

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0060
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 10 DP 27133, 10 Taminga Street BAYVIEW NSW 2104
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Lenore Anne Walter
Applicant:	JJ Drafting

Application Lodged:	02/02/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	09/02/2021 to 23/02/2021
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 475,000.00
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PROPOSED DEVELOPMENT IN DETAIL

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

The proposed works are as follows:

- Demolition of concrete parking platform & concrete terrace
- New Upper Floor consisting of family room, wet bar, study, bathroom, guest bedroom and rear balcony
- Entry Level floorplan amended to provide kitchen and living, butlers pantry, laundry, storage area, 2 bedrooms, WIR, ensuite, study and a new entry and entry portico.
- New double garage
- New Entry Level balcony
- New internal access stairs
- New Lower Level bedroom, rumpus, wet bar and a store.

- New Lower Level balcony
- Basement Level subfloor area enclosed to form a gym room with a mezzanine area for storage
- External access stairs along the western boundary

During the assessment process several planning concerns were identified. As a result, amended plans were received that addressed the Building Height, and Built Form control non-compliances. Amended plans were received by Council and utilised for the assessment below.

In accordance with the Northern Beaches Council Community Participation Plan the amended plans were not required to be re-notified. However, as a courtesy, the amended plans were emailed to the objecting submitters for their further comment.

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 E4 Environmental Living
- Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
- Pittwater 21 Development Control Plan - A4.4 Church Point and Bayview Locality
- Pittwater 21 Development Control Plan - C1.5 Visual Privacy
- Pittwater 21 Development Control Plan - C1.7 Private Open Space
- Pittwater 21 Development Control Plan - D4.1 Character as viewed from a public place
- Pittwater 21 Development Control Plan - D4.6 Side and rear building line
- Pittwater 21 Development Control Plan - D4.8 Building envelope
- Pittwater 21 Development Control Plan - D4.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 10 DP 27133 , 10 Taminga Street BAYVIEW NSW 2104
Detailed Site Description:	The subject site is identified as Lot 10 DP 27133 and is known as 10 Taminga Street, Bayview.

The subject site is a single residential allotment located on the southern side of Taminga Street, Bayview. The property is located within land zoned for E4 Environmental Living pursuant to the Pittwater Local Environmental Plan 2014.

The site is regular in shape and has a total area of 689.31m². The property has a frontage of 18.9m to Taminga Street and depths of 36.525m to the east and west.

The site has a very steep topography, with a fall from the south boundary down to north boundary of over 19m.

The site has numerous trees throughout that were established prior to the construction of the dwelling house, or have been planted and established since its construction.

The subject site consists of a two level dwelling house with vehicle access via a shared Right of Way (ROW) off Ilya Avenue located within the southern front setback boundary.

Surrounding sites consist of multi-level, variably stepped houses, along steep topography, of varying ages, within a landscaped setting.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans to address specific LEP and DCP Clauses.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely	(i) Environmental Impact

Section 4.15 Matters for Consideration'	Comments
impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/02/2021 to 23/02/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Peter Murray	11 Taminga Street BAYVIEW NSW 2104
Mr William Anthony De Kock	7 Taminga Street BAYVIEW NSW 2104
Mr John Alga Barrington	19 Haigh Street WENTWORTHVILLE NSW 2145

As a result of the public notification period, three (3) submissions were received. Two (2) with support for the proposed works and one (1) that did not support the proposal.

The following issues were raised in the one (1) submission and each have been addressed below:

- **Characteristic of the E4 Zone**

- **Building Height**
- **Limited Consultation with the applicant**
- **Bulk and Scale**
- **Privacy/Noise**
- **Building over the private Right of Way (POW)**
- **Landscaping**
- **Smoke free construction site**

The matters raised within the submissions are addressed as follows:

- **Concern is raised in the submissions that the development, by virtue of the number of storeys (3), and the non-compliance with the DCP requirements has the appearance of an large dwelling house that does not relate to the streetscape or overall character of the local area.**

Comment:

The development involves alterations and additions to an existing dwelling. The alterations and additions occur predominantly on and within the existing building footprint and, as such, do not add the the built form such that it exacerbates the bulk and scale of the building that it no longer is consistent with the character of the area.

The development includes an additional third floor level and refurbishment to the existing carport structure. The upper-level addition is built over the existing building, and is set back approx. 18m - 22.7m from the rear elevation. This ensures that building is only two storeys in any one location. Additionally, the large rear setback of the upper floor reduces the appearance of bulk from Taminga Street.

As a result, the proposal has been carefully designed to suit site constraints and to reduce the appearance of bulk with sufficient articulation and improved street presence.

The development also involves replacing the pitched roof with a flatter roof form which improves visual outlook from surrounding properties.

The upgrading of the detached dwelling is consistent with the scale, design and character of the local area and does not warrant refusal of the application.

- **Concern was raised in regards to the Building Height of the proposal.**

Comment:

With respect to the permitted 8.5m building height referred to in the submission, the applicant seeks to rely upon a variation prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria. The assessment of the criteria has also been considered elsewhere in this report (see Clause 4.3 - 'Height of Buildings').

In the consideration of the variation prescribed by 4.3(2D) of PLEP 2014 it was found that the development achieved consistency with the objectives of the clause and E4 Environmental Living zone, as well as demonstrating that variation was minor. As a result, there were sufficient environmental planning grounds to justify the variation and support the non-compliance.

This issues does not warrant refusal or further amendment of the application.

- **Concern was raised that the owner did not discuss the application in full with the owners**

of No.11 Taminga Street.

Comment:

The owners of No.11 Taminga detailed in the submission that they wanted to provide feedback to the proposal prior to the application being lodged. However the applicant did not provide them with the opportunity. As a result a submission from No. 11 Taminga Streets was submitted for consideration. In accordance with the Environmental Planning Regulations 2000 a Development Application is required to be notified to provide opportunity for public interest to be taken into consideration during the assessment of the development application. As a result, this process has occurred.

This issue does not warrant refusal or further amendment of the application.

- ***Concern is raised that the proposal will be visually dominant, resulting in amenity impacts to the neighbouring sites, nearby public areas and the Taminga streetscape.***

Comment:

This issue has been addressed in detail in this report (refer to Clause C1.5 Visual Privacy, D4.6 Side and Rear Building Line, and D4.8 - Building Envelope under the P21 DCP).

It is considered that the development has been sufficiently articulated to visually define the dwelling within the shape and topographical context of the site achieving an architectural consistency with the detached dwellings which collectively characterise the local area. It was also considered that the development, as amended, satisfied the applicable requirements of the clause by providing sufficient articulation and wall lengths to reduce building mass and provide visual relief.

The proposed development is designed to give the appearance of stepping down the slope of the land with depth variation between the ground floor and upper level to integrate with the landform and landscape. The upper floor addition is set back from the existing rear building alignment, following the contours of the site. The proposed building is two storeys in any one place and demonstrates an articulated rear elevation compared with the aligned storeys of the existing dwelling. This serves to reduce the appearance of bulk when viewing the building from the neighbouring dwellings and nearby public places such as Griffin Park and the Pittwater Waterway.

The proposal will provide adequate areas for the retention and establishment of more considerable planting, particularly rear setback between the proposed dwelling and Taminga Street. In this regard, the proposal provides adequate areas for substantial planting, to visually reduce the built form.

As such the non-compliance did not warrant the refusal of the application.

- ***Concern that the proposal will create additional privacy impacts to adjoining properties to No. 11 Taminga Street.***

Comment:

This issue has been considered, including balcony areas, window near side boundaries, and site levels to ensure no unreasonable privacy impacts arise in relation to surrounding land. High use areas such as living and kitchen areas are appropriately designed to maintain privacy to adjacent land with the principal outlook toward the north. Low use rooms (bedrooms) are appropriately located and have been designed to not create unreasonable privacy impacts to adjacent land including acceptable window placement / style along side setback areas. Conditions have been applied to the eastern elevations to the new balcony areas on the Entry Level and Lower Ground Floor to mitigate potential privacy/noise impacts and ensure

consistency with requirements of clause C1.5 Visual Privacy.

Therefore, this issue does not warrant refusal of the application.

- ***Concern is raised in regards to the works being within the Private Right Of Way.***

Comments:

The vehicular access is at the from right of way shared driveway from Ilya Avenue. Part of the existing building is constructed on the Right of Way (ROW) and minor areas of the proposal is for construction on the ROW. This ROW services properties No. 6 to No.10 Taminga Street. Supporting documents from the owners of the benefited lots have been submitted to Council. The proposal will not restrict the easement, or access along the ROW. The area is consistent with other front setback areas along the ROW and the additional hardstand area within the front setback allows for additional areas for vehicle turning, passing and egress on steeply sloping site.

Therefore, this issue does not warrant refusal of the application.

- ***Concern is raised in the submission from No. 11 Taminga Street that the provision of landscaped open space is below that required under D1.14 Landscaping Area - Environmentally Sensitive Land, and that further built form (hardstand area) within the front setbacks has been counted within the landscaped area calculation.***

Comments:

It is agreed that the location of the hardstand within the front setback removes additional areas of landscaping and has not been included as part of the landscaping area. This issue is discussed in detail under Clause D1.14 - "Landscaping Area - Environmentally Sensitive Land" in this report where it was found that the proposal satisfied the objectives of the clause and the variation could be supported.

This issues does not warrant refusal of the application.

- ***Concern has been raised that when the proposal is under construction that people will smoke, causing health issues to the occupants of No.11 Tamiga Street.***

Comment:

It is the responsibility of the contractor on site that correct measures are taken to comply with smoking legislation and that everyone on site is aware of the regulation and knows the areas where they are and aren't allowed to smoke.

This issue does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The Arborist's Report submitted with the application is noted.</p> <p>The report indicates removal of 4 trees from the site. Three trees are exempt species under PDCP and one, a <i>Corymbia maculata</i> (Spotted Gum) is a specimen in poor condition with health and structural issues.</p> <p>No objections are raised to the proposed tree removals, subject to replanting conditions.</p>

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> • 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> • B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor • B4.22 Preservation of Trees and Bushland Vegetation <p>The application seeks to remove three (3) trees, including a single prescribed <i>Eucalyptus maculata</i> (Spotted Gum) in poor health, and two exempt species (BlueGum 2021). Subject to conditions, including replanting a single native species, the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	<p>Comments 26/03/2021: The vehicular access is at the rear of the existing residence from right of way shared driveway from Ilya Avenue.</p> <p>Part of existing building is constructed on the Right of way and the proposal is for construction on the right of way as well. This right of way serves properties 6 to 10 Taminga Street. Council cannot support building within the ROW.</p> <p>However, if written approval from neighboring property owners (6-10 Taminga Street) is submitted to Council the application can be considered for review.</p> <p>Comments 20/04/2021:</p> <p>Stormwater The additional stormwater generated from the proposal will be connected to the existing approved stormwater system and will be further discharged to the existing approved street outlet in Taminga Street.</p> <p>Access The site is having a dual access and the existing driveway access is via a shared bitumen accessway off Ilya Avenue located within the southern boundary. Presently the property is having a covered carport and a parking platform. Proposal is to convert existing carport to habitable area and rebuild existing parking platform to a partially enclosed double garage.</p>

Internal Referral Body	Comments
	<p>Excavation Excavation for proposed retaining walls and pier footings will be 2m and 3.5m respectively. Applicant to incorporate Geotechnical Report by HODGSON Consulting Engineers, Dated 15th Dec 2020 in to design and construction phase.</p> <p>ROW A written approval to construct on the Right of Way from the neighbouring property owners no. 6 to 10 Taminga Street is submitted to Council.</p> <p>The proposal is supported subject to conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A398756 dated 17 December 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A398756 dated 17 December 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	Pass

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No objections are raised and no conditions are recommended as a result of a response from Ausgrid.

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	5.7m - 9.8m	-	Yes*

*The proposed development is non-compliant with the 8.5m maximum building height prescribed by clause 4.3(2) of PLEP 2014 at 9.8m (variation up to 15.3%). However, The applicant seeks to rely upon a variation prescribed by 4.3 (2D) of PLEP 2014, which provides that the building may reach up to 10m in height, subject to consistency with certain criteria. The objectives of the height of buildings development standard, and relevant criteria are assessed within the 4.3 Height of buildings section of the report.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	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 E4 Environmental Living

The development proposed is found to be consistent with the following outcomes of the E4 Environmental Living zone:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The development will continue to have the appearance of a "low impact" residential dwelling house in a natural landscaped setting, integrated with the scenic landform and aesthetic values. The proposed development is found to have a acceptable impact on significant vegetation on the site, as detailed in the Landscape Officer, and Biodiversity comments elsewhere in this report.

The documentation accompanying the proposed structure contains sufficient information for Council to be satisfied that the development will integrate with the landform and landscape and be consistent with surrounding development.

4.3 Height of buildings

Determination of Building Height and Clause 4.3 of the PLEP 2014

As mentioned previously, the application was lodged on the basis that it does not comply with the Height of Buildings development standard under Clause 4.3 of the PLEP 2014 and a Clause 4.6 Variation request was submitted for Council's consideration.

However, the review and assessment of the application has determined that the building height whilst does not comply with the 8.5m height control the application seeks to rely upon a variation prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria.

is comparable with surrounding development, and characteristic of the area.

Although the design of the alterations is more contemporary and architecturally unique when compared to the more traditional style of surrounding dwelling houses and parking structures, the residential nature of the development and the non-compliance, is considered to be consistent with the objectives of the zone and the urban context of the local area.

The development satisfies this objective.

- ***To ensure that buildings are compatible with the height and scale of surrounding and nearby development.***

Comment:

The development is located on the downward slope of the Taminga Road escarpment which is characterised by undulating topography to the Pittwater Waterway. This results in variable built forms along the road, such that there is an eclectic mix of height and scale in which to be compatible with.

Notwithstanding, the overall height of the development is below the 10m requirement, and is representative of a three (3) storey development when viewed from the property to the east, west and Taminga Roadway, and a two (2) storey development when viewed from the ROW.

The non-compliance is located at the northern edge of the roofline and balustrades (demonstrated in figure 1) due to the topographical nature of the site.

The proposed development maintains a similar building height (RL 70.07) to that of the existing eastern neighbors building height (RL69.3).

The non-compliance between the 8.5m and 10m requirement is considered to be relatively minor and does not unreasonably conflict with the height and scale of surrounding and nearby development. In this context, the proposed height non-compliance is considered to be compatible.

The development satisfies this objective.

- ***To minimise any overshadowing of neighbouring properties.***

Comment:

The roof elements (where the maximum height protrusions occur) do not contribute to any unreasonable overshadowing of adjoining properties.

The development satisfies this objective.

- ***To allow for the reasonable sharing of views.***

Comment:

It is determined that the non-compliance along the northern edge of the proposed roof does not impact the viewing angle from the properties to the east, No. 11 Taminga Road, or west No.9 Taminga Road. The sweeping range of views available from the internal areas and balconies of both properties remain intact.

The height non-compliance does not have an unreasonable impact upon the existing views from

further up the escarpment due to the higher placement/vantage point of these properties.

The development satisfies this objective.

- ***To encourage buildings that are designed to respond sensitively to the natural topography.***

Comment:

The proposal is reliant upon a minor area of excavation under the footprint of the dwelling to accommodate the gymnasium and mezzanine level. However, the visual impact of the minor excavation will be screened from view, and the proposal presents as a dwelling that has been sited to sympathetically follow the natural slope of the land.

The proposals design with the open style rear balcony areas, provides a more "stepped" look when viewed from the rear and the neighbouring properties. The proposal reflects the established built form character of the immediate Taminga Street area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access.

The development satisfies this objective.

- ***To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.***

Comment:

Despite the topographical constraints of the site, the developments design creates additional articulation, and visual interest and the additional floor is sufficiently setback from the boundaries such that the visual impact of the building will be appropriately managed.

Existing landscaping has been retained wherever possible and additional landscaping will soften and filter the built form. As a result, the proposal will be sufficiently integrated into the existing landscaped setting.

The development satisfies this objective.

The remainder of the criteria prescribed by clause 4.3(2D) of PLEP 2014 have been considered, as follows:

- ***The consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.***

Comment:

The portions of the development that exceed the 8.5m building height plane are limited in height and depth, as demonstrated in Figure 1 above.

The protrusions are reasonably described as minor.

The development satisfies this objective.

- ***The building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).***

Comment:

The topography of the site is very steep with a slope gradient well in excess of 16.7°, being up to 30° within the location of the proposed building footprint.

The development satisfies this objective.

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

Comment:

The proposal is reliant upon a minor volume of excavation. However, the extent of excavation proposed is not unreasonable in the context of the site, and does not present as excessive built form as seen from the public domain.

The development satisfies this objective.

The proposed development will be consistent with the criteria of clause 4.3(2D) of PLEP 2014, and the application of the 10m control is supported. As such, the proposed development is consistent with the maximum building height prescribed for the site.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	7.5m - 8.3m Upper Floor Dwelling	-	Yes
		7.5m - 8.2m Entry Level Dwelling	-	Yes
		7.9m - 8.2m Entry Level Garage	-	Yes
Rear building line	6.5m	11.6m - 11.8m Upper Floor Balcony	-	Yes
		21.2m - 14.6m Upper Floor Dwelling	-	Yes
		11.1m - 11.4 Entry Level Dwelling	-	Yes
		6.6m - 6.9m Entry Level Balcony	-	Yes
		9.7m Lower Level Dwelling	-	Yes
		6.6m - 6.9m Lower Level Balcony	-	Yes
		8.6m - 8.8m Mezzanine	-	Yes
Side building line	2.5m East	10.5m Upper Floor Balcony	-	Yes
		4.8m - 6.7m Upper Floor Dwelling	-	Yes
		2.1m Entry Level Dwelling	16%	No
		2.2m Entry Level Rear Balcony	12%	No
		0.885m Lower Level (existing)	-	Yes
	1m West	11.7m Mezzanine	-	Yes
		3.5m Upper Level Dwelling/Balcony	-	Yes
		1.5m Entry Level Dwelling/Garage	-	Yes
		2.6m - 3.3m Lower Level Dwelling	-	Yes
		1.5m Lower Level Patio	-	Yes
1.5m Mezzanine	-	Yes		
0.2m External Access Stairs	80%	No		
Building envelope	3.5m	Encroachment of the Upper Floor dwelling house for a height of 0.2m for a length of 0.5m, encroachment of the Entry Level balcony for a height of 3.6m for a length of 2.4m	up to 103%	No

	3.5m	Encroachment of the Upper Floor for a height of 2.6m and a length of 1.7m, and the Upper Floor balcony area encroaches for a height of 1.6m for a length of 3m, with the Entry Level displaying new encroachment of a height of up to 3.3m for a length of 4.6m & 0.8m in height by 1.0m in length	up to 94%	No
Landscaped area	60% (413.6sqm)	47.1% (324.3sqm)	21.5%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	No	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.23 Eaves	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.2 Scenic protection - General	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	No	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes

Detailed Assessment

A4.4 Church Point and Bayview Locality

The development is consistent with the Desired Character statement of the Church Point and Bayview Locality with exception of the Upper Storey (third level) element of the dwelling.

Specifically, the locality statement provides that the *"locality will remain primarily a low density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape"*.

The additional Upper Storey Level, the Mezzanine Level (not considered a storey level) are proposed with no significant site excavation.

In this regard, the built form will continue to sit comfortably with adjoining and surrounding two, and three storey residential development. The built form is located downslope in steep topography, with the Upper storey (third level) element presenting as two storey to the private ROW.

Existing landscaping and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Church Point and Bayview locality.

C1.5 Visual Privacy

Description of non-compliance

Clause C1.5 requires:

- *Private open space areas, including living rooms of proposed and any existing adjoining dwellings, are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7m above floor level).*
- *Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*
- *Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.*

Furthermore, in the Land and Environment Court Case Meriton v Sydney City Council [2004] NSWLEC 313 Senior Commissioner Roseth established a planning principle for the protection of visual privacy where it was considered that "generalised numerical guidelines..., need to be applied with a great deal of judgment, taking into consideration density, separation, use and design."

The principle state:

- *The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.*
- *Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)*
- *The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.*
- *Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.*
- *Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.*
- *Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.*
- *Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.*

The development has been generally designed to address overlooking by locating some living room windows and balconies away from habitable room windows, balconies and private open space area on neighbouring properties.

However, the plans indicate that the following elements could either result in actual overlooking, or the perception of being overlooked into neighbouring properties, and are therefore examined in detail against the above requirements and objectives:

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

Comment:

The proposed development actually improves the existing privacy situation for the eastern adjoining dwelling house, No.11 Taminga Street by removing two windows on the eastern elevation, one on the Entry Level, and one on the Lower Ground Floor.

On the eastern elevation, the proposal includes three new windows on the Upper Floor within 9m of boundaries. Window W01 and W02 service a guest bedroom and window W25 services a void area over the stairwell.

Within the Court Case *Meriton v Sydney City Council [2004] NSWLEC 313* the planning principle is applied whereby overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time. As a result, the

location of W25 being over a void area, the usage of the rooms, the sill height of 0.9m for W01 & W02, and orientation of W01 to the front ROW entry area, the potential privacy impacts are considered reasonable and no additional mitigation measures are not required.

On the western elevation, the proposed dwelling contains two new windows, one on the Entry Level the other on the Lower Ground Floor within 9m of boundaries. Window W13 services a walk in robe and W19 services a storeroom. Window W13 is of a small size and displays a 1.5m sill height above the finished floor level, whilst window W19 is on the lower ground floor and partially screened by external baton screening. Due to the design features and the rooms the windows service further privacy treatments are not required in these circumstances.

As a result the proposals windows are of suitable dimensions to allow reasonable access to light and air for the subject site, without unreasonably impacting on the privacy of the adjacent properties. The development optimises privacy for both the subject site and adjacent sites through good design.

The new balcony area serves a purpose beyond that which the Court considered to be typically intended for bedroom use, as the balcony is designed to be used as an outdoor area in which to actively stand and/or sit (i.e. not sleep). Due to the significantly elevated nature of the Ground Floor and Lower Ground Floor balcony extensions and the spatial distance (i.e. 2.083m to the eastern boundary), there is real potential to overlook the open space area of the eastern neighbouring properties, see Photo 1 below. It is recommended that privacy screens are installed on the eastern elevations of the deck areas to prevent overlooking.



Photo 1: Existing balcony areas from No. 10 Taminga from No.11 Taminga rear balcony areas.

The upper level deck comprises privacy screening along the western side elevation, with no screening along the eastern elevation. As there are no windows associated with habitable rooms adjacent to the deck, and a spatial distance of 10.5m the lack of a screen along the eastern side elevation is considered to be acceptable in the circumstances.

The proposal complies with this outcome.

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

Comment:

Given the above, a suitable sense of territory and safety is provided for the subject site and adjacent sites.

The proposal complies with this outcome.

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

C1.7 Private Open Space

Description of Non-compliance

The subject site provides more than the required minimum 80sqm of private open space (POS). However, the site is highly sloped and is unable to provide an area of private open space which meets the criteria necessary for principal private open space. As a result, the proposed rear decks, accessed off the living/dining/family/rumpus room combined provide approximately 90sqm of open space.

The subject site is very steeply sloped, which limits the placement and size of suitable POS areas. The placement of all proposed decks would enable such areas to form extensions of existing/proposed living areas within the dwelling which is consistent with relevant DCP outcomes.

As these decks do not meet the required criteria, the area noncompliance is therefore considered below.

Merit Consideration

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

- ***Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants.***

Comment:

The proposed increase in the Lower Ground and Entry Level existing rear decks and Upper Floor new rear deck areas will improve the amount of private open space directly available from the living areas of the dwelling. Additional private open space is available on site by way of the the significant yard at the rear of the dwelling.

- ***Private open space is integrated with, and directly accessible from, the living areas of dwellings.***

Comment:

The raised rear decks which serves as principal private open space areas are directly accessible from the living areas of the dwelling. The constraint of the sloping nature of the site means that the private open space available in the rear yard is not directly accessible from living areas. However, the stairs to the rear yard are easily accessible from the dwelling and provide sufficient access to this space.

- ***Private open space receives sufficient solar access and privacy.***

Comment:

The proposed POS maintains an north orientation thereby allowing adequate solar access for the occupants and those of surrounding properties. However, overall the private open space available on site receives sufficient solar access. A condition has been included in the recommendation of this report requiring that a privacy screen be installed on the two new rear deck additions. As conditioned the proposed rear deck will to improve privacy to and from the principal private open space.

The objectives of the control will therefore be satisfied, in that usable and well located POS areas will be provided; such areas will also retain sufficient privacy and solar access. As such, the variation is supportable on merit.

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

D4.1 Character as viewed from a public place

Description of non-compliance

DCP clause D1.1 addresses character as viewed from a public place, and DCP clause D1.4 addresses scenic protection. These controls can be assessed together, along with the Church Point and Bayview Locality control for number of storeys and building envelope control in order to discuss the visual character of the proposed design.

It is important to acknowledge that the subject site is only viewed from public place from the rear Taminga Street level, views from the front of the subject site are only obtained from the properties who access their sites via the ROW. As a result, the main view line to the public open spaces is over the rear setback of the subject site.

The proposed double garage, with a minimum setback of 7.2m - 7.9m from the front property boundary, is inconsistent with the requirements of this clause, which prescribe that parking structures should be located behind the building line, preferably setback further than the primary building.

However, the proposed siting of the garage structure demonstrates consistency with the permitted variation prescribed by the front building line development control, which allows parking forward of the front building line on steeply sloping sites, is not visually identifiable from the nearby public spaces.

As a result, the modernised presentation of the proposed garage is consistent with other parking structures along this private ROW and particularly steep stretch of Taminga Street.

The dwelling whilst larger, has a proposed design that is well articulated and will present as a two storey dwelling house to the private ROW and a three (3) storey when viewed from Taminga Street and nearby Griffin Park and the Pittwater Waterway. Whilst the requirements of this clause state "*buildings give the appearance of being two-storey maximum*" the site steep topography requires building designs to follow the slope making it difficult for a standard 2 storey building.

The existing building has two living levels that are significantly elevated above the ground. These existing two storeys are to be retained in the proposal. The upper-level addition is built over the existing building, and is set back approx. 18m - 22.7m from the rear elevation. This ensures that building is only two storeys in any one location. Additionally, the large rear setback of the upper floor reduces the appearance of bulk from Taminga Street.

As a result, the proposal is only three storeys in any one place and has been carefully designed to suit site constraints and to reduce the appearance of bulk.

The visual impact of the proposed works will be lessened over time with the growth of the proposed landscaping, and ultimately, there will be a significant improvement in the presentation to Pittwater.

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

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

The desired future character of the Church Point and Bayview locality is maintained.

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

Comment:

The subject site is constrained due to the topography of the area and the location of the existing dwelling see Photo 2 below.



Photo 2: Existing parking structure and front setback of the subject site looking east.

The proposal provides safe and convenient vehicle and pedestrian access to the site. The garage is integrated into the building design and does not dominate the ROW view lines. The design of the garage does not give rise to any unreasonable bulk and has a perceived scale that is consistent with many existing garages along the Taminga Street ROW.

The proposed Upper Floor has a compact footprint with large setbacks both side boundaries. The width of first floor is 10.5m, only 55% of the site width of 18.9m. When viewed from the Taminga Street view, the existing and proposed building will be screened by existing trees on site with the proposed works receding within the trees over time. Due to the varied setback of the upper floor, being further into the site, the upper floor is not a visually dominate or prominent feature.

The building appears as the same scale and consistent with neighbouring buildings. Views from further out would be similar, with the screening trees and building articulation making the building recede in the landscape. See photo 3 & 4 below.



Photo 3: View from Taminga Street of the existing dwelling house.



Photo 4: The existing dwellings to the east of the subject site when viewed from Taminga Street.

The proposal complies with this outcome.

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

Comment:

The proposal reflects the established built form character of the immediate Taminga Street area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access. Despite the topographical constraints of the site, the developments design creates additional articulation, and visual interest and the additional floor is sufficiently setback from the boundaries such that the visual impact of the building will be appropriately managed.

Existing landscaping has been retained wherever possible and will soften and filter the built form. Therefore, the proposal will be sufficiently integrated into the existing landscaped setting.

The proposal complies with this outcome.

- ***The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation.***

Comment:

The proposal (as conditioned) will provide adequate areas for the retention and establishment of more considerable planting, particularly rear setback between the proposed dwelling and Taminga Street. In this regard, the proposal provides adequate areas for substantial planting, to visually reduce the built form.

The proposal complies with this outcome.

- ***High quality buildings designed and built for the natural context and any natural hazards.***

Comment:

The proposed development is designed to give the appearance of stepping down the slope of the land to integrate with the landform and landscape. The Upper Floor addition is set back from the existing rear building alignment, following the contours of the site.

The proposed building is two storeys in any one place and demonstrates an articulated rear elevation compared with the aligned storeys of the existing dwelling. This serves to reduce the appearance of bulk when viewing the building from the neighbouring dwellings and nearby public places.

The proposal (as conditioned) will provide adequate areas for the retention and establishment of more considerable planting, particularly rear setback between the proposed dwelling and Taminga Street. In this regard, the proposal provides adequate areas for substantial planting, to visually reduce the built form.

The proposal complies with this outcome.

- ***Buildings do not dominate the streetscape and are at 'human scale'. Within residential areas, buildings give the appearance of being two-storey maximum.***

Comment:

As stated above the dwelling whilst larger, has a proposed design that is well articulated and will present as a two storey dwelling house to the private ROW and a three (3) storey when viewed from Taminga Street. The site topography of the area requires building designs to follow the slope making it difficult for a standard 2 storey building.

The existing building has two living levels that are elevated above the ground. These existing two storeys are to be retained in the proposal. The upper-level addition is built over the existing building, and is set back approx. 18m - 22.7m from the rear elevation. This ensures that building is only two storeys in any one location. Additionally, the more than sufficient side setback, combined with the large rear setback of the upper floor reduces the appearance of bulk from Taminga Street.

As a result, the proposal is only three storeys in any one place and has been carefully designed

to suit site constraints and to reduce the appearance of bulk.

The proposal complies with this outcome.

- ***To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.***

Comment:

Views to and from public and private places will not be impacted by the proposal.

The proposal complies with this outcome.

- ***To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures, being a secondary component.***

Comment:

The proposed development, is a sensitive solution for the constrained site that preserves the natural features and biodiversity. Native trees and vegetation are retained as part of the proposal. In addition, the development is supported by Council's Natural Environment Biodiversity and Landscaping Team. The proposal (as conditioned) will provide adequate areas for the retention and establishment of more considerable planting, particularly rear setback between the proposed dwelling and Taminga Street. In this regard, the proposal provides adequate areas for substantial planting, to visually reduce the built form.

The proposal complies with this outcome.

- ***To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land.***

Comment:

The proposed development presents as three storeys when viewed from the Taminga Street and nearby public recreational areas such as beach areas of Church Point. However, the proposed design is more articulated than the existing structure design with depth variation between the ground floor and upper level. The articulation and stepping in the rear façade will ensure the proposed development will not appear bulky. The development will not dominate and will sit among the large trees at the rear of the site, see photo 5 & 6 below.



Photo 5 : View of the subject site from Pittwater Road.



Photo 6: View of the subject site from Griffin Park.

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

D4.6 Side and rear building line

Description of non-compliance

Clause D4.6 of the PDCP requires a minimum side setback of 2.5m to at least one side and 1m to the other. The side setback vary across all three levels and both the west and east boundary from 0.85m

to 10.5m. The non-complying element of this proposal relates to the wall of the walk in pantry at ground level which presents a 2.08m set back for a length of 5.4m to the eastern boundary, see Figure 2 below.

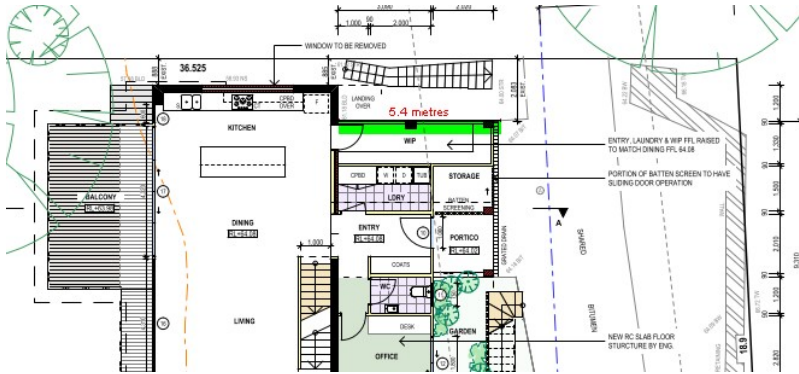


Figure 2 : Area of eastern side setback non-compliance shown in green.

The control includes a variation which allows the maintenance of existing side setbacks where alterations and additions are proposed; given the substantive retention of these existing walls, no concern is raised.

The dwelling itself does not move closer to this boundary than the existing dwelling. Overall, the proposal is supportable on merit, as the design is consistent with the outcomes of this control, as follows:

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

Comment:

The proposed development is consistent with the desired character of the Church Point and Bayview Locality.

The proposal complies with this outcome.

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

Comment:

The proposed non-compliant additions to the dwelling house are minor in scale, with the new Upper Level compliant with the side setback requirements. The additional ground floor dwelling within the eastern setback does not visually add to any visually excessive bulk and scale, nor does this area removes vital landscaping areas that would assist in softening the built form, see Photo 7 below.



Photo 7: Existing eastern side setback and its relationship with No. 11 Taminga Street.

It is considered that the development (as conditioned) has been sufficiently articulated to visually define the dwelling within the shape and topographical context of the site.

The external stairs within the western setback are considered a transitional area, therefore minimising unreasonable privacy impact. The stairs are sited as close to the natural ground level as possible and do not unreasonably overlook the western neighbouring properties habitable windows or private open space areas. The external access stairs do not remove an area of landscaping that would be considered reasonable in size in order to incorporate landscaping features to screen and soften the built form. Therefore, the stairs are considered reasonable in this instance.

The proposal complies with this outcome.

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

Comment:

The non-compliant areas within the eastern side setback will not result in any unreasonable impacts upon views to/from public/private places.

The proposal complies with this outcome.

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

Comment:

As above, the proposed additions are sited such that they will not result in any unreasonable impacts upon views to/from public/private places.

The proposal complies with this outcome.

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

Comment:

The proposed non-compliant addition does not create amenity and privacy impacts to the neighbouring sites as there is no proposed window opening. Reasonable levels of solar access is achieved for the western and eastern adjoining sites. Therefore, the proposal will maintain reasonable privacy and general amenity to neighbouring properties.

The proposal complies with this outcome.

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

Comment:

The proposed development provides for substantial landscaping within the rear setback area fronting Taminga Street.

The proposal complies with this outcome.

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

Comment:

The proposed location for the walk in pantry is considered to be the most logical location on site commensurate to existing structures. The elevation and design of the proposal is also considered appropriate, as requiring the floor plan set at a lower level would require significant excavation and environmental impact. The proposed non-compliant additions demonstrate a flexible design solution that provides for the modernised design for the existing dwelling house.

The proposal complies with this outcome.

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

Comment:

Sufficient areas within the front and rear setback are to be retained and enhanced, to screen the proposed non-compliant elements as seen from the neighbouring sites and the nearby public recreational areas.

The proposal complies with this outcome.

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

D4.8 Building envelope

Description of non-compliance

The existing dwelling exhibits non-compliance with the side building envelope requirements.

The proposed development involves additional areas that protrude beyond the existing envelope breach on both side boundaries.

These additional side envelope breaches areas include the following:

- **Eastern Elevation:** Encroachment of the Upper Floor dwelling house for a height of 0.2m for a length of 0.5m, encroachment of the Entry Level balcony for a height of 3.6m for a length of 2.4m.
- **Western Elevation:** Encroachment of the Upper Floor for a height of 2.6m and a length of 1.7m, and the Upper Floor balcony area encroaches for a height of 1.6m for a length of 3m, with the Entry Level displaying new encroachment of a height of up to 3.3m for a length of 4.6m & 0.8m in height by 1.0m in length.

The existing dwelling includes non-compliance with the stated building envelope caused by the significant slope of the site from front to rear (shown below in blue). These portions of the building are to be retained so this non-compliance will remain.

The proposed bedroom and garage of the Entry Level of the dwelling are proposed to project further to the west, meaning that a further breach results. However, the bedroom is located behind the garage areas, therefore screening this from the front ROW.

The proposed Upper Floor balcony introduces a new non-compliance with the building envelope control, particularly on the western elevation.

The figures below shows the location and extent of the non-compliance.

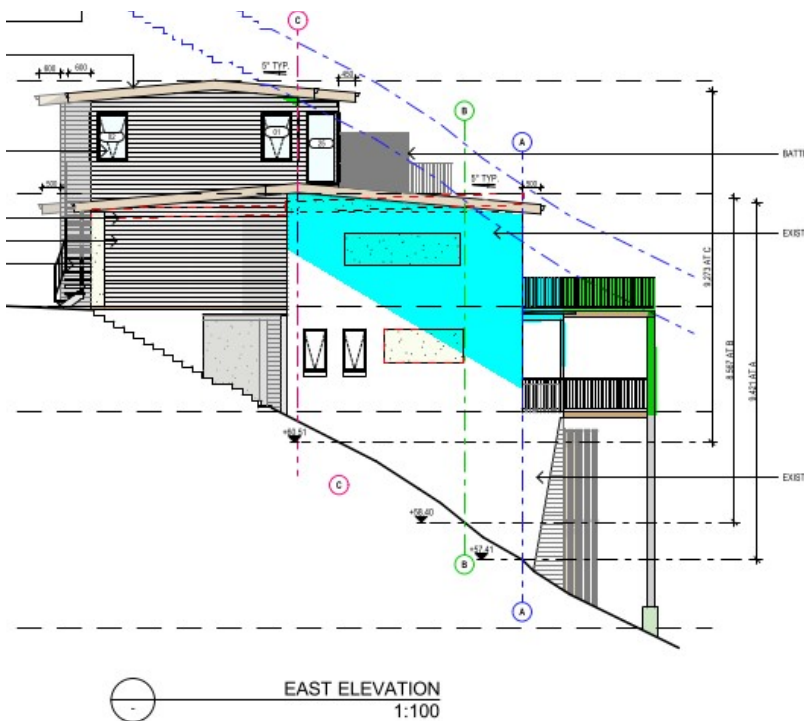


Figure 3: Additional envelope breach on the eastern elevation shown in green, existing envelope breach shown in blue.

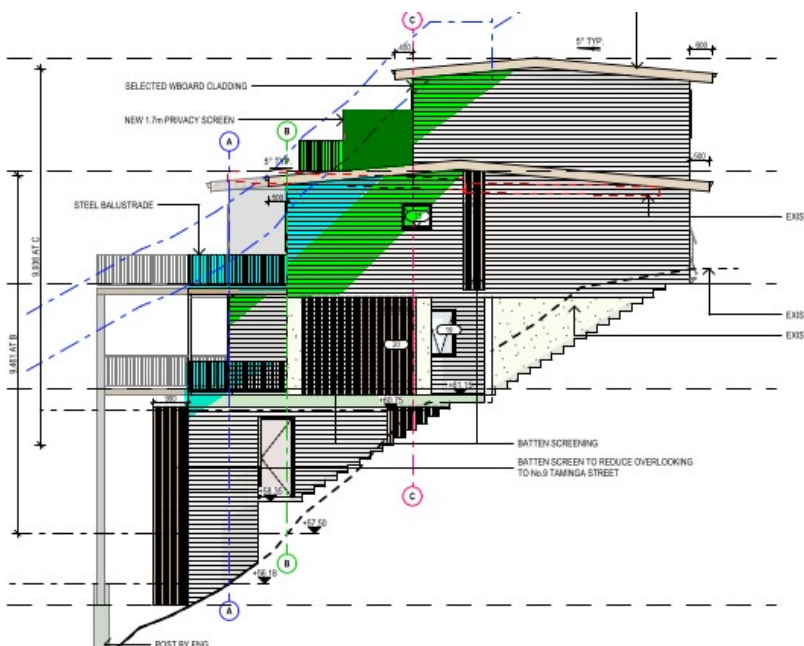


Figure 4: Additional envelope breach on the western elevation shown in green, existing envelope breach shown in blue.

A consideration of the proposed breach against the relevant outcomes of the control is provided below:

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

Comment:

The non-compliance is influenced by the sloping topography of the site. The proposal is well articulated along rear and side of the dwelling with a varied roof line. The areas of encroachment demonstrates consistency with the desired future character of the locality with the siting of the dwelling maintaining the landforms, landscapes and other features of the natural environment.

The proposal complies with this outcome.

- ***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 development is situated predominately over the existing building footprint and does not alter the existing topography of the site. The proposed development presents a more modern and improved design, with the Upper Floor, Entry and Lower Level additions satisfying the criteria clause 4.3(2D) of the PLEP. The proposed Upper Floor addition also breaches the building envelope but has been designed to reduce the impact of this breach. The southern and western walls are set back from the existing ground floor wall, and the roof is a flatter design rather than mimicking the existing pitched roof.

Furthermore, the resultant built form will be maintained below the existing tree canopy. The building form and density respond to the natural land form of the site which will be below the height of the trees of the natural environment. The encroachment is considered satisfactory in regards to the design, scale, bulk and the height of the proposal.

The proposal complies with this outcome.

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

Comment:

The façade of the dwelling on the east and the west elevation is sufficiently modulated to respond aspect of the site and its steep slope. The resultant development is considered to be a sensitive design response in consideration of the natural characteristics of the site, with the retention of existing canopy trees and the enhancement of landscaping.

The proposal complies with this outcome.

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

Comment:

The area of the dwelling outside of the envelope is typified by a variation in façade treatments and structures. The proposed resultant dwelling is of comparable building bulk and scale to existing and approved developments in the locality.

The development steps with the topography of the land, and the proposed height is mostly compliant with the building height development standard.

The portion of the building that causes the building envelope breach is generally not visible from street level and achieves the outcomes of the clause D4.1 character as viewed from a public place. The increased side and rear setbacks mean the first floor recedes in the landscape when viewed from the Taminga Street and nearby public recreational areas.

The proposal will includes adequate vegetation in order to screen the built form of the proposed development.

In light of the steep topography, the significant articulation along the northern and southern façade and noting that the built form non-compliance is compliant with the building height,

attempts to ensure the bulk and scale of this portion of the development has been minimised.

The development complies with this outcome.

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

Comment:

Due to the siting of the existing and surrounding dwellings, and the orientation of the dwellings to the north to capture the Pittwater water views, the proposed development will not result in any significant view loss that would warrant refusal of the application.

The development complies with this outcome.

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

Comment:

There will be no adverse amenity impact in regard to privacy or solar access (subject to conditions) as a result of the proposed breach of the Building Envelope.

The development complies with this outcome.

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

Comment:

The proposed dwelling is sited in a manner that will retain existing vegetation where possible and enhance the future viability of the vegetation community that exists on the site.

The development complies with this outcome.

In conclusion, despite the breach of the building envelope control, the development has demonstrated achievement of the Outcomes of the control.

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

D4.10 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The proposed landscaped area does not meet the 60% landscaped area requirement under this control.

The proposed development results in a landscape area of 324.3m² or 47.1%, which is a variation of the 60% minimum requirement.

However, the control provides for the inclusions of pathways and certain hard surfaces (up to 6% of the site associated with recreation areas), if the proposal is consistent with the outcomes of the control.

As a result, when taking into account the variations for outdoor recreational area and pathways, the

revised landscape area is 53% or 365.66sqm.

It is important to acknowledged that the site is constrained, including the presence of the 110sqm section of concrete & right of way (which accounts for 16% of the site area), the significant slope of the site and a number of mature canopy trees. The is considered to appropriately balance the constraints of the site while also maximising the amount of landscaped area provided as far as possible.

Due to the inclusion of the pathways and certain hard surfaces, a merit assessment has been undertaken to ensure the proposal is consistent with the outcomes of the control.

The application of the variation is considered to be warranted, as the outcomes of the control are achieved as follows:

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

Comment:

The proposed development is consistent with the desired future character of the Bayview Locality, as the proposal provides adequate opportunities to ensure that the visual impact of the development is secondary to landscaping. In addition, it can be said that the proposal has been effectively integrated within the landform, through landscape buffer areas in the front and rear setback and conditioned replacement planting.

The proposal does comply with this outcome.

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

Comment:

The proposed (as conditioned) will provide sufficient landscape buffers, which will assist in visually breaking down the built form, particularly within the additional planting (s per condition) and retention of the other landscaping on the site. Overall, it is considered that the proposal's design reasonably mitigates the visual impact of the built form.

The proposal does not comply with this outcome.

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

Comment:

The proposal (as conditioned) will not result in any unreasonable impact on light, solar access or privacy. This is as a result of the sufficient orientation and separation of windows.

The proposal complies with this outcome.

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

Comment:

The proposal involves a landscaped area of 53% or 365.66sqm, whereas the control requires a minimum of 60% (413.6sqm). The proposal (as conditioned) will provide adequate areas for the retention and establishment of more considerable planting, particularly rear setback between the proposed dwelling and Taminga Street. In this regard, the proposal provides adequate areas for substantial planting, to visually reduce the built form.

The proposal complies with this outcome.

- ***Conservation of natural vegetation and biodiversity.***

Comment:

The proposed development, is a sensitive solution for the constrained site that preserves the natural features and biodiversity. Native trees and vegetation are retained as part of the proposal. In addition, the development is supported by Council's Natural Environment Biodiversity and Landscaping Team.

The proposal complies with this outcome.

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

Comment:

The development will provide sufficient areas that are of soil depth for the infiltration of stormwater. It is considered that stormwater runoff will not be reasonably reduced as a result of this proposal. Subject to conditions recommended by Council's Development Engineers, stormwater will be appropriately managed on the site.

The proposal complies with this outcome.

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

Comment:

The subject include two areas capable for the establishment of deep soil planting. The street frontage has minimal landscaped area, while the rear setback will include much larger landscaped area between the proposed works and Taminga Street.

Overall, the proposal provides reasonable opportunities within the site for the establishment of any trees and landscape features, resulting in the proposal integrating with the landscaping and bushland character of the escarpment and the locality.

The proposal complies with this outcome.

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

Comment:

A considerable proportion of the hard surface areas proposed are elevated above ground and permeable, maximising water infiltration. Furthermore, subject to conditions of consent, Council is satisfied that stormwater will be appropriately managed on the site.

The proposal complies with this outcome.

Based on the above, the proposed landscape area in this instance instance is supported on merit and considered to satisfy the outcomes of the control.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$4,750 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$475,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0060 for Alterations and additions to a dwelling house on land at Lot 10 DP 27133, 10 Taminga Street, BAYVIEW, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan DA01	23/3/2021	JJ Drafting
Proposed Upper Floor Plan DA05	23/3/2021	JJ Drafting
Proposed Entry Level Plan DA06	23/3/2021	JJ Drafting
Proposed Lower Level Plan DA07	23/3/2021	JJ Drafting
Proposed Gym and Mezzanine Plan DA08	23/3/2021	JJ Drafting
South Elevation DA11	23/3/2021	JJ Drafting
West Elevation DA12	23/3/2021	JJ Drafting
North Elevation DA13	23/3/2021	JJ Drafting
East Elevation DA14	23/3/2021	JJ Drafting
Section DA15	23/3/2021	JJ Drafting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Report	15/12/2020	Hodgson Consulting Engineers
Arboricultural Impact Assessment	January 2021	Bluegum Tree Care Consultancy

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

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

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

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

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

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

Reason: Legislative requirement.

3. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

dangerous to persons or property on or in the public place

- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$4,750.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$475,000.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the

provision of new or augmented local infrastructure and services.

5. **Security Bond**

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

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

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

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

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

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

6. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed off to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by HODGSON Consulting Engineers, dated 15th Dec 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Compliance with this consent.

9. **Amendments to the approved plans**

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

- A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost eastern edge of the balcony located off the kitchen/dinning room on the Entry Level as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost eastern edge of the balcony located off the bedroom 3/rumpus room on the Lower Level as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

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

10. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

11. **External Finishes to Roof**

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. Tree Removal Within the Property

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) T3-Corymbia maculata , T4 Jacaranda mimosifolia, T6 Phoenix canariensis , and T7 Cinnamomum camphora

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised building works.

13. Dead or Injured Wildlife

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

Reason: To protect native wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. Protection of Landscape Features and Sites of Significance

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

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

15. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level

- 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.
- c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment dated January 2021 prepared by Bluegum.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

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

Reason: Tree and vegetation protection.

16. **Road Reserve and Right of Way**

The applicant shall ensure the public footways and roadways and the private right of way adjacent to the site are maintained in a safe condition with access to be available at all times during the course of the work.

Reason: Public safety.

17. **Survey Certificate**

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

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

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

18. **Waste Management During Construction**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

19. **Required Tree Planting**

Trees shall be planted in accordance with the following:

- i) 3 native trees capable of attaining a minimum height of 10 metres, minimum pot size 200mm, located within the grounds of the property.

Tree planting shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings and other trees.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight or where the proposed tree location may impact upon significant views.

Native tree planting species shall be selected from Council's list:

www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

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

Reason: To maintain environmental amenity.

20. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Final Occupation Certificate.

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

21. **Replacement of Canopy Trees**

At least 1 locally native canopy trees are to be planted on site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with Council's Native Gardening Guide.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping and ensure no net loss in native canopy trees in accordance with B4.4 of the PDCP.

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

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

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

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

23. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Final Occupation Certificate.

Reason: Public and Private Safety

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

25. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from

demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

26. Replacement of Canopy Trees

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

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

Signed



Catriona Shirley, Planner

The application is determined on 24/05/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments