

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1586
Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 31 DP 11423, 9 Kananook Avenue BAYVIEW NSW 2104
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Daniel Brian Finch Vanessa Ann Finch
Applicant:	Rapid Plans Pty Ltd
Application Lodged:	04/10/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	11/10/2022 to 25/10/2022
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 230,560.00

PROPOSED DEVELOPMENT IN DETAIL

The application seeks approval for alterations and additions to an existing dwelling. The works include the following:

Ground floor:

- New ground floor alterations and additions - enclosing the ground floor deck to create a sunroom, new ensuite to bedroom 5 and increased floor space for bedroom 2.

First floor:

- New addition to the existing master bedroom room to provide for increased floor space, the existing upper floor deck area will have the existing tiles removed and replaced due to ongoing leak issues, this will include a new glass handrail and awning roof to provide window shading to the lower floor works.

Amended Plans

Received on 28 August 2023 to address side boundary envelope control (particularly for the ground floor level).

It is considered that the increased side setback is of a less environmental impact and therefore does not require the formal re-notification of the amended application in accordance with Northern Beaches Community Participation Plan. However, to ensure adequate consultation (based on concerns raised in a previous submission), an informal email based notification was sent to the most affected adjoining neighbour at 7 Kananook Avenue, and no response was received.

ASSESSMENT INTRODUCTION

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

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

- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy

Pittwater 21 Development Control Plan - D4.8 Building envelope

SITE DESCRIPTION

Property Description:	Lot 31 DP 11423 , 9 Kananook Avenue BAYVIEW NSW 2104
Detailed Site Description:	<p>The subject site consists of one allotment located on the south-eastern side of Kananook Avenue.</p> <p>The site is regular in shape with a frontage of 15.24m along Kananook Avenue and a depth of 39.5m. The site has a surveyed area of 602.7m².</p> <p>The site is located within the C4 Environmental Living zone and accommodates three storey dwelling with an attached garage beneath.</p> <p>The site has a crossfall running from the southwest front corner of the site down to the northeast corner with an approximate slope of 15% grade.</p> <p>The site has a mix of native and exotic species of plants, shrubs and trees.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential dwellings ranging from single to third storeys in height with associated outbuildings/structures and landscaped gardens.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following:

Application N0513/16

Construction of a swimming pool at the rear of the property

Determined - 27/01/2017

Application N0513/16/S96/1

Modification of consent N0513/16 for the construction of a swimming pool at the rear of the property

Determined - 01/02/2018

Application N0199/04

Demolition of existing dwelling and construction of a new two storey dwelling

Determined - 09/08/2004

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider “Prescribed conditions” of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested for amended plans from the applicant by Council. Amended plans were received by Council on 28 August 2023 and form the current assessment of this application.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/10/2022 to 25/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Ms Vanessa Louise Orr	2011 Pittwater Road BAYVIEW NSW 2104
Ms Marie Therese Slocombe	2013 Pittwater Road BAYVIEW NSW 2104
Mr Gregory Stevan Kaye Ms Kylie Marie Crellin	7 Kananook Avenue BAYVIEW NSW 2104

The following issues were raised in the submissions:

- Stormwater
- Visual dominance, visual and acoustic privacy
- Non compliance with building envelope of the ground floor works
- Breaches of the Clauses (C1.5 Visual Privacy, C1.8 Private Open and D4.8 Building Envelope)
- Incorrectly identify the footprint of the existing upper floor deck

The above issues are addressed as follows:

- **Stormwater**

The submissions raised concerns that relating stormwater from the subject site and other properties along Kananook Avenue (southeastern side).

Comment:

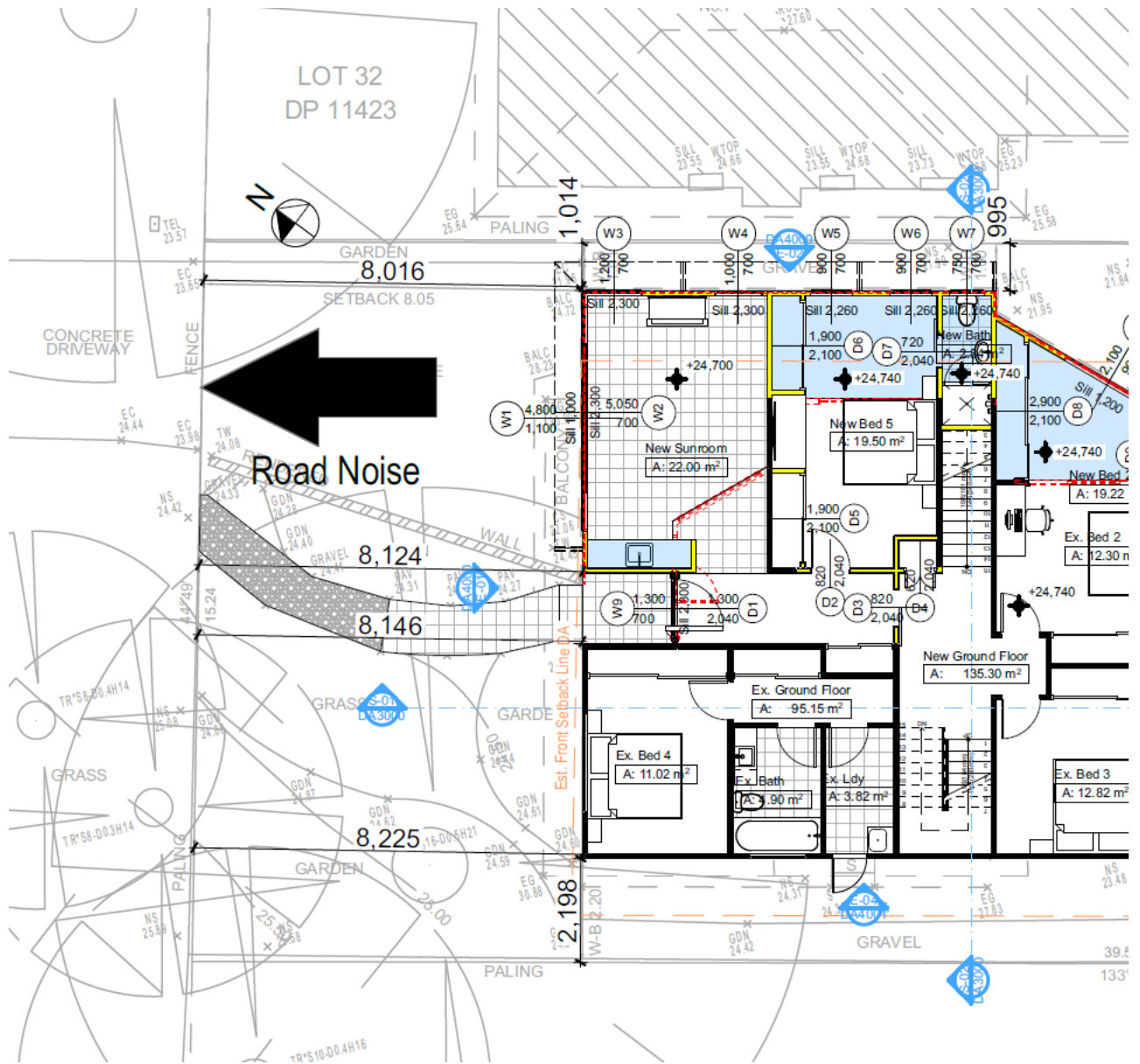
A review was completed by Council's Development Engineer and suitable conditions have been included to ensure compliance with Council's Stormwater Management Policy.

- **Visual dominance, visual and acoustic privacy**

The submissions raised concerns that

Comment:

Amended plans were received by Council on 28 August 2023 from the applicant which increased the side setback of proposed enclosure of the existing ground floor (see below). The original plans totally enclosed the existing balcony with only a 0.995m - 1.014m side boundary setback to these proposed new works. The amended plans have now increased the side setback of the enclosed works to over 2m with the existing balcony to remain on along the eastern side setback area providing sufficient visual relief and acoustic privacy.



Original plans

Additionally, it is noted all windows on the western elevation of 7 Kananook Avenue have been fitted with an obscured treatment ensuring reasonable visual privacy is maintained for both parties. The only changes proposed to the first floor does not seek to alter the outline of the outer footprint but only replace the existing hardrail with a new hardrail in accordance with National Construction Code (NCC) and Australian Standard(s) and slightly enlarges the master bedroom which only infill the existing balcony (southern end). It is considered that the existing vegetation located along the common side boundary shared by 7 and 9 Kananook Avenue and the vertical spatial separation of both the ground and first floors of 9 Kananook Avenue will ensure reasonable levels of visual and acoustic amenity will be maintained.

The submissions raised concerns that the ground floor works encroached upon the building envelope.

Comment:

The original plans encroached upon the building envelope (see Figures 3 & 4 below) and with the amended plans submitted on 28 August 2023 with the increased side setback to the enclosed works ensures that the proposed ground floor works do not encroach upon the envelope (see Figures 5 & 6 below).

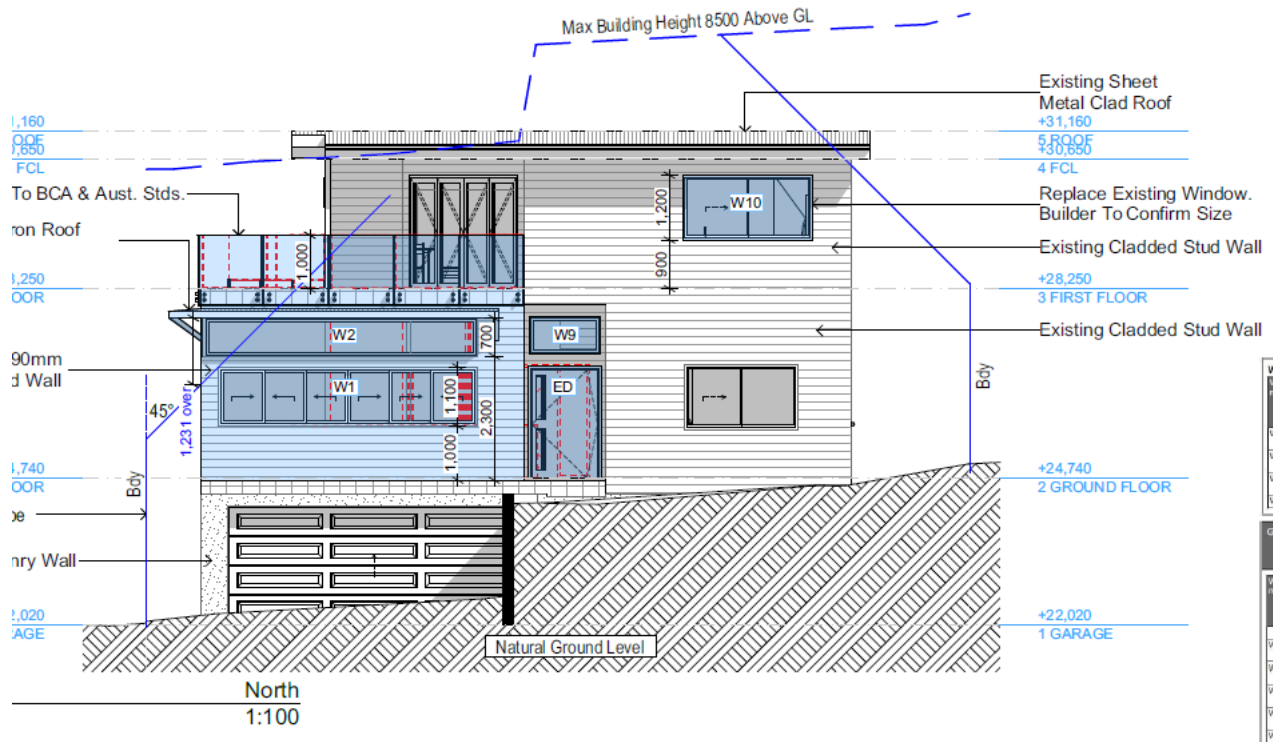


Figure 3 - Northern elevation with ground floor encroaching the side boundary envelope (original plans)

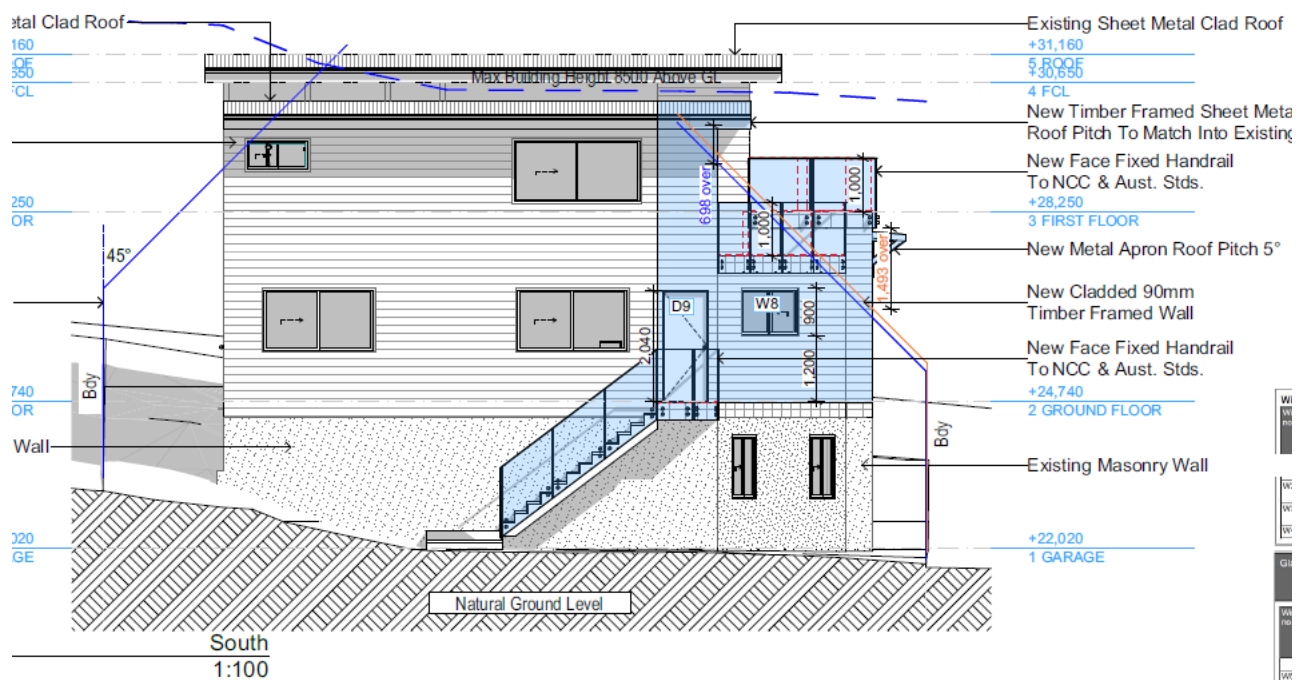


Figure 4 - Southern elevation with ground floor encroaching the side boundary envelope (original plans)

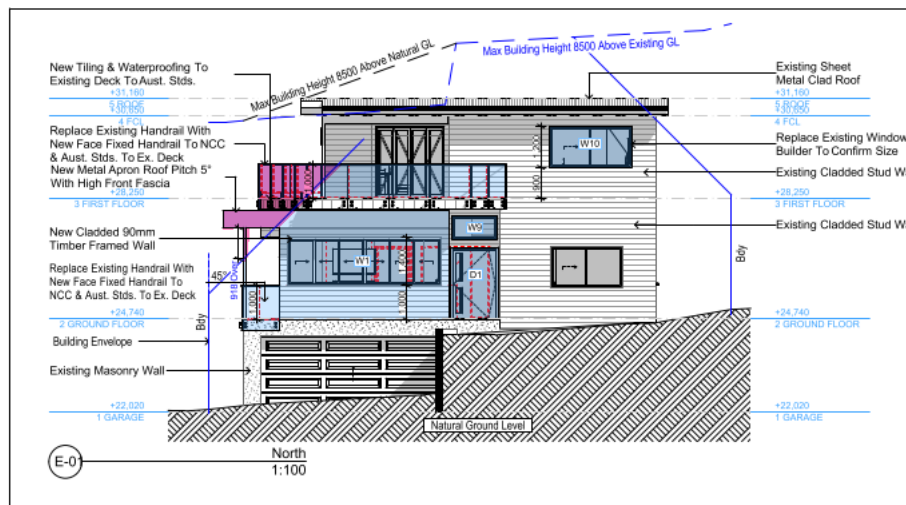


Figure 5 - Northern elevation with ground floor within the side boundary envelope (amended plans)

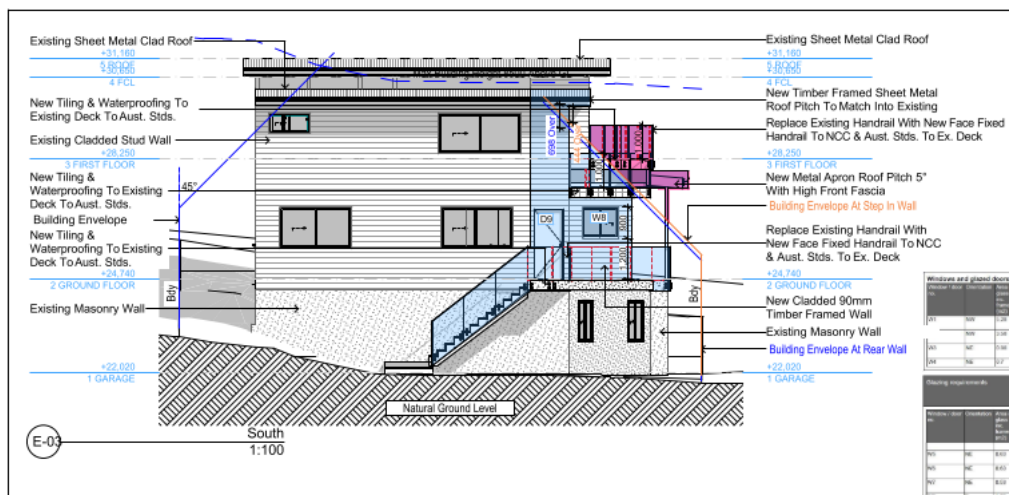


Figure 6 - Southern elevation with ground floor within the side boundary envelope (amended plans)

- Breaches of the Clauses (C1.5 Visual Privacy, C1.8 Private Open and D4.8 Building Envelope)**

The submissions raised concerns that breaches of the above clauses.

Comment:

As discussed previously Council's considered that the proposed alterations and additions to the existing dwelling house demonstrates compliance with Clause C1.5 Visual Privacy, Clause 1.7 Private Open Space (not Clause 1.8 Private Open as raised within the objection) and Clause D4.8 Building Envelope has been adequately addressed within this assessment report.

Given the amended plans received by Council it is considered that reasonable amenity levels will be maintained between both 7 and 9 Kananook Avenue and that the objection(s) have been adequately addressed and do not warrant further amendment and/or refusal of this application.

- Incorrectly identify the footprint of the existing upper floor deck**

The submissions identified that the footprint of the existing upper floor deck was not consistent with the existing first floor nor with the previous approval (Consent - N0199/04 dated 5 August 2004).

Comment:

A review of the original plans submitted with current development application (see Figure 7 below) notes that the first floor plan (see Figure 8 below) was incorrect and the amended plans (see Figure 9) submitted on 28 August 2023 has now addressed this concern and is consistent with the original approval granted via Consent - N0199/04 dated 5 August 2004.

It is considered that this matter has been adequately addressed and does not warrant amendment and/or refusal of this application.

Figure 7 - Original Stamped Plans for Consent N0199/04

approval granted via N0199/04

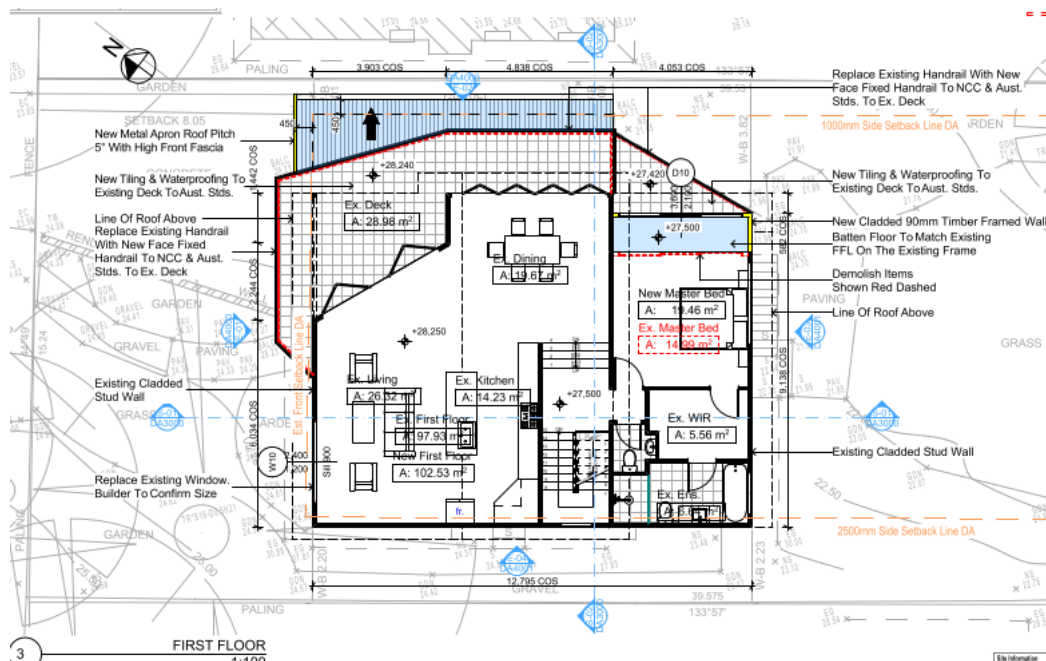


Figure 9 - Amended plans submitted on 28 August 2023 demonstrates that the deck is now consistent with the approval granted via N0199/04

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against the following provisions:</p> <ul style="list-style-type: none"> Pittwater LEP 2014 - cl 7.6 Biodiversity Protection Pittwater 21 DCP - cl B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p>The proposal does not present any negative impacts to native flora and fauna as it stands.</p>
NECC (Development Engineering)	<p>No objections to approval subject to conditions as recommended.</p> <p>Review 22/11/2022</p> <p>The proposed alterations to the existing dwelling do not increase the impervious areas and the plans indicate stormwater is discharged to the existing system. However there is no information provided regarding the existing system and Council records do not appear to have any details of the previously approved system. As the rear neighbors have raised concerns regarding the stormwater discharge from the development the conditions have been revised such that stormwater is discharged to a suitably designed level spreader, located with sufficient set back from the rear boundary, to ensure no concentrated discharge to the rear properties.</p>
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A463831 dated 21 June 2022).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	8m	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
1.9A Suspension of covenants, agreements and instruments	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 7 Additional local provisions	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

The proposed development involves alterations and additions to the existing dwelling house. Dwelling houses are permissible with consent in the C4 Environmental Living zone. The proposal is considered against the objectives of the zone as follows:

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

Comment:

The area of the site that is subject to the development has been subject to previous disturbance by previous development. It is considered that the proposed development will be appropriately sited and scaled, such that the works will not unreasonably detract from the visual qualities of the locality.

This proposal has been reviewed by the relevant interdepartmental Officers to ensure low impact to the ecological, scientific or aesthetic values of the site.

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

Comment:

As demonstrated above, the proposed development does not have an adverse effect on the ecological, scientific or aesthetic values listed above.

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

Comment:

The building height steps down with the slope of the land, which visually reduces the built form and sensitively responds to the natural topography. The proposal also does not change the existing low density residential land use and the scale of the development is commensurate with nearby residential development within the locality. Overall, the proposal meets this objective.

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

Comment:

The existing landscaping will be maintained and unaltered by the proposal will ensure consistency with this clause.

Conclusion

As demonstrated above, the proposed development satisfies the objectives of the C4 Environmental Living zone.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	8m	-	Yes
Rear building line	6.5m	18.5m	-	Yes
Side building line	SW - 2.5m	2.198m - 2.227m*	-	Unaltered*
	NE - 1m	1m	-	Yes
Building envelope	SW - 3.5m	No change*	-	Unaltered*
	NE - 3.5m	Outside envelope	65.7%	No
Landscaped area	60% (361.6sqm)	57% (343.3sqm)*	-	Unaltered*

* Existing unaltered by proposal

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Section A Shaping Development in Pittwater	Yes	Yes
A1 Introduction	Yes	Yes
A1.7 Considerations before consent is granted	Yes	Yes
A4 Localities	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
Section B General Controls	Yes	Yes
B1 Heritage Controls	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B3 Hazard Controls	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4 Controls Relating to the Natural Environment	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5 Water Management	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6 Access and Parking	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 Site Works Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
Section C Development Type Controls	Yes	Yes
C1 Design Criteria for Residential Development		
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
Section D Locality Specific Development Controls	Yes	Yes
D4 Church Point and Bayview Locality	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
D4.6 Side and rear building line	Yes	Yes
D4.8 Building envelope	No	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

Detailed Assessment

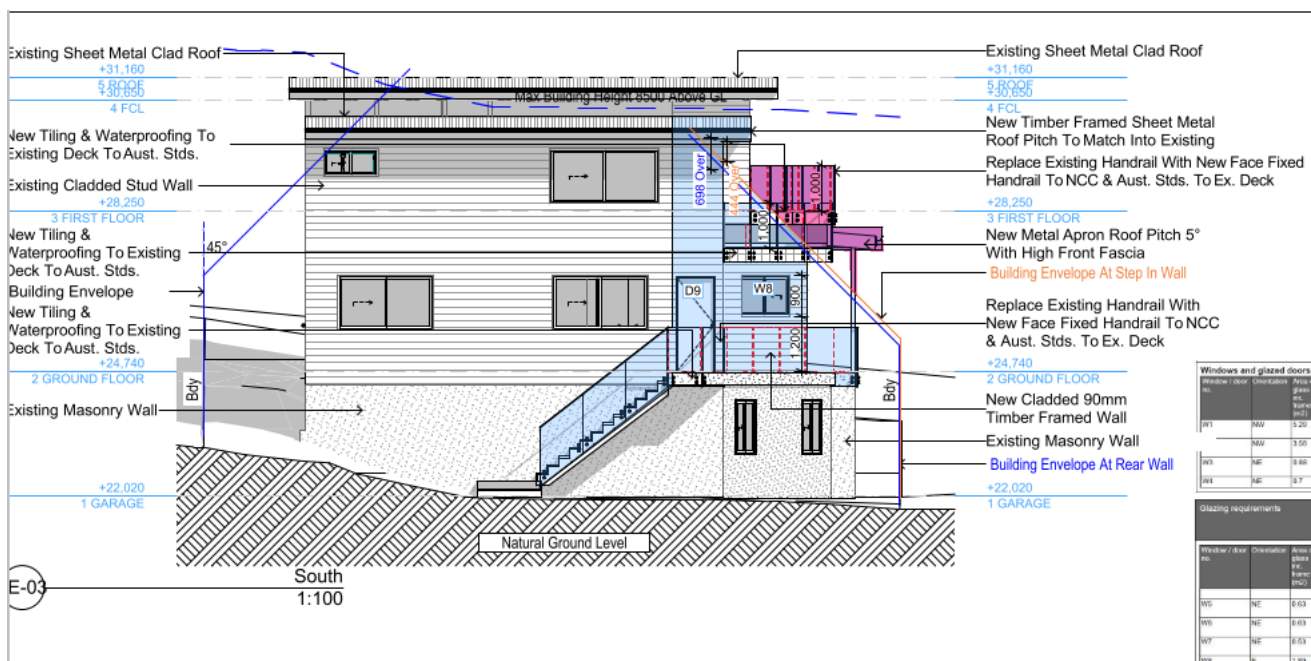
C1.6 Acoustic Privacy

Clause C1.6 of the PDCP requires that acoustic privacy be preserved by the spatial separation between bedrooms and living areas, private open space and the like. The proposed development to the ground floor which included a new sunroom, new bedroom No.5 with ensuite and enlarge of bedroom No.2 are located adjacent to the living room and bathroom (which have obscured treatments to the windows) and also study and bedroom which have no windows facing directly to the subject site. The relevant outcome to be satisfied requires the substantial containment of noise within each dwelling and to ensure that noise impacts from any communal or private open space are limited. It is considered that the proposal includes the maximum separation of bedrooms from living areas possible on the site given the spatial constraints on the site and that the living areas at No.9 Kananook Avenue are located on first floor level ensuring reasonable acoustic amenity will be maintained.

D4.8 Building envelope

Description of non-compliance

This control requires development to be sited within a building envelope determined by projecting planes at 45 degrees from a height of 3.5m above ground level at the side boundaries. The proposed development presents an encroachment to the northern side boundary envelope as seen below.



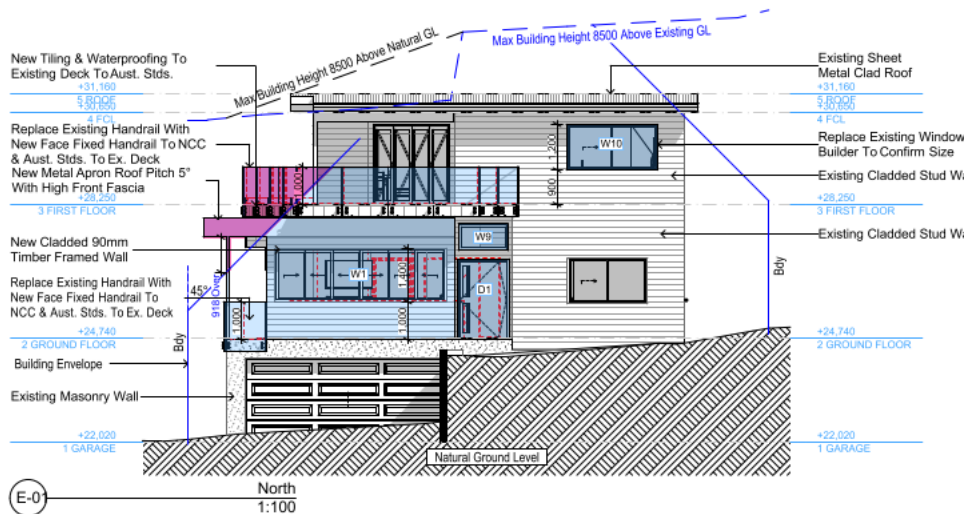


Figure 2 - Northern elevation showing envelope breach in purple

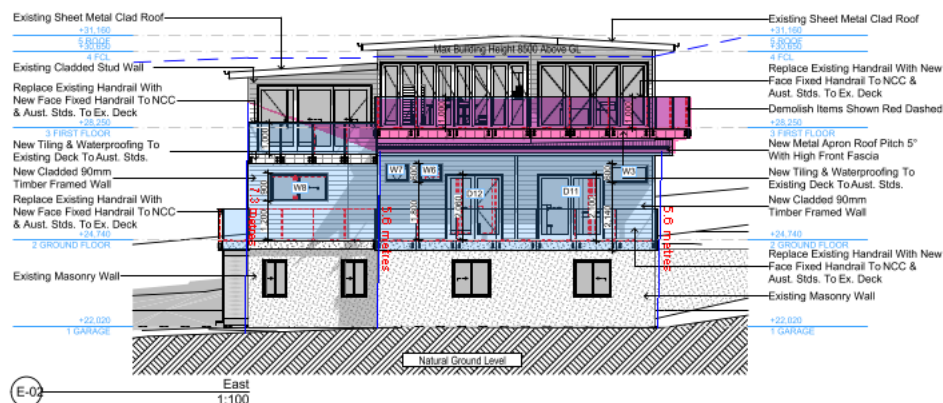


Figure 3 - Eastern elevation showing envelope breach in purple

Merit Consideration

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

- To achieve the desired future character of the Locality.

Comment

The proposal maintains the low density residential form of the area and therefore achieves the desired future character of the Locality.

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

Comment

The proposed development complies with the required front, rear and side setbacks and sits below the required maximum building height. The proposed development is of an appropriate scale and density and maintains the height of the existing dwelling.

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

Comment

The proposed additions retain the side setbacks of the existing dwelling which has contributed to the envelope encroachment. The site topography is steep sloping towards the rear and the eastern side boundary which makes compliance with the envelope challenging. The proposed development is considered to respond to, reinforce and sensitively relate to the spatial characteristics of the existing environment by minimising the extent of the breach.

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

Comment

The proposed development is of an appropriate bulk and scale providing adequate front, side and rear setbacks. The varied roof forms and setbacks provide articulation to help minimise the bulk and scale of the built form.

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

Comment

The proposal maintains existing views and vistas to and/or from public/private places.

- *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 additions maintain consistent front, rear and setbacks to the boundaries. It is noted that the infill on the ground floor

As such, the proposal maintains a reasonable level of privacy, amenity and solar access.

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

Comment

The proposal does not alter the existing quantum of landscaped area across the site and new plantings are provided to help visually reduce the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant Outcomes of the Pittwater 21 Development Control Plan 2014 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 2022

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

A monetary contribution of \$2,306 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$230,560.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/1586 for Alterations and additions to a dwelling house on land at Lot 31 DP 11423, 9 Kananook Avenue, BAYVIEW, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA1004	25 August 2023	Rapid Plans
DA1008	25 August 2023	Rapid Plans
DA1009	25 August 2023	Rapid Plans
DA1010	25 August 2023	Rapid Plans
DA2001	25 August 2023	Rapid Plans
DA2002	25 August 2023	Rapid Plans
DA2003	25 August 2023	Rapid Plans
DA2004	25 August 2023	Rapid Plans
DA3000	25 August 2023	Rapid Plans
DA4000	25 August 2023	Rapid Plans
DA4001	25 August 2023	Rapid Plans
DA5001	25 August 2023	Rapid Plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (A463831)	21 June 2022	Rapid Plans

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA1013	25 August 2023	Rapid Plans

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
DA1015	25 August 2023	Rapid Plans
Waste Management Plan	12 July 2022	Rapid Plans

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Received
Ausgrid	Ausgrid Referral Response	10 October 2022

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

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

3. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and

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

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

Reason: Legislative requirement.

4. General Requirements

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

Demolition and excavation works are restricted to:

 - 8.00 am to 5.00 pm Monday to Friday only.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
- Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerage areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,305.60 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$230,560.00.

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

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

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

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

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to a suitably designed level spreader/dispersion system located with a minimum 10m setback from the rear boundary to ensure no concentrated discharge to the rear. The dispersion system shall be along the RL22.00m contour line and parallel to the contour.

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

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

8. Compliance with Standards

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

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

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

9. **External Finishes to Roof**

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

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

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

10. **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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

DURING BUILDING WORK

11. **Wildlife Protection**

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

Reason: To protect native wildlife.

12. **Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of 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.

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

Reason: Tree and vegetation protection.

13. **Road Reserve**

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

Reason: Public safety.

14. **Survey Certificate**

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

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

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

15. 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.

16. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

17. No Weeds Imported On To The Site

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

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

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

18. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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


19. Waste Management Confirmation

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

Signed



Phil Lane, Principal Planner

The application is determined on 27/10/2023, under the delegated authority of:



Steven Findlay, Manager Development Assessments