rear setback and leaves this area mainly undisturbed. Council's Biodiversity officer has assessed the proposal and is satisfied in this regard.

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

Comment

Stormwater runoff is considered to be appropriately managed subject to the recommended conditions.

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

Comment

The proposal maintains sufficient vegetation throughout the site which assists in preserving the landscaped character of the Locality.

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

Comment

Although soft surface area has been reduced on site, sufficient soft surface is maintained throughout the site to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management, including a large rear setback area, where the land falls from front to rear.

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, subject to conditions, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$9,845 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$984,500.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/0943 for Alterations and additions to a dwelling house on land at Lot 72 DP 10782, 94 Whale Beach Road, WHALE BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|---|------------|-----------------|
| Drawing No. | Dated | Prepared By |
| DA03 Issue B | 21.09.2022 | MM+J Architects |
| DA04 Issue B | 21.09.2022 | MM+J Architects |
| DA08 Issue A | 21.09.2022 | MM+J Architects |
| DA09 Issue C | 21.09.2022 | MM+J Architects |
| DA10 Issue A | 21.09.2022 | MM+J Architects |
| DA11 Issue A | 21.09.2022 | MM+J Architects |
| DA12 Issue A | 21.09.2022 | MM+J Architects |
| DA13 Issue B | 21.09.2022 | MM+J Architects |
| DA14 Issue A | 21.09.2022 | MM+J Architects |
| DA15 Issue A | 21.09.2022 | MM+J Architects |
| DA16 Issue B | 21.09.2022 | MM+J Architects |
| DA17 Issue B | 21.09.2022 | MM+J Architects |
| | | |

| | | |
|---|-------------|-----------------|
| DA18 Issue C | 21.09.2022 | MM+J Architects |
| DA19 Issue B | 21.09.2022 | MM+J Architects |
| DA20 Issue B | 21.09.2022 | MM+J Architects |
| DA21 Issue C | 21.09.2022 | MM+J Architects |
| DA22 Issue C | 21.09.2022 | MM+J Architects |
| DA23 Issue C | 21.09.2022 | MM+J Architects |
| DA24 Issue A | 21.09.2022 | MM+J Architects |
| DA25 Issue C | 21.09.2022 | MM+J Architects |
| DA26 Issue C | 21.09.2022 | MM+J Architects |
| DA27 Issue A | 21.09.2022 | MM+J Architects |
| Schedule of exterior finishes and colours | May 15 2022 | MM+J Architects |

Reports / Documentation – All recommendations and requirements contained within:

| Report No. / Page No. / Section No. | Dated | Prepared By |
|--|------------------|---------------------------------------|
| BASIX Certificate A460586 | 24 May 2022 | MM+J Architects |
| Certificate of Existing Structural Adequacy 210677 | 24 May 2022 | Northern Beaches Consulting Engineers |
| Geotechnical Investigation J3827 | 21 December 2021 | White Geotechnical Group |
| Arboricultural Impact Assessment Report | 30 May 2022 | Margot Blues Consulting Arborist |

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 |
| L-100 Rev C | 23/05/2022 | Space Landscape Designs |
| L-101 Rev C | 23/05/2022 | Space Landscape Designs |

| Waste Management Plan | | |
|--|----------|-----------------|
| Drawing No/Title. | Dated | Prepared By |
| Northern Beaches Council Waste Management Plan | 26/05/22 | MM+J Architects |

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

| Other Department, Authority or Service | EDMS Reference | Dated |
|--|--------------------------------------|-----------|
| Ausgrid | Ausgrid Referral Response - Approved | Not dated |

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

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

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of

the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$9,845.00 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 (as amended).

The monetary contribution is based on a development cost of \$984,500.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

6. **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 Certifier prior to the issue of the Construction Certificate.

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

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

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

7. 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 groundcovers and native grasses,
- 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.

8. Stormwater Disposal from Low Level Property

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Clause 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Water Management for Development Policy 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.

9. 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 White Geotechnical Group dated 21/12/2022 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.

10. **No Clearing of Vegetation**

No native vegetation is to be cleared from within the NSW Biodiversity Map area, the extent of which is shown on the submitted Plans.

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

Reason: To protect native vegetation.

11. **Amendments to the approved plans**

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

- The new replacement wall along the eastern edge of the deck is to be no higher than the existing wall, and the existing privacy screen in that location.
- The Schedule of exterior finishes and colours is to be amended to be consistent with clause D12.3 Building Colours and Materials of the Pittwater DCP. White, light coloured, red or orange roofs and walls are not permitted.

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

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

12. **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 Principal Certifier.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property

boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Principal Certifier 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.

14. Structural Adequacy and Excavation Work

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

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

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

Reason: To provide public and private safety.

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 Principal Certifier prior to the issue of the Construction Certificate.

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

16. 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 Principal Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. 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.

18. **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.

19. **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.

20. **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.

21. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

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

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

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

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

23. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

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 Certifier when the external structure of the building is complete.

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 Certifier.

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. Landscape Completion

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

i) mass 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 grasses/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,

Prior to the issue of an Occupation Certificate, details from a landscape architect or landscape designer 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.

28. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Council's Water Management for Development Policy 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.

29. **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.

30. **Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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 weeds.

31. **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 Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier 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. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

- (a) All required safety fencing has been erected in accordance with and all other requirements

have been fulfilled with regard to the 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.
- (b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.
- (c) All signage shall be located in a prominent position within the pool area.

Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

35. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. 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 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.

36. **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 and areas mapped as High Biodiversity value.

37. **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



David Auster, Planner

The application is determined on 04/10/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments