

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1810
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 25 DP 16029, 49 Grandview Drive NEWPORT NSW 2106
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:	Benjamin Scott Weatherall Mariela Sanchez Cana
Applicant:	Benjamin Scott Weatherall

Application Lodged:	08/10/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/10/2021 to 03/11/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 350,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing dwelling house, which includes an upper floor addition. The works consist of:

Lower Ground Floor

- Remove stove from existing kitchenette and refurbish cabinetry to form new wet bar.

Ground Floor

- Internal alterations to provide a new a master bedroom with walk in robe and ensuite, two

- additional bedrooms, bathroom, laundry and staircase to new first floor level.
- Rebuild existing rear deck to same dimensions.

First Floor

- Open plan kitchen/dining/living area, study, WC and entry foyer.
- New covered tiled balcony at rear of addition and a timber deck with vergola across front of addition.
- New elevated walkway to provide access from existing external staircase.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
 Pittwater 21 Development Control Plan - A4.10 Newport Locality
 Pittwater 21 Development Control Plan - C1.3 View Sharing
 Pittwater 21 Development Control Plan - C1.4 Solar Access
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - D10.4 Building colours and materials
 Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)
 Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 25 DP 16029 , 49 Grandview Drive NEWPORT NSW 2106

Detailed Site Description:

The subject site consists of one allotment located on the south-eastern side of Grandview Drive, Newport.

The site is irregular in shape with a frontage of 10.67m and respective depths of 66.72m and 69.475m along the north-eastern and south-western side boundaries. The site has a surveyed area of 1,052sqm.

The site is located within the E4 Environmental Living zone pursuant to Pittwater LEP 2014 and accommodates a part 1-2 storey dwelling house, including a garage with storage below located adjacent to the street frontage.

The existing landscape setting of the site contains retaining walls, stairs, paved areas, many native trees and palms, gardens and lawn areas.

The site experiences a fall of approximately 24.8m that slopes away from the frontage towards the rear. This represents an approximate fall of 35.7%.

The site is environmentally constrained with geotechnical hazards and burdened by a drainage easement that traverses through the rear of the property.

Description of Surrounding Development

The surrounding built environment is characterised by detached low density residential development (i.e. dwelling houses) within bushland settings on sloping sites. The scale of nearby development ranges from 1-3 storeys in height.

Map:



SITE HISTORY

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

- Development Application N0352/14 for additions to the dwelling: new driveway, garage with storage/gym, decks and stairs approved by Council on 26 November 2014.

APPLICATION HISTORY

The Development Assessment Planner examined the subject site and the surrounds on 29 October 2021.

Following the preliminary assessment of the application, which included the aforementioned site visit, Council wrote to the applicant raising the following concerns with the development:

- Visual Privacy: Council raised concern of visual privacy impacts resulting from the uppermost floor balcony adjoining the kitchen, living and dining areas. It was requested that a privacy screen be erected along the north-easternmost edge of the balcony with maximum 30mm openings to a minimum height of 1.65m above the finished floor level. The applicant subsequently submitted revised plans meeting this requirement.
- Building Envelope: Council raised concern of the building envelope non-compliance along the north-eastern elevation of the uppermost floor, noting that this elevation consisted of a part 2-3 storey un-articulated wall. It was requested that an alternative design be submitted that visually reduced the bulk and scale of this wall. The applicant subsequently submitted revised plans that varied the north-eastern wall plane, which provided an increased side setback as the wall moved towards the rear. This reduced the visual bulk of the wall and the extent of the numeric non-compliance.

In addition to the above, the applicant included two privacy screens on the ground floor rear deck adjoining the bedrooms, despite this not being an area of concern for Council.

The revised plans constituted a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches CPP.

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

Section 4.15 Matters for Consideration	Comments
	purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Matters for Consideration	Comments
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 20/10/2021 to 03/11/2021 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 2 submission/s from:

Name:	Address:
Sabina Cordula Holldack	C/- MHDP Architects 11 Grandview Drive NEWPORT NSW 2106
Ms Elizabeth Ruth Maxworthy	51 Grandview Drive NEWPORT NSW 2106

Two submissions were received following the public exhibition period. The matters raised within the submissions are addressed as follows:

- **Overshadowing**

Comment:

This matter is discussed in detail within the section of this report relating to Clause C1.4 of the Pittwater 21 DCP.

In summary, whilst the proposal results in shading of the front decking and living room window at 51 Grandview Drive (south-western adjacent site), the impacts are considered to be reasonable due to constrained site conditions, which includes a steep topography and dense vegetation. The south-western positioning of No. 51 relative to the subject site makes it vulnerable to overshadowing in the morning hours and at midday on June 21. The proposal results in limiting shading of the main private open space (rear deck) at No. 51 and allows portions of the living window to receive direct sunlight at 12pm and the early afternoon hours on June 21, with the kitchen windows benefiting from solar access in the afternoon hours on the winter solstice. Overall, the impact is considered to be equitable.

- **Privacy**

Comment:

This matter is addressed in detail within the section of this report relating to Clause C1.5 of the Pittwater 21 DCP.

In summary, the proposed development satisfies the requirements of the privacy control and is

considered to be acceptable in this regard.

Conclusion

The matters raised within the submissions have been appropriately addressed above. The concerns do not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for alterations and additions to an existing dwelling.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 zone Environmental Living, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D10 Newport Locality <p>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the E4 Environmental Living zone.</p> <p>The existing landscape setting of the site contains retaining walls, stairs, paved areas, many trees and palms, gardens and lawn areas. No Landscape Plan is provided nor required in this instance as the existing landscape areas remain intact including retention of trees and gardens beds, with the exception of the area to be occupied by the proposed covered deck.</p> <p>As noted in the Statement of Environmental Effects the development works that extends beyond the existing footprint includes the proposed covered deck at the front of first floor. A small portion of the deck will overhang an existing earth bank that is covered with an exotic ground cover plant. The proposal will not require the removal of any trees or significant vegetation. The new elevated covered deck at the front of first floor will be in close proximity to three trees, and pier footing construction is proposed and the pier locations shall be determined based on arboricultural investigation.</p> <p>Landscape Referral raise no concerns with the development application.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for alterations and additions to an existing dwelling, including, internal alterations to existing ground floor, new first floor addition including , balcony, deck and stairs and rebuilding of existing rear ground floor deck.</p>

Internal Referral Body	Comments
	<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 Biodiversity Conservation Regulation 2017 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"> B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p>The site is located within the Department of Planning, Industry and Environment's (DPIE) Biodiversity Values (BV) Mapping. Any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS). As an Arboricultural Impact Assessment is provided with the application that states that no significant trees or vegetation shall be removed as a result of proposed works which is supported by the Architectural Plans; the BOS is not triggered.</p> <p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant

period of time with no prior land uses

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with this application (see BASIX Certificate No. A422430, dated 20 September 2021). A condition has been included with this consent to ensure compliance with the aforementioned BASIX Certificate.

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	8.45m	-	Yes

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

4.3 Height of buildings

The documentation submitted with this application stipulates that the maximum building height of the upper floor addition is 8.9m, which exceeds the 8.5m statutory height limit. In calculating the building height, the applicant referred to the vertical distance between the roofline and the finished floor level of the lower ground floor, which has been excavated below the natural ground level of the site.

Pittwater LEP 2014 defines building height as follows:

"building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

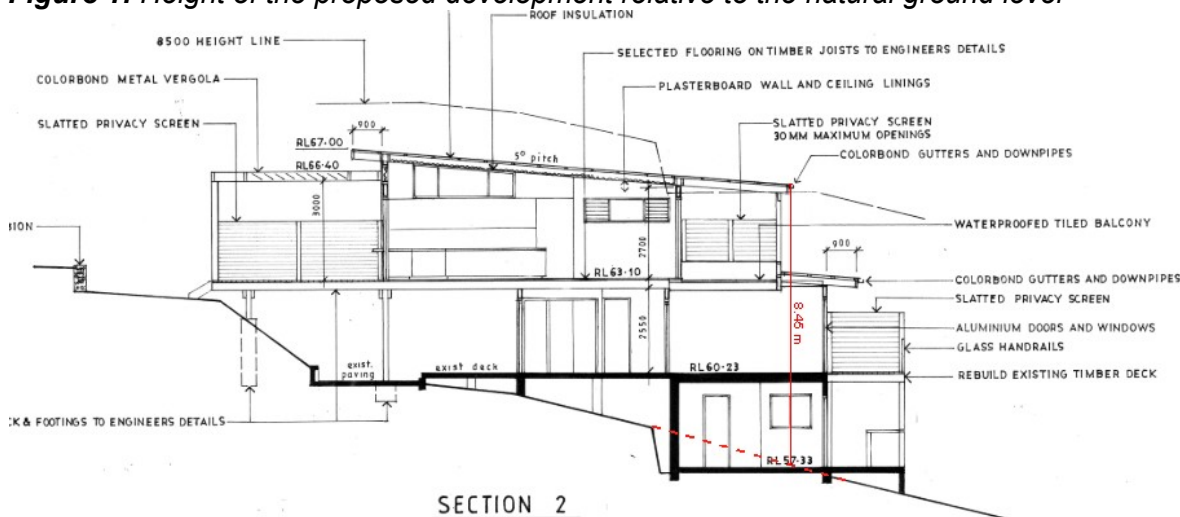
including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like".

When considering what constitutes the existing ground level, it is noted that the existing ground level should be taken from the levels of an undisturbed site, rather than an excavation point below the natural ground line. This is often referred to as the extrapolated ground line.

This notion was raised within the NSW Land and Environment Court judgement *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070, which stated that the basement "Is the space of a building where the floor level of that space is predominately below existing ground level and where the floor level of the storey immediately above is less than 1m above existing ground level. From this definition, it does not follow that existing ground level becomes the level of the basement floor or the soil beneath the basement following construction of a basement. A basement is, by definition, below ground level and so the level of the basement floor cannot be taken to be existing ground level."

When calculating the maximum building height relative to the extrapolated ground level, the maximum building height is 8.45m, which complies with the 8.5m height of buildings development standard. Figure 1 below depicts height of the structure in relation to the existing (extrapolated) ground level.

Figure 1: Height of the proposed development relative to the natural ground level



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Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	13.17m	-	Yes

Rear building line	6.5m	24.1m	-	Yes
Side building line	2.5m (south-west)	Lower Ground Floor: unchanged Ground Floor: unchanged First Floor: 2.35m - 2.8m External Stairs: 1.4m	up to 44%	No
	1m (north-east)	Lower Ground Floor: unchanged Ground Floor: unchanged First Floor: 1m - 2.91m	-	Yes
Building envelope	Merit Assessment as >30% slope (south-west)	Outside standard envelope	up to 48.86%	Yes - Acceptable on Merit
	3.5m then projected at 45 degrees (north-east)	Outside envelope	up to 35.56%	No
Landscaped area	60% (631.2sqm)	63.2% (664.9sqm)	-	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	No	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	No	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	No	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.10 Newport Locality

Clause A4.10 of the Pittwater 21 DCP provides guidance of the form and scale of development anticipated for the Newport locality. The Desired Character Statement reads as follows:

"The Newport locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. Secondary Dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community".

"Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport".

"Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards".

"A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment,

to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors".

"Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved".

"Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities".

"Newport's coastal setting is what contributes most to the distinctive character of the commercial centre. Responsive, energy efficient buildings will support and enhance this relaxed, beachfront character and its outdoor lifestyle, contributing to a unique sense of place. Contemporary design solutions within the commercial centre will respond to Newport's climate and setting, including providing shade and shelter to streets and entries, generous private outdoor spaces, openings that capture ocean breezes, and shade elements".

Comment:

The proposed development involves an upper floor addition, which results in a part 2-3 storey development. As outlined above, the Newport Desired Future Character Statement calls for two storey development within low density residential areas.

Whilst the Locality Statement calls for two storey development, the proposed development is considered to achieve the overall intention of the desired future character statement for the following reasons:

- The proposed development remains within the 8.5m statutory height limit and is commensurate with the scale of surrounding detached low density residential development, which includes numerous part 2-3 storey dwelling houses on sloping sites;
- When viewed from the street the dwelling will present as a single storey structure;
- The uppermost floor involves varied wall plans on both side elevations, which visually reduces the built form;
- The development steps down in height with the slope of the land to integrate with the landform and landscape;
- The proposal does not result in the removal of significant vegetation on the site;
- The proposal minimises site disturbance and has been designed to respond to the geotechnical hazards on the site;
- The roofline of the resulting development remains well below the established tree canopy; and
- The dwelling will remain supported by adequate infrastructure.

C1.3 View Sharing

The properties along this section of Grandview Drive maintain a south-eastern aspect towards Newport Beach. Due to the elevated nature of the street, adjoining properties enjoy water views of Newport Beach. The application was exhibited for 14 days and did not receive any submissions that expressed concern of potential view impacts.

Despite this, the assessment has considered the potential for view loss, specifically having regard to the four planning principles outlined within the outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*. It should be noted that access has not been granted to adjoining for the purpose of a view impact analysis.

For the purpose of this view impact analysis, consideration has been given to the immediate adjacent sites to north-east (No. 47), south-west (No. 51) and north-west (No. 62). Figure 2 below depicts these properties relative to the subject site and the proximity of these sites from Newport Beach.

Figure 2: Satellite image of surrounding properties (subject site outlined in blue)



North-Eastern (No. 47) and South-Western (No. 51) Adjacent Sites

The adjacent dwellings at No. 47 and No. 51 contain elevated entertaining decks on the rear (south-eastern) elevations. These decks have been sited to allow the occupants of the respective dwellings to enjoy water views of Newport Beach over the rear boundaries.

In considering the potential view impacts arising from the proposed development, it is noted that that works at large comprise an upper floor addition located within an existing building footprint. In this regard, the proposed development will not disrupt the existing view lines over the rear boundaries from No. 47 and No. 51.

North-Western Adjacent Site (No. 62)

Located towards the north-west (upslope) on the opposite side of Grandview Drive is No. 62, which accommodates a two storey dwelling house. Given the elevated nature of this dwelling and south-eastern aspect, it is likely that water views would be obtained from this property.

The first floor of the adjacent dwelling contains a number of windows on the south-eastern elevation and an elevated deck on the north-eastern elevation. It is anticipated that water views could be obtained from these areas.

In considering the potential view impacts arising from the proposed development, it is noted that the first floor finished floor level at No. 62 is situated at RL75.75. The roofline of the proposed upper floor addition is sited at RL67.00, which is 8.75m below the first floor finished floor level of the adjacent dwelling at No. 62. In this regard, it is concluded that any potential view lines towards Newport Beach from the first floor of No. 62 would be retained over the roofline of the proposed development.

Conclusion

Based on the above assessment, it is concluded that the development has been designed to minimise view loss and as such, the development is considered acceptable in this regard. The works are considered to align with the requirements and outcomes of this control and the planning principles outlined within Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council* (2004) NSWLEC 140.

C1.4 Solar Access

Description of non-compliance

The control requires as follows:

- ***The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.***
- ***Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).***

Shadow diagrams have been prepared by a suitably qualified person to assist with the assessment of solar access. The shadow diagrams depict the existing and proposed shadows cast by development on the site. The shadow diagrams do not depict the existing shadows cast by the local vegetation, which includes canopy trees and dense planting. It is acknowledged that the existing local vegetation contributes to significant shading of the subject site and adjoining properties.

The sole living room window at No. 51 (south-western adjacent site) is overshadowed by the existing and proposed development at the subject site at 9am and 12pm on June 21, which does not meet the prescribed requirement. The aforementioned window is located on the north-eastern elevation of the adjacent dwelling house. It is noted that this window is currently completely overshadowed at 9am by the existing garage on the subject site, whilst this window receives direct sunlight at 12pm. This window remains completely overshadowed at 9am and approximately 58% of the window surface will be overshadowed at 12pm as a consequence of the proposal.

In determining what constitutes the main private open space at No. 51, it is considered that the rear

elevated deck is the main private open space as it is positioned to enjoyed water views to the south-east and is directly accessible from the kitchen, living and dining areas. It is further noted that this deck is approximately 25sqm in area, which is sufficient to accommodate the occupants and any guests to the house. As such, it has a high utility value. However, due to its southern positioning this area receives limited direct sunlight on June 21.

The decking located at the front of the adjacent dwelling is not considered to be the main private open space as it is not directly adjacent to the key living spaces and has limited utility value given it is currently vulnerable to overshadowing by the existing steep topography, vegetation and studio structure located adjacent to the front boundary at No. 51, whilst also not positioned to allow the occupants to enjoy the water views to the south-east. It is acknowledged that the proposed development results in shading of this area at 9am on June 21. However, the canopy trees located within the front yard of the subject site would contribute to shading of this area at 9am, whilst not depicted on the shadow diagrams. It is further noted that the existing garage/studio at the subject site results in significant shadowing of this area at 12pm on the winter solstice, as depicted on the shadow diagrams.

When considering the shadowing impacts of the adjacent main private open space (rear decking), it is noted that the proposed development results in minimal additional shadowing of this area on June 21.

Merit consideration

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

Residential development is sited and designed to maximise solar access during mid-winter.

Comment:

The proposal at large relates to an upper floor addition. The proposal has been designed to ensure equitable internal solar access to living spaces and private open space on the subject site.

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.

Comment:

The proposed development has been designed to remain below the statutory height limit applied to the site, which limits the height of buildings to 8.5m above the natural ground level. Furthermore, the south-western wall plane has been varied to provide an increased side setback as the slope of the land descends. Whilst a portion of the wall plane involves a 150mm variation to the 2.5m side building line requirement, the provision of a fully compliant 2.5m side setback would not have a significant improvement in terms of solar access to the adjacent living room window. Portions of this window will receive direct sunlight at various periods of the day, particular during midday and early afternoon. Furthermore, the kitchen windows on the south-western elevation (adjacent to living room) will receive direct sunlight in the afternoon, which will ensure equitable internal amenity for the adjacent dwelling. It is important to note that this site is particularly vulnerable to overshadowing as a consequence of its south-western positioning to the subject site and the steep local topography. The existing vegetation also contributes to significant shading of this site, whilst this is not depicted on the shadow diagrams.

Further to the above, it is noted that the main private open space (rear decking) will remain largely unimpeded by the proposed development in terms of solar access.

Reduce usage and/dependence for artificial lighting.

Comment:

The proposal will not unreasonably increase usage or dependence on artificial lighting, for either the subject site or the adjoining neighbours.

Conclusion

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

C1.5 Visual Privacy

The control requires as follows:

- ***Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres 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.***

Comment:

The proposal involves four new decks/balconies, which are sited on the front and rear elevations. The ground floor and upper floor decks incorporate 1.8m high privacy screens with 30mm openings on the north-eastern and south-western side elevations, which will prevent opportunities for direct overlooking into private open space and windows on adjacent properties. It is noted that the upper floor rear balcony adjoining the living room contains a 1.8m high privacy screen with 30mm openings on the north-eastern elevation, with the south-western elevation of the balcony being recessed into the building. These design treatments will ensure privacy is maintained between dwellings. It is further noted that this balcony is setback 24m from the rear boundary and will not provide opportunities for direct overlooking to downslope properties.

In relation to the upper floor windows, it is noted that the windows on the north-eastern elevation of the addition contain high window sills (1.7m above finished floor level or greater). The use of high window sills on the north-eastern elevation of the addition will prevent opportunities for overlooking into the adjacent site (No. 47) when in both standing and sitting positions.

With respect to new glazing on the south-western elevation of the upper floor addition, it is noted that there are two new windows that adjoin a bathroom (w15) and study (w14). These windows contain a sill height of 1.12m above the finished floor level. The windows are located directly adjacent to a bedroom window at No. 51, being setback 3.45m from the adjacent window. Despite this, the window sill heights of w14 and w15 are sited approximately 2.6m above the adjacent bedroom window head level. As a result, the height difference will be sufficient to prevent a direct line of sight into the adjacent bedroom and thus, the privacy impacts will be reasonable. It is further noted that both windows w14 and w15 adjoin low trafficable rooms.

The neighbour at No. 51 has expressed concern of the proposed external staircase that provides access along the side of the dwelling house adjacent to the south-western boundary. Whilst the staircase is situated 1.4m from the side boundary, it is considered that the privacy impacts are acceptable, given the stairs are designed for a means of access only and are not conducive for the occupants to use as private open space. Furthermore, the finished level of the steps and landings are within 1.05m of ground level. In the event that any overlooking is possible from the staircase, the nature of the staircase, being a means of access, will ensure that any overlooking is infrequent and therefore,

acceptable.

Conclusion

Based on the above assessment, it is concluded that the proposal satisfies the requirements of this control.

D10.4 Building colours and materials

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

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

Description of non-compliance

The control requires development to be setback at least 1m from one side boundary and 2.5m from the other side boundary. For the purpose of this assessment, the 2.5m side building line is applied to the south-western elevation and the 1m side building line applied to the north-eastern elevation.

The upper floor addition satisfies the 1m requirement, however involves a 150mm variation to the 2.5m requirement for 11.45m of the wall plane (front decking and entry, WC and study). Furthermore, the external staircase is setback 1.4m from the south-western side boundary, which does not meet this requirement.

Merit consideration

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

Achieve the desired future character of the Locality.

Comment:

As discussed in detail within the section of this report relating to Clause A4.10 of the Pittwater 21 DCP, the proposed development is considered to align with the intent of the Newport Desired Future Character Statement.

The bulk and scale of the built form is minimised.

Comment:

The uppermost floor incorporates varied wall plans on both side elevations to visually reduce the built form. Furthermore, the height of the dwelling steps down with the sloping topography, which further reduces the bulk and scale of the built form. Moreover, the proposal remains under the statutory height limit and will be sited well below the established tree canopy, which will ensure the resulting development is not visually prominent when viewed from surrounding public and private land.

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

Comment:

As detailed within the section of this report relating to Clause C1.3 of the Pittwater 21 DCP, the proposed development will allow for reasonable view sharing.

To encourage view sharing through complimentary siting of buildings, responsive design and

well-positioned landscaping.

Comment:

As noted above, the proposal does not result in adverse view impacts.

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

Comment:

As detailed within the section of this report relating to Clause C1.5 of the Pittwater 21 DCP, the proposed development has been adequately designed to ensure that a reasonable level of visual privacy is maintained between properties.

In regards to solar access, whilst the proposal results in additional shading of the adjacent living room window at 12pm on June 21, this impact is considered to be reasonable as partial direct sunlight is maintained to this window, including kitchen windows, during midday and the early afternoon hours on the winter solstice. The provision of a fully compliant 2.5m side setback, which would require a 150mm increased setback for a portion of the wall plane, would not significantly increase the available direct sunlight to the living room window on the adjacent site. The south-western elevation of the dwelling is noted for providing increased setbacks on the upper floor as the slope of the land descends, which assists in reducing overshadowing to the adjacent property.

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

Comment:

The proposal complies with the Pittwater 21 DCP landscaped area provision and does not result in the removal of existing canopy trees on the site. The retention of existing canopy trees will soften the built form.

Flexibility in the siting of buildings and access.

Comment:

Access to the site will be maintained from the frontage. Flexibility is afforded with regards to the positioning of the upper floor as the bulk and scale of the built form is appropriately minimised and the resulting amenity impacts are considered to be reasonable given the existing site conditions, which includes a sloping topography and dense canopy cover.

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

Comment:

The proposal does not result in the removal of significant vegetation on the site. The existing canopy trees on the site will soften the built form.

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

Comment:

The site does not adjoin land zoned for commercial use or land that accommodates commercial development.

Conclusion

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

Comment:

As discussed in detail within the section of this report relating to Clause A4.10 of the Pittwater 21 DCP, the proposed development is considered to align with the intent of the Newport Desired Future Character Statement.

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

Comment:

The proposed development remains within the 8.5m statutory height limit and is sited well below the established tree canopy.

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

Comment:

The upper floor addition is confined to an existing building footprint and is adequately separated from adjacent properties to ensure that a reasonable level amenity is retained.

The bulk and scale of the built form is minimised.

Comment:

The uppermost floor incorporates varied wall plans on both side elevations to visually reduce the built form. Furthermore, the height of the dwelling steps down with the sloping topography, which further reduces the bulk and scale of the built form. Moreover, the proposal remains under the statutory height limit and will be sited well below the established tree canopy, which will ensure the resulting development is not visually prominent when viewed from surrounding public and private land.

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

Comment:

As detailed within the section of this report relating to Clause C1.3 of the Pittwater 21 DCP, the proposed development will allow for reasonable view sharing.

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

Comment:

As detailed within the section of this report relating to Clause C1.5 of the Pittwater 21 DCP, the proposed development has been adequately designed to ensure that a reasonable level of visual privacy is maintained between properties.

In regards to solar access, whilst the proposal results in additional shading of the adjacent living room window at 12pm on June 21, this impact is considered to be reasonable as partial direct sunlight is maintained to this window, including kitchen windows, during midday and the early afternoon hours on the winter solstice. The provision of a fully compliant 2.5m side setback, which would require a 150mm increased setback for a portion of the wall plane, would not significantly increase the available direct sunlight to the living room window on the adjacent site. The south-western elevation of the dwelling is noted for providing increased setbacks on the upper floor as the slope of the land descends, which assists in reducing overshadowing to the adjacent property.

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

Comment:

The proposal does not result in the removal of significant vegetation on the site. The existing canopy trees on the site will soften the built form.

Conclusion

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$3,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$350,000.

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 DA2021/1810 for Alterations and additions to a dwelling house on land at Lot 25 DP 16029, 49 Grandview Drive, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sheet No.1	January 2021	Beecraft
Sheet No. 2A	12 November 2021	Beecraft
Sheet No. 3A	12 November 2021	Beecraft
Sheet No. 4A	12 November 2021	Beecraft
Sheet No. 5A	12 November 2021	Beecraft
Sheet No. 6A	12 November 2021	Beecraft
Sheet No. 7A	12 November 2021	Beecraft

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment Report Ref. 14821	25 September 2021	Rain Tree Consulting
Geotechnical Investigation Ref. J3594	21 July 2021	White Geotechnical Group
BASIX Certificate No. A422430	20 September 2021	Network Irrigation P/L

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	28 September 2021	Ben Weatherall

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

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

2. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention

to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

3. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no

hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner

that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$3,500.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$350,000.00.

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

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

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

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

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

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. **Pier Footing Design Near Trees to be Retained**

Pier footing structural layout plans for the covered deck, stairs and footway in proximity to existing trees 1 - Port Jackson Fig, and trees 3 and 4 - Turpentine as identified in the Arboricultural Impact Assessment shall be developed in coordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture and a qualified Structural Engineer.

The Arborist shall review, comment, recommend design revision as required and approve the pier footing layout to ensure the locations of piers will be manageable in terms of tree protection measures.

The Arborist shall submit certification to the Certifying Authority that the locations of the pier footings are accepted via an agreed pier footing structural layout plan prior to the issue of a Construction Certificate.

Reason: Tree protection.

7. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

8. **Stormwater Drainage Disposal**

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

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

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application.

Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

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

Reason: To ensure satisfactory management of stormwater.

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

10. **Engagement of Project Ecologist**

All tree protection measures as recommended within the submitted Arboricultural Impact Appraisal and Method Statement (EziGrow 2020) are to be adhered to, including limiting excavation to by hand only while working within any Tree Protection Zones.

Details demonstrating compliance must be prepared by the Project Arborist and submitted to the Principal Certifying Authority prior to any commencement.

Reason: To protect native vegetation and wildlife.

11. **Compliance with Standards**

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

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

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

12. **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.

13. Sydney Water "Tap In"

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

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

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

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

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

14. External Finish to External Walls

The external walls must comprise dark and earthy tones, consistent with the Pittwater 21 Development Control Plan colour palette.

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

Reason: To minimise impacts upon the surrounding environment.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. Tree and Vegetation Protection

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

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

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) 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, as listed in the following sections:

- i) section 1.4 Discussion of development impacts
- ii) section 2.2 Specific tree management recommendations
- iii) section 2.3 General tree protection requirements

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.

17. **Survey Certificate**

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

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

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

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

18. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

19. Geotechnical Inspections and Certification

A suitably qualified geotechnical engineer/geologist must undertake the following inspections:

- All footings are to be inspected and approved by the geotechnical consultant while the excavation equipment and contractors are still onsite and before steel reinforcing is placed or concrete is poured.

Documented evidence must be provided to the Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

20. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: Tree and vegetation protection.

21. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

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

22. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

23. Geotechnical Certification Prior to Occupation Certificate

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

24. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

25. Geotechnical Recommendations

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

Reason: To ensure geotechnical risk is mitigated appropriately.

26. **Lower Ground Floor not to be used for Separate Occupancy**

The lower ground floor of the dwelling house is not permitted to be used, or adapted to be used, for separate occupancy.

Reason: Nothing in this consent authorises the use of the site or any onsite structures as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

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

Signed



Thomas Burns, Planner

The application is determined on 18/11/2021, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager