

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/1915
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<b>Responsible Officer:</b>	Dean Pattalis
<b>Land to be developed (Address):</b>	Lot 89 DP 13760, 29 Wandeen Road CLAREVILLE NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a swimming pool
<b>Zoning:</b>	C4 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>	Patricia Clare Quirk
<b>Applicant:</b>	Patricia Clare Quirk

<b>Application Lodged:</b>	14/11/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	18/11/2022 to 02/12/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 7.98%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 443,898.00
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### PROPOSED DEVELOPMENT IN DETAIL

The development application proposes alterations and additions to an existing 2-3 storey dwelling including the following works:

- Internal reconfiguration works to existing lower ground floor.
- Internal reconfiguration works to existing ground floor as well as minor extension to front balcony and rear family room
- Demolition and replacement of existing first floor

It is noted the application also originally proposed a new front turning area and rear swimming pool, however these components have been deleted from the plans following advice from Council. The

applicant has also provided an update Cost Summary Report to reflect these changes.

**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 - Zone C4 Environmental Living  
 Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards  
 Pittwater 21 Development Control Plan - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - D1.11 Building envelope

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 89 DP 13760 , 29 Wandeen Road CLAREVILLE NSW 2107
<b>Detailed Site Description:</b>	<p>The subject allotment is described as 29 Wandeen Road, Clareville, being Lot 89 within Deposited Plan 13760 and is zoned C4 Environmental Living under the provisions of PLEP 2014.</p> <p>The property is located on the southern side of Wandeen Road.</p> <p>The site has a width of 15.24m to Wandeen Road and a depth of 54.865m. The total site area is 836.1m2.</p> <p>The site rises from the street to the central part of the site, where the existing dwelling is located, and then falls towards the rear of the site.</p> <p>The land is currently developed with an existing multi storey cement rendered dwelling. The site is accessed via an</p>

existing concrete driveway from Wandeen Road.

Map:



## SITE HISTORY

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

Application **N0508/00** for additions to lower ground level and first floor (Approved 29/06/2000)

Application **T0368/13** for Tree/Bushland Works 3 trees (Approved 30/09/2013)

Application **DA2020/1726** for Alterations and additions to a dwelling house including swimming pool (Withdrawn 07/04/2021)

- *Application proposing similar works to subject application however was withdrawn by applicant following advice from Council relating to built form and environmental impacts of the proposal. Application subsequently re-submitted under current subject application with a proposed reduction to impacts cited by Council.*

## 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) –	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
Provisions of any draft environmental planning instrument	
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&amp;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&amp;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&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to built form non-compliances as well as referral requirements from Council's Landscape, Biodiversity and Development Engineering Officers. Amended information was formally received by Council on 20 July 2023 which reduced the impact of the proposal and therefore does not require further community consultation in accordance with Council's Community Participation Plan.</p> <p><u>Clause 61</u> of the EP&amp;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&amp;A Regulation 2021 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&amp;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&amp;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	<p><b>(i) 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>



Section 4.15 Matters for Consideration	Comments
environment and social and economic impacts in the locality	<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	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 18/11/2022 to 02/12/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mrs Catherine Joan Wiltshire Bill Tulloch	Po Box 440 MONA VALE NSW 1660
Mrs Catherine Joan Wiltshire Bill Tulloch	31 Wandeen Road CLAREVILLE NSW 2107
Mr Mark Devenish Meares	27 Wandeen Road CLAREVILLE NSW 2107

Two submissions were received during the notification period and the following concerns were raised:

- **Building Height**

Comment:

Concern was raised in regards to the proposed non-compliant maximum building height which the objector believes has been incorrectly calculated by the applicant. A full discussion under Clause 4.6 PLEP 2014 has been included within this report. It is discussed in this section that the lowest point below the existing dwelling is located at the existing ground level of the existing garage and rumpus room on the western side of the lower ground floor, which have been excavated below the natural ground level under prior development works. The remaining areas of the lower ground floor are undercroft areas which generally follow the natural surveyed ground level which is located higher than the FFL of the garage and rumpus room. Therefore, the proposed maximum roof ridge of RL71.178 above the minimum existing ground level of RL62 at the garage and rumpus room, gives a proposed maximum height of 9.178m. Furthermore, as demonstrated in the DA plans and discussed throughout this report, the proposed development results in a reduced ridge RL and hence reduced overall maximum building height in comparison to the existing approved dwelling.

- **Inadequate Clause 4.6 Report**

Comment:

Concern was raised that the Clause 4.6 Report provided with the application is insufficient and is lacking the required information. The Clause 4.6 Report has been reviewed by the assessing officer and considered to adequately address the relevant objectives and requirements of Clause 4.6 PLEP 2014, including demonstrating sufficient environmental planning grounds, addressing the objectives of the development standard and the C4 Environmental Living zone.

- **Wall Height and Number of Storeys**

Comment:

Concern was raised in regards to the proposed wall height and number of storeys which the objector believes to be excessive. The proposed dwelling does not alter the number of storeys of the existing approved dwelling. Furthermore, there is no wall height control under P21 DCP.

- **Front and Rear Setback**

Comment:

Concern was raised in regards to the front setback to the proposed turning area and rear setback to the proposed swimming pool. As discussed above, these components no longer form a part of this development application.

- **Side Boundary Envelope**

Comment:

Concern was raised regarding the impacts of the proposed building envelope non-compliance which is argued to be excessive. A full discussion has been included within this report under D1.9 P21 DCP addressing the relevant requirements and objectives of the control. The proposed envelope non-compliance is considered acceptable in the context of the site and existing on-site development.

- **Landscaped Area and Tree Removal**

Comment:

Concern was raised in regards to loss of landscaped area and removal of significant trees, primarily relating to the proposed turning area and swimming pool. As discussed above, these components no longer form a part of this development application and therefore the proposal generally maintains the existing Landscaped Area and does not propose any unreasonable impacts to significant trees.

- **Excavation**

Comment:

Concern was raised in regards to the impact of proposed excavation works in proximity to the adjoining dwelling to the east (No.31). Suitable geotechnical reporting has been submitted with the application and conditions of consent have been recommended to ensure the requirements and recommendations of the report are complied with at all stages of the construction process. In addition, suitable conditions of consent have been included for pre and post construction dilapidation reporting to be conducted.

- **View Sharing**

Comment:

Concern was raised regarding the impacts of the proposed extension works to view sharing to adjoining properties. A full view loss assessment has been completed under C1.3 P21 DCP in this report addressing the principles of *Tenacity Consulting vs Warringah Council [2004]*. The cumulative view loss impacts of the proposed development are deemed to be minor and worthy of support in this instance.

- **Visual Privacy**

Comment:

Concern was raised in regards to visual privacy impacts from proposed windows as well as the ground floor deck areas. It is noted the proposed upper floor consists of low-trafficable rooms only such as bedrooms which are not considered to result in unreasonable opportunities for overlooking. Furthermore, the ground floor deck at the rear south-west corner of the property is an existing approved structure which shall not create any additional impacts in comparison to the existing arrangement. Furthermore, the front ground floor balcony is also an existing approved structure with a minor extension proposed to the portion of the balcony that adjoins Bedroom 5. It is considered this extended portion is low-lying and adjoins a low-trafficable room. The extended front balcony is considered to be of a size, scale and location that is not conducive to high volumes of pedestrian movement or overlooking opportunities into adjoining private open space areas.

- **Solar Access**

Comment:

Concern was raised regarding overshadowing impacts resulting from the proposed extension works to adjoining private open space areas. Suitable shadow diagrams have been provided with the application which demonstrate compliance with the requirements of C1.4 Solar Access P21 DCP, including maintaining a minimum of 3 hours of sunlight to adjoining windows and private open space areas between 9am and 3pm on June 21st.

- **Privacy, excavation and bulk impacts from swimming pool**

Comment:

Concern was raised regarding amenity impacts resulting from the size, scale and location of the proposed pool. The originally proposed swimming pool is no longer included under this application.

- **Visitor Car Parking Area**

Comment:

Concern was raised regarding the environmental impacts of the proposed turning area including tree removal and excavation. The originally proposed turning area is no longer included under this application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposed development upon land zoned C4 Environmental Living Zone, following removal of previous proposed built form structures upon the land now proposes a landscape area of 59.01% permeable surface and 65.01% overall with a 6% variation for impervious surfaces. The C4 zone requires a 60% landscape area for the retention and/or establishment of landscape planting area to meet the landscape objectives of the C4 zone where development is 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.</p> <p>The development proposal as submitted in the amended plans retains the existing Spotted Gum trees within the property, and Landscape Referral raise no objections subject to imposed conditions.</p> <p>No Landscape Plans are included in the submitted amended plans, however graphic representation of planting within the front setback is illustrated and Landscape Referral raise no objectives to new planting within the property boundary.</p> <p>The latest Stormwater Plans dated 26.6.23 indicate stormwater lines in proximity to the existing Spotted Gums (T1 and T2) within the front setback and any such excavation within the tree protection zone shall be supervised by a Project Arborist and adjustment to the stormwater alignment shall be required under any such instructions from a Project Arborist.</p> <p>Subject to imposed conditions, no objections are raised.</p>
NECC (Bushland and Biodiversity)	<p><b>Biodiversity Referral (25 July 2023)</b> The amended plans deleting the 7.5m carport and swimming pool are noted and supported. In addition, conditions recommended by the Landscape referrals section will assist in safely retaining significant Spotted Gums on site.</p> <p><b>Biodiversity Referral (11 July 2023)</b> This referral is based on further additional information including:</p> <ul style="list-style-type: none"> <li>• Arborist's statement addressing Landscape and Biodiversity referral comments (Growing My Way Tree Consultants, 26 June 2023)</li> <li>• Revised Flora and Fauna Report (Kingfisher Urban Ecology and Wetlands, June 2023)</li> <li>• Email to Council's Planner (VMDC Planning, 26 June 2023)</li> </ul> <p>This information addresses two concerns raised by the Biodiversity and Landscape referral bodies, namely:</p>



Internal Referral Body	Comments
	<ol style="list-style-type: none"> <li>1. Impacts to Spotted Gums in the rear yard (Trees 3, 4, 5, and 7) as a result of cut and fill associated with pool construction</li> <li>2. Proposed removal of Spotted Gums in the front yard (Trees 1 and 2) to accommodate a 7.5m wide carport/turning area with deck above.</li> </ol> <p>As per Landscape referral comments, it is considered that construction of the pool, terrace and new retaining walls will result in impacts to Spotted Gums within the rear yard in the long-term. These trees are within the NSW Biodiversity Values Map (BV Map) and as such, Council is required to consider all impacts to native trees within this area to determine whether the proposal triggers entry into the Biodiversity Offsets Scheme (BOS). All proposals within the BV Map are routinely assessed for impacts to native trees and can only be supported without a BDAR if Council is satisfied that a proposal will not trigger entry into the BOS. Given the extent of proposed cut and fill for works within the rear yard, Council is not satisfied that this proposal will not impact upon trees within the BV Map.</p> <p>In addition, the additional information does not demonstrate why the width of the proposed turning bay cannot be reduced to minimise impacts to Spotted Gums (Trees 1 and 2). The applicant's traffic engineer has provided information about why a turntable is not considered feasible, but does not address the option of reducing the width of the 7.5m-wide carport with a deck above. The arborist's statement dated 26 June 2023 states: "based on suggested potential reduction of turning-bay from 7.50m width to 3.50m width adverse impacts to Tree #1 &amp; Tree #2 are not eliminated". While this option may not entirely eliminate impacts to Trees 1 and 2, it is not considered that complete removal is justified when alternative design options such as reducing the width of the carport/deck have not been considered. In accordance with PLEP Clause 7.6 (Biodiversity Protection), it is not considered that the proposal has been designed and sited to avoid and minimise adverse environmental impacts.</p> <p><b>Biodiversity Referral (1 June 2023)</b> The amended plans, driveway assessment and updated arborist report are noted.</p> <p>As per Landscape referral body comments, despite reorientation of the pool there remain concerns regarding impacts to native prescribed trees (Trees 5, 6 and 7) associated with extensive ground level changes for construction of the pool. These trees are within the NSW Biodiversity Values Map, and as such, any impacts to them will trigger entry into the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). Council cannot approve a development which triggers entry into the BOS without a BDAR</p> <p>In addition, whilst it is acknowledged that there are safety issues associated with reversing out of the driveway onto the steep and</p>

Internal Referral Body	Comments
	<p>narrow road, it is not considered that the proposed 7.5m wide two-car carport is necessary to address these considerations. It appears that Trees 1 and 2, which are significant Spotted Gums in good health and which are part of the Threatened Ecological Community, are proposed for removal to accommodate a two-car carport and balcony above. It is considered that the bulk of the proposed balcony/carport could be reduced such that Trees 1 and 2 could be retained, whilst also providing for adequate turning space to enable forward egress from the driveway (e.g. through alternative driveway design options).</p> <p>As per PLEP s7.6 (Biodiversity Protection), proposals must be designed and sited to avoid adverse environmental impact. In addition, PDCP sB4.7 (Pittwater Spotted Gum Forest) requires development to result in no net loss of native canopy trees and to protect the Threatened Ecological Community. At this stage, the Biodiversity referrals body is not satisfied that these objectives have been achieved.</p> <p><b>Biodiversity Referral (6 January 2023)</b> The proposal seeks approval for alterations and additions to a dwelling house including a swimming pool.</p> <p>The comments on this proposal relate to the following provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection</li> <li>• Pittwater DCP 21 - Clause B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</li> </ul> <p>Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>The submitted arborist report identifies four trees to be removed - Trees 1, 2, 4 and 5 which are all mature Spotted Gums (<i>Corymbia maculata</i>). Trees 1 and 2 are found at the front of the property and have not been mapped within the BV Map, however, Trees 4 and 5 are both located within the BV Map area. As confirmed in the submitted Flora and Fauna Report, the proposal therefore triggers entry into the BOS by way of impact to native vegetation identified on the BV Map. This is a requirement of the NSW Biodiversity Conservation Act 2016 and is not subject to the discretion of Council.</p> <p>The following options are available to the applicant:</p> <ul style="list-style-type: none"> <li>• Provide a BDAR prepared by an ecologist who is an Accredited Assessor under the NSW Biodiversity Assessment</li> </ul>

Internal Referral Body	Comments
	<p>Method (BAM).</p> <ul style="list-style-type: none"> <li>Redesign the proposal to avoid any impact to native vegetation within the Biodiversity Values Map.</li> </ul> <p>In addition, it is considered that the proposal to remove four mature Spotted Gums within an Endangered Ecological Community is inconsistent with the objectives of applicable local biodiversity controls. As per comments provided by the Landscape referrals body, and as required under PLEP Clause 7.6 (Terrestrial Biodiversity), the Biodiversity referrals body is not satisfied that the proposal has been designed and sited to avoid adverse environmental impact.</p>
NECC (Development Engineering)	<p>The proposal is for alterations to the existing dwelling including a pool at the rear and a turning/parking area in the front setback. The site is with H1 Hazard area and the submitted geotechnical report addresses the DCP controls.</p> <p><u>Stormwater</u> The proposal increases the impervious area by more than 50m<sup>2</sup> and as such OSD is required in accordance with Section 9.0 of Council's Water Management for Development Policy.</p> <p><u>Parking/Turning Area</u> The proposal includes a turning area/visitors parking in front of the dwelling however no information is provided regarding the proposed levels for this area. The applicant shall provide amended plans showing the proposed levels for the proposed turning area/parking area. Gradients for parking areas are to be in accordance with AS2890.1.</p> <p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p> <ul style="list-style-type: none"> <li><i>Stormwater drainage for the development in accordance with clause B5.15.</i></li> <li><i>Parking facilities for the development in accordance with clause B6.</i></li> </ul> <p><b>Additional Information Provided on 19/5/2023</b> The architectural plans have been amended to include only a turning area in the front setback which is acceptable. However the previous comments regarding stormwater have not been addressed. As proposal increases the impervious area by more than 50m<sup>2</sup> OSD is required in accordance with Section 9.0 of Council's Water Management for Development Policy.</p> <p><b>Additional Information Provided</b> <u>Parking/Turning Area</u> While it is noted that turning area would be beneficial for vehicles to enter and exist in a forward manner. However, as there is no current proposed changes to the existing garage or parking arrangements</p>

Internal Referral Body	Comments
	<p>there is no nexus to require vehicles to enter and exist in a forward direction. As it is noted that Landscape team require the protection of exiting trees, Development Engineering cannot support the proposed turning area unless an alternate arrangement is proposed that ensures the protection of the existing trees.</p> <p>If the applicant requires a turning area as per the consultant engineers recommendations, alternative arrangements such as a turning area near the lower part of the driveway to the to the west or a turntable within the garage can be considered.</p> <p><u>Stormwater</u> The stormwater plan proposes OSD tanks in the undercroft area but it is unclear from the sections if the tanks are accessible. Applicant to provide details to confirm 24/7 access to the OSD tanks.</p> <p><b>Additional Information Provided on 20/7/2023</b> The proposal has been amended to delete the proposed turning area with only alterations proposed to the existing dwelling. The current proposal does not increase the impervious area by more than 50m<sup>2</sup> and hence OSD is not required. No objections to approval subject to conditions as recommended.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

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

A BASIX certificate has been submitted with the application (see Certificate No.A437642).



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 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

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	9.178m (Proposed Ridge RL above existing ground level)	7.98%	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
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### **Zone C4 Environmental Living**

##### Zone Objectives:

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

Comment: The proposed development is not considered to unreasonably impact the environmental values of the site.

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

Comment: The special ecological, scientific or aesthetic values are generally maintained.

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

Comment: The proposed density and scale of the development is considered to suitably maintain the character of the existing landform and landscape.

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

Comment: The proposal does not unreasonably impact riparian and foreshore vegetation and wildlife corridors.

#### **4.6 Exceptions to development standards**

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.178m
Percentage variation to requirement:	7.98%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development 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 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:

- *The existing on-site development does not comply with the height building development standard due to prior excavation works at existing ground level. Notwithstanding, the proposed development results in a reduced encroachment compared to the existing extent.*
- *The proposed development maintains the general bulk and scale of surrounding contemporary dwellings and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land.*
- *The proposed new development is considered to promote good design and enhance the residential amenity of the buildings' occupants and the immediate area.*
- *The proposed development respects surrounding properties by locating the development where it will not unreasonably obstruct views across the site and will maintain the views from the site.*

#### Planner Comment

It is agreed that the existing dwelling does not comply with the height of buildings development standard. The existing foundation and existing ground level below the existing dwelling is RL62, which has been excavated to accommodate the existing garage and rumpus room. Despite the proposed ridge being located at RL71.178 (hence resulting in a maximum building height of 9.178m), this is a reduced height compared to the existing ridge of RL71.560. Excavation below the natural ground level is illustrated in the approved plans for the existing dwelling under Application No.N0508/00 (Approved 29 June 2000) (Figure 1).

Furthermore, the applicant has provided amended information during the assessment process which outlines the existing approved upper floor to be demolished and replaced with a new upper floor that is located below the existing ridge line (Figure 2). Furthermore, the height non-compliance relates to the central portion of the roofline whilst the proposed eastern and western facade are numerically compliant with the height of buildings control. It is therefore considered that the proposed development results in an improved visual and amenity outcome for the streetscape as well as the occupants.

#### Figure 1: Existing approved dwelling

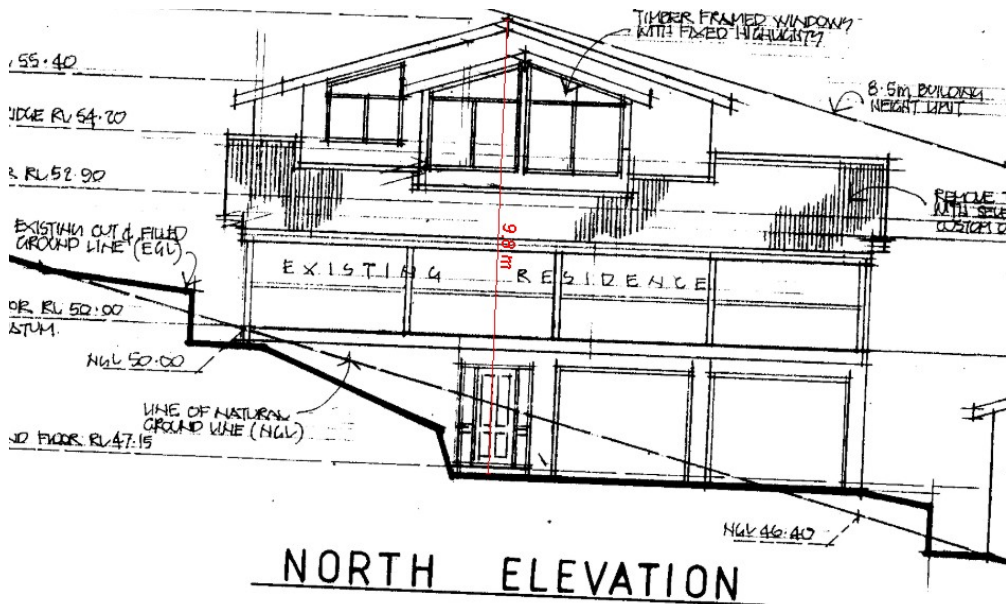
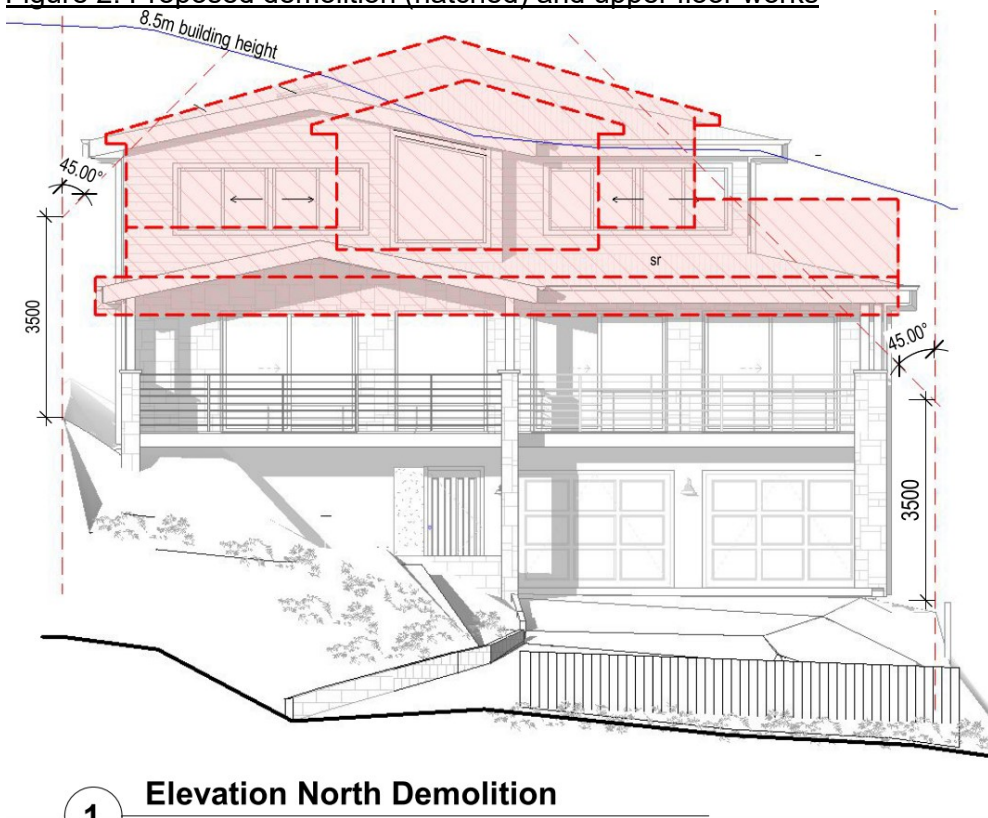


Figure 2: Proposed demolition (hatched) and upper floor works



**Elevation North Demolition**

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 cls 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 C4 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 proposed dwelling is considered to be compatible with the desired character of the locality.

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

Comment:

The proposed development is consistent with the height and scale of adjoining dwellings which contain similar 2-3 storey streetscape presentations as a result of the topography of the land.

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

Comment:

Suitable shadow diagrams have been provided with the application which demonstrate compliance with the relevant DCP controls for overshadowing.

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

Comment:

A full discussion regarding view sharing impacts of the proposal is included in this report under Clause C1.3 P21 DCP.

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

Comment:

The proposed and existing development on the subject site is constrained by the steep topography of the land however it is considered the proposed design suitably responds to these impacts.

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

Comment:

There is no adverse impact upon The natural environment, heritage conservation areas and heritage items.

## **Zone objectives**

### The underlying objectives of the C4 Environmental Living zone

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

Comment:

The proposed development is not considered to unreasonably impact the environmental values of the site.

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

Comment:

The special ecological, scientific or aesthetic values are generally maintained.

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

Comment:

The proposed density and scale of the development is considered to suitably maintain the character of the existing landform and landscape.

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

Comment:

The proposal does not unreasonably 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 C4 Environmental Living zone.

**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 PS20-002 dated 5 May 2020, 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	Existing	-	Yes
Rear building line	6.5m	20m (dwelling)	-	Yes
Side building line	2.5m (west)	Lower Ground - 0.9m (Existing) Ground - 0.9m (Existing) 3.26m (First)	- - -	No but existing No but existing Yes
	1m (east)	Lower Ground - 1.1m (Existing) Ground - 1.1m 1.07m (First)	- - -	Yes Yes Yes
Building envelope	3.5m (west)	Outside envelope (5.5m max.)	80.88%	<b>No</b>
	3.5m (east)	Outside envelope (1.54m max.)	33.67%	<b>No</b>
Landscaped area	60%	Existing	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

### Detailed Assessment

#### **C1.3 View Sharing**

An objection from an adjoining site to the east (No.31 Wandeen Road) raised concern about view loss as a result of the proposed development. The development is considered against the underlying objectives of the control as follows:

#### Merit consideration

The development is considered against the underlying Outcomes of the Control as follows:

- *A reasonable sharing of views amongst dwellings.*

#### Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

## 1. Nature of the views affected

*“The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured”.*

### Comment to Principle 1:

No.31 Wandeen Road currently enjoys water views towards the western foreshore and Scotland Island to the west and south-west. These are partial views as they are currently partially obstructed by existing district vegetation and development. There is a visible land water interface towards the western foreshore.

## 2. What part of the affected property are the views obtained

*“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.*

### Comment to Principle 2:

The views are obtained over the western side boundary of 31 Wandeen Road. Partial standing views are currently experienced from the west-facing windows of the ground floor kitchen as well as the south-west facing windows of the ground floor bedrooms. The upper floor master bedroom experiences standing and sitting views from the west facing windows and as well as the attached deck.

Figure 3: Standing Kitchen Views



Figure 4: Standing ground floor bedroom views





*Figure 5: Upper floor master bedroom deck views*



### **3. Extent of impact**

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people*



*spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

#### Comment to Principle 3:

The proposed development on the subject site consists of an extension of the upper floor towards all front, side and rear boundaries. It is considered the existing standing views over the western side boundary obtained from the kitchen of No.31 Wandeen Road may be impacted by the proposed development. However, the portion of the development creating the impact relates to the north-east corner of the proposed development which is wholly compliant with all setback, height and envelope controls. Therefore, the west-facing standing views obtained from the kitchen of No.31 are vulnerable to a compliant build on the subject site, whilst also being experienced from over a side boundary. The expectation to retain such views is often unrealistic. The existing ground floor bedroom views may also be impacted to some extent, however these views are already predominantly obscured by existing vegetation and are experienced from low-trafficable areas of the property. The views from the master bedroom windows and deck are considered the most superior and unobstructed existing water views available from No.31 despite being experienced from a low-trafficable area. These views look over the top of the existing roof ridge of the subject site and will be entirely unaffected by the proposed development. The cumulative impact in consideration of the impact on all individual views is therefore assessed as minor.

#### **4. Reasonableness of the proposal that is causing the impact**

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

#### Comment to Principle 4:

The proposed development results in a numerical non-compliance with the height of buildings development standard as well as the side envelope control. The proposed numerical non-compliances have been considered acceptable for the reasons detailed within the relevant sections of this report. The partial standing views in question obtained from the ground floor kitchen are not impacted by the proposed numerical non-compliances, as the north-east corner of the subject development is wholly compliant with all built form controls. Therefore, any standing or sitting views lost from the kitchen as a result of the development are highly susceptible to change or loss, as the views exist within the envelope of a compliant development. The views in question should be expected to be lost, for example if a two storey development were proposed, as would be reasonable. As stated above, the existing ground floor bedroom views are experienced from low-trafficable areas and are already predominantly obstructed, whilst the master bedroom views will be entirely unaffected. The proposal therefore demonstrates adequate view sharing and is acceptable.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Comment:

The proposed development shall not impact any views and vistas obtained from roads and public places.

- *Canopy trees take priority over views.*

Comment:

The proposed development does not require the unreasonable removal of any significant canopy trees.

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

**D1.11 Building envelope**

Description of non-compliance

Part D1.11 of the P21 DCP requires that a side boundary envelope of 3.5 metres be provided on both flank elevations of a house.

The proposed development comprises a maximum variation to the numerical control on the eastern elevation of 1.54m (33.67%) and on the western elevation of 5.5m (80.88% variation). It is noted that amended plans were provided during the assessment process to reduce the built form and improve the western side setback distance to the upper floor from 2.65m to 3.26m hence softening the envelope variation. It is also noted that the side elevations of the proposed dwelling are wholly compliant with the height of buildings development standard. The proposed variations are illustrated in Figure 3 and 4 below.

Figure 6: Eastern envelope variation

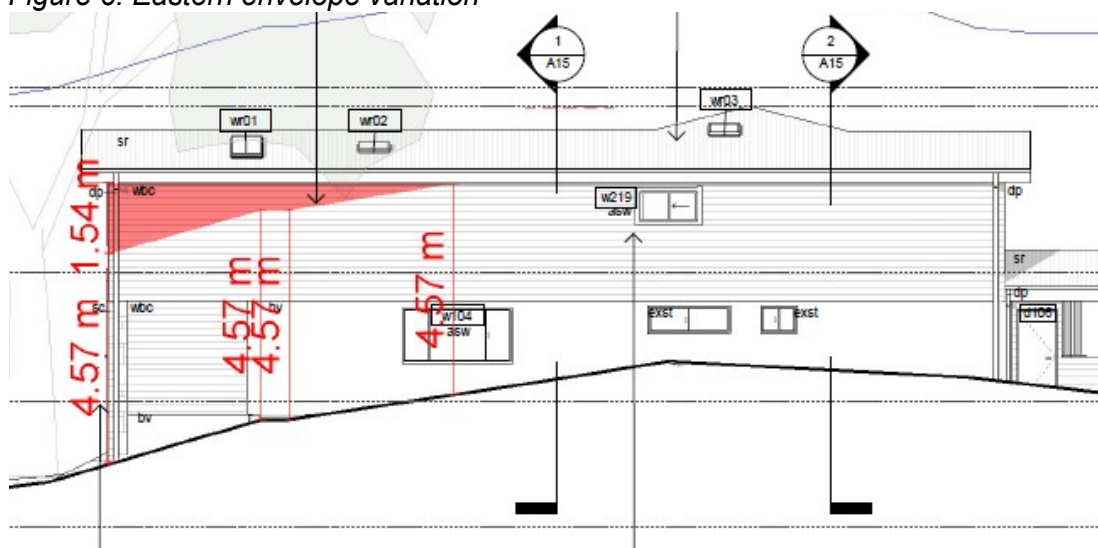


Figure 7: Western envelope variation





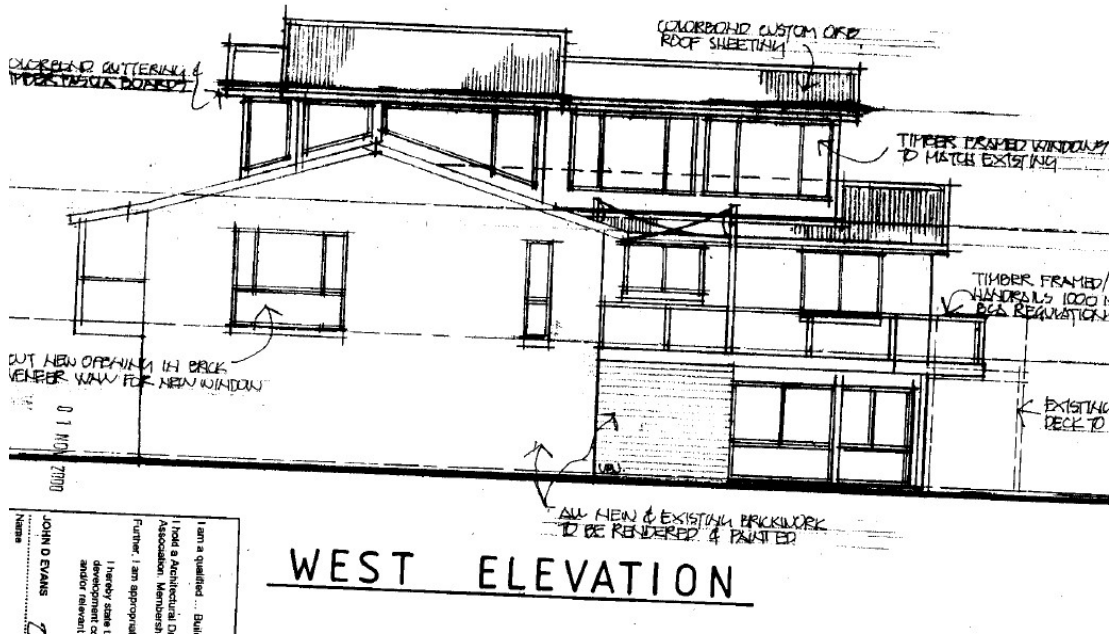
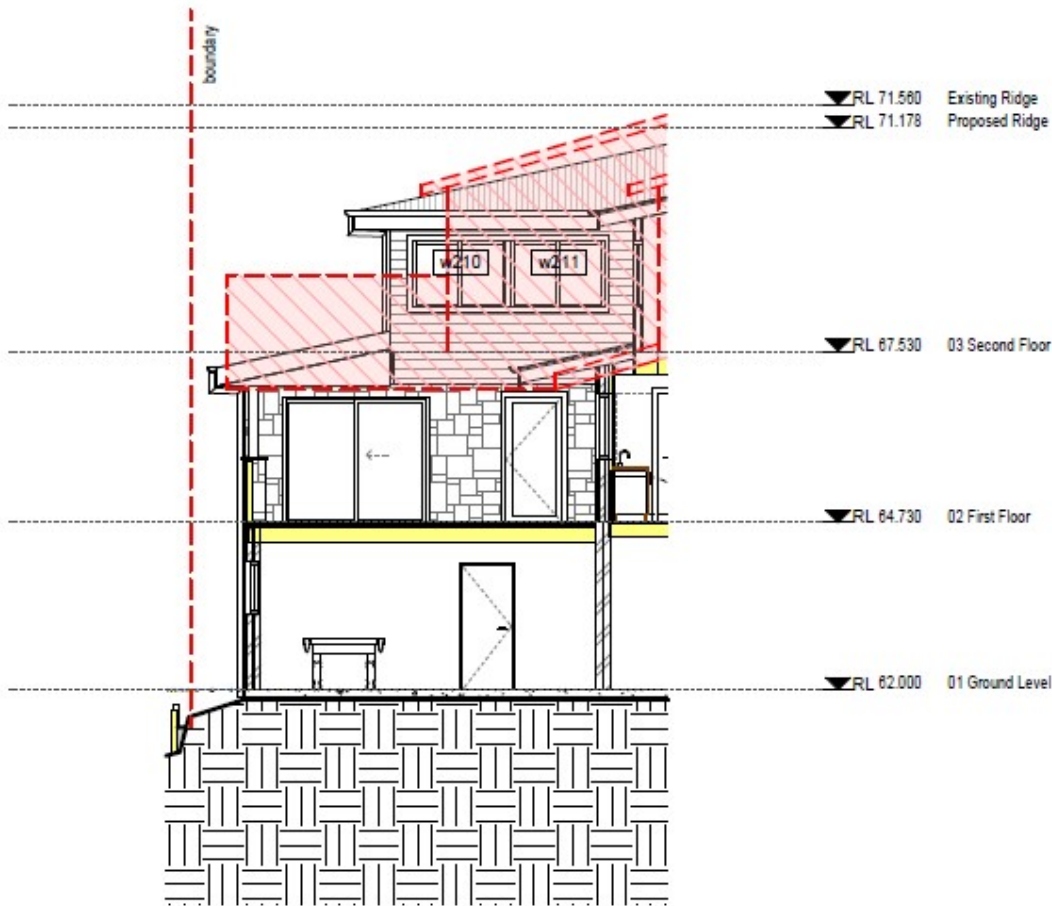


Figure 9: Proposed demolition works in relation to proposed extension works



#### 4 W213 Section -Demolition

1 : 100

#### Merit Consideration

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

#### Comment

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. Furthermore, the side elevation of the proposed dwelling are located below the maximum height of buildings permitted by PLEP 2014.

*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 proposal includes adequate landscaping in order to screen the built form of the proposed development when viewed from surrounding areas. The encroachment is generously setback from the front boundary and shall not be visible from the streetscape. The proposed development is generally set below the height of the trees adjoining the site and in the locality. It is considered that the bulk and scale of the proposal would not be out of character with the existing site, streetscape and wider locale.

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

Comment

The proposal is designed to integrate with the existing dwelling. The use of landscaping surrounding the dwelling will assist in reducing the impact of the built form and softening the appearance of the dwelling when viewed from surrounding private open space areas. The proposal is situated and designed to minimise site disturbance and maintain the natural features of the site.

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

Comment

The proposal is setback from the street and rear boundary and demonstrates reasonable spatial separation from adjoining and surrounding private open space areas. The bulk and scale of the development would not appear inconsistent with existing development along Wandeen Road. This provides a situation in which presentation of bulk and scale is adequately minimised.

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

Comment

The proposed development adequately preserves views and vistas to and from public and private places. A discussion on view sharing has been included within this report under Section C1.3 P21 DCP.

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

Comment

The proposal is designed and situated to ensure it will not impact upon privacy or amenity to adjoining properties or within the development site. Furthermore, the solar diagrams provided with the application are consistent with the relevant DCP provisions.

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

Comment

The proposed development will be softened by existing and proposed landscaping as seen from the street, waterway, public reserve and adjoining properties.

In light of the above, the proposal is considered reasonable and should be supported on merit.

## **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 \$4,439 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$443,898.

## 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

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 permits a contravention of clause 4.3 Height of Building 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 DA2022/1915 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 89 DP 13760, 29 Wandeen Road, CLAREVILLE, subject to the conditions printed below:

### Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A02-6	19 July 2023	Vanessa Miles Design & Draft
A05-6	19 July 2023	Vanessa Miles Design & Draft
A06-6	19 July 2023	Vanessa Miles Design & Draft
A07-6	19 July 2023	Vanessa Miles Design & Draft
A11-6	19 July 2023	Vanessa Miles Design & Draft
A12-6	19 July 2023	Vanessa Miles Design & Draft
A13-6	19 July 2023	Vanessa Miles Design & Draft
A15-6	19 July 2023	Vanessa Miles Design & Draft
A16-6	19 July 2023	Vanessa Miles Design & Draft

<b>Reports / Documentation – All recommendations and requirements contained within:</b>



Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (A437642)	24 October 2022	Vanessa Miles
Geotechnical Investigation (J2597B)	6 July 2022 (Addendum 29 March 2023)	White Geotechnical Group
Construction Impact & Management Statement	June 2020 (Updated March 2023)	Growing My Way Tree Consultancy
Flora and Fauna Assessment	Updated June 2023	Kingfisher Urban Ecology and Wetlands

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
A17-6	19 July 2023	Vanessa Miles Design & Draft
Waste Management Plan	Undated	Vanessa Miles

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	24 November 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://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 \$250,000. The Long Service Levy is calculated on 0.25% 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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 \$4,438.98 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 \$443,898.00.

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](http://www.northernbeaches.nsw.gov.au)).

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

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### 7. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the kerb in Wandeen Road.

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

Reason: To ensure appropriate provision for disposal of stormwater management arising from the development.

8. **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 Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

10. **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 Certifier 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.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **Project Arborist**

The Project Arborist shall be in attendance and supervise all works within 5 metres of existing trees, and in particular:

- a) any excavation works,
- b) installation of services.

The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be



recorded, including at commencement, during the works and at completion.

Note:

Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

12. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties: 31 Wandeen Road, Clareville

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

## DURING BUILDING WORK

13. **Tree and Vegetation Protection**

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

- i) all trees within the site, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project 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/Project 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/Project Arborist to the Principal Certifier,

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 AS4970-2009 Protection of trees on development sites,

ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 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 Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

#### 14. **Wildlife Protection**

If construction activity associated with this development results in injury or displacement 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.

#### 15. **Road Reserve**

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

Reason: Public safety.

#### 16. **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.

17. **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.

18. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

19. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

## BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

### 20. **Landscape works**

Any new landscape planting including the indicated planting on the Plans shall be implemented in accordance with the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) new planting shall comprise of at least 60% locally native species,
- c) mass planting shall be installed at minimum 1metre intervals for shrubs of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

### 21. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

### 22. **Protection of Habitat Features**

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

Details demonstrating compliance are to be provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

### 23. **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 Certifier prior to issue of any Occupation Certificate.

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

### 24. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian

Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

25. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

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

Reason: To maintain proper records in relation to the proposed development.

26. **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.

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

27. **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**



**Dean Pattalis, Planner**

The application is determined on 31/07/2023, under the delegated authority of:



*Am*

**Adam Richardson, Manager Development Assessments**