

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/2022
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Responsible Officer:	Tony Collier
Land to be developed (Address):	Lot 25 DP 233779, 10 Yachtsmans Paradise NEWPORT NSW 2106
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:	Mark Norman Gilbert Janette Louise Gilbert
Applicant:	Mark Norman Gilbert

Application Lodged:	28/11/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	01/12/2022 to 15/12/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 300,272.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent to remove the upper level balcony and replace the existing support structure with a permeable vergola over the existing ground floor terrace and to construct a new smaller balcony at the first floor (over part of the existing terrace) off the Master Bedroom.

An increase to the floor area of the Living Room at the rear Ground Floor is also proposed. The increase is minor and constitutes an additional 2.6m².

The balcony has a depth of 2.4m and extends across the entire width of the vergola structure.

Both works are located at the rear of the dwelling, and adjacent to the western side boundary.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

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 233779 , 10 Yachtsmans Paradise NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Yachtsmans Paradise.</p> <p>The site is irregular in shape with a frontage of 14.65m along Yachtsman Paradise and a depth of between 31.2m (western side boundary) and 50.2m (eastern side boundary). The site has a surveyed area of 923.7m².</p> <p>The site is located within the C4 Environmental Living zone and accommodates a detached dwelling, a below ground swimming pool.</p> <p>The site is generally flat with a steep rise of approximately 3.4m at the rear.</p> <p>The site is characterised by an established landscape setting consisting of a mix of native and exotic species.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached dwelling houses of varying age and architectural style. Yachtsmans Paradise Reserve is located 150m to the west.

Map:



SITE HISTORY

An inspection of Council records reveals the following application for the site:

CDC2018/0612

A Complying Development Certificate (CDC) for alterations to replace an internal stairway, widen an internal wall opening and alterations to an existing pool barrier was approved by Urban Approvals on 12 June 2018. The Final occupation Certificate (FOC) was issued by Urban Approvals on 14 February 2019.

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 Matters for Consideration	Comments
Section 4.15 (1) (a)(iii) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental</p>

Section 4.15 Matters for Consideration	Comments
	economic impact on the locality considering the nature of the existing and proposed land use.
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 01/12/2022 to 15/12/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Construction should not impact the Class 3 Acid Sulphate soils.</p> <p>No approval should be granted for any excavation past 1m as no assessment has been made.</p> <p>Recommendation</p> <p>APPROVAL - no conditions.</p>
NECC (Bushland and Biodiversity)	<p>The proposal seeks approval for alterations and additions to a dwelling.</p> <p>The proposal has been assessed against the following provisions:</p> <ul style="list-style-type: none"> SEPP (Resilience and Hazards) 2021. Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection. <p>The alterations and additions are to be constructed in a site that has</p>

Internal Referral Body	Comments
	<p>previously been disturbed, leaving other areas, of higher value to biodiversity, intact. No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p>SUPPORTED WITH CONDITIONS</p> <p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience and Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p><u>Comment:</u></p> <p>On internal assessment, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021; and - Relevant LEP and DCP clauses <p><i>Riparian</i></p>

Internal Referral Body	Comments
	The site is nearby to Pittwater estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the receiving environment, or the quantity and quality of surface and ground water flows that it receives.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The development proposes alterations and additions to the existing dwelling. The site is within Medium and High Risk Flood Precinct. The area of ground floor extension is 3.084m ² . The extension area is less than 10m ² . The proposal is compliant with Council's Flood Development Controls.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A476811 dated 11 October 2022).

The BASIX Certificate indicates that the development will meet the NSW government's requirements for sustainability.

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 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.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 1 Coastal Wetlands and littoral rainforest area

2.7 Development on certain land within coastal wetlands and littoral rainforests area.

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
 - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
 - b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
 - c) the carrying out of any of the following:
 - i) earthworks (including the depositing of material on land),
 - ii) constructing a levee,
 - iii) draining the land,
 - iv) environmental protection works,
 - d) any other development

Comment:

The site is not located with an area identified as coastal wetlands and/or a littoral rainforest area.

2.8 Development on land in proximity to coastal wetlands or littoral rainforest.

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed

development will not significantly impact on:

- a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

The site is not located with an area identified as being in proximity to coastal wetlands. The site is located approximately 75m to the north of a Littoral Rainforest area.

Division 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area.

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- b) the proposed development:
 - i) is not likely to alter coastal processes to the detriment of the natural environment or
 - ii) other land, and
 - iii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:

A Coastal Vulnerability Area Map has, to date, not been adopted and therefore no Coastal Vulnerability Area has been identified.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area.

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,

- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

The site is located within the Coastal Environment Area. The development is minor and on an area which is currently occupied by similar structures. The development does not extend beyond the limit of those existing structures and will not impact upon the items listed under (a) to (g).

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The site is located within the Coastal Environment Area. The development is minor and on an area which is currently occupied by similar structures. The development does not extend beyond the limit of those existing structures and will be consistent with the criteria listed under (a) to (c).

Division 4 Coastal use area

2.11 Development on land within the coastal use area.

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

Comment:

The site is located within the Coastal Use Area. The development is minor and on an area which is currently occupied by similar structures. The development does not extend beyond the limit of those existing structures and will not impact upon the items listed under (a)(i) to (v), will be consistent with the criteria under (b)(i) to (iii), and will be compatible with the requirements of (c).

Division 5 General

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

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

Comment:

The site is located within the Coastal zone generally. The development is minor and on an area which is currently occupied by similar structures. The development will not increase risk of coastal hazard.

2.13 Development in coastal zone generally - coastal management programs to be considered.

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The proposal has been reviewed by Council's Natural Environment Unit (Coast and Catchments). No objection was raised when considered against the provisions of the Coastal Management Act 2016, SEPP (Resilience and Hazards) 2021, and the Pittwater LEP and DCP.

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

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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

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Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	Terrace Roof: 2.9m Balcony Roof: 5.58m	N/A N/A	Yes Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.10 Heritage conservation	N/A
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control (Site Area: 923.8m ²)	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Rear of the dwelling	N/A	N/A
Rear building line	6.5m	Terrace: 9.8m to 10.8m Balcony: 13.9m to 16.5m	N/A N/A	Yes Yes
Side building line	2.5m	Terrace: 15.9m to 18.6m Balcony: 14.2m to 15.9m	N/A N/A	Yes Yes
	1.0m	Terrace: 0.9m Balcony: 0.8m to 1.8m	10% (0.1m) 20% (0.2m)	No No
Building envelope	3.5m x 45°	West: Outside envelope	100%	No
Landscaped area (Area 3)	50% (461.9m ²)	51.4% (475m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.10 Newport Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3.11 Flood Prone Land	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D9.17 Scenic Protection Category One Areas	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	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
D10.14 Fences - General	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

The existing balcony/terrace on the upper floor is buffered to the neighbouring property by a combination of a 1.8m high slatted privacy screen (along the entire length of the western edge) and a mature bamboo plantings which provides a green feature to soften the otherwise hard surface of the privacy screen when viewed from the neighbouring property.

The privacy screen will be removed as a result of the development however, on inspection it is considered that direct viewing into a neighbouring window directly to the western side of the proposed balcony is achievable (should the bamboo plantings decline). In this respect, it is considered reasonable to include a condition which requires that a privacy screen is installed along the western edge of the balcony to maintain privacy. Forward viewing into neighbouring windows from the balcony was also considered but these views are at acute angles and viewing into those windows would be adequately shielded by the bamboo planting.

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

Description of non-compliance

The clause requires development to be setback 1.0m from the property boundary. The proposal includes the western edge of the vergola structure which is setback between 0.8m and 0.9m (i.e. a shortfall of 0.2m and 0.1m respectively) resulting in a variation of between 10% and 20%.

The clause allows for variations to alterations and additions "*where...the maintenance of existing setbacks less than as specified may be considered where it is shown that the outcomes of this clause are achieved*".

Consideration of the non-compliance

Consideration is given to the variation against the Outcomes of the Control as follows:

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

The non-compliance is considered to be minor and, given that it is situated at the rear of the existing dwelling and maintains the existing setback of the terrace structure, will not adversely impact upon the desired future character of the locality.

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

The replacement of the terrace (with its associated privacy screen) with a single level vergola frame will significantly reduce the bulk and scale of the built form when viewed from the neighbouring property.

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

The proposal is visually permeable and single storey such that equitable preservation of views and vistas to and/or from public/private places is maintained.

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

The development is single storey and thus will not impact upon view sharing.

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

The non-compliant element is a single storey vergola structure which (apart from the balcony which is addressed separately) is not trafficable. Therefore, this part of the development will not have any adverse impact upon the levels of privacy, amenity and solar access to neighbouring residential properties.

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

The development is located in situ to the existing frame structure supporting the terrace therefore, the new structure will not have any adverse impact upon the existing landscaped setting on the site.

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

The development utilises the existing footprint of the terrace structure.

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

The development is located in situ to the existing frame structure supporting the terrace therefore, the new structure will not have any adverse impact upon the existing landscaped setting on the site. The bamboo plantings along the western side of the site is to remain.

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

Not applicable.

Given the above considerations, the variation to the Control is considered to be reasonable and is therefore supported.

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of non-compliance

The proposal includes the western edge of the roof (and part of the support pillar) over the upper floor balcony. The extent of non-compliance is minor and extends for a length of approximately 1.5m.

The Clause allows for a variation to the building envelope and states: "*Eaves or shading devices that provide shade in summer and maximise sunlight in winter, shall be permitted to extend outside the building envelope*". However, the roof, although a shading device, is not such that it also maximises sunlight in winter. Therefore, the variation cannot be applied in this instance.

Consideration of the non-compliance

Consideration is given to the variation against the Outcomes of the Control as follows:

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

The proposal is considered to be minor and, given that it is situated at the rear of the existing dwelling, is also out of view from the public domain. The development will not adversely impact upon 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.**

The proposal is located at the rear of the existing dwelling and will not be visible from the public domain. The height and scale of the proposal is below the height of trees and will not detract from the natural environment.

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

The proposal will respond to, reinforce and sensitively relate to spatial characteristics of the existing natural environment.

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

The bulk and scale of the proposal is of a lightweight structure. The degree of non-compliance is minor and, as such, the bulk and scale of the built form is minimised.

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

The proposal is visually permeable and positioned such that equitable preservation of views and vistas to and/or from public/private places is maintained.

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

The development is of sufficiently small scale as to provide a reasonable level of amenity and solar access within the development site and to adjacent residential properties.

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

The proposal is sited over an existing area occupied by similar structure. The non-compliant element will not detract from the retention and/or enhancement of vegetation.

Given the above considerations, the variation to the Control is considered to be reasonable and is therefore supported.

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 \$3,003 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$300,272.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation

submitted by the applicant and the provisions of:

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/2022 for Alterations and additions to a dwelling house on land at Lot 25 DP 233779, 10 Yachtsmans Paradise, 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 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
DA/CC-2.4 (Rev A) - Ground Floor Plan	27 October 2022	GAEA Architects
DA/CC-2.5 (Rev A) - First Floor Plan	27 October 2022	GAEA Architects
DA/CC-2.6 (Rev A) - Roof Plan	27 October 2022	GAEA Architects
DA/CC-3.1 (Rev A) - Sections 1	27 October 2022	GAEA Architects
DA/CC-4.1 (Rev A) - Elevations 1	27 October 2022	GAEA Architects

DA/CC-4.2 (Rev A) - Elevations 2	27 October 2022	GAEA Architects
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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A476811	11 October 2022	Mark Gilbert

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	20 November 2022	Mark Gilbert

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	9 December 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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$3,002.72 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 \$300,272.00.

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

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

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

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

6. **Security Bond**

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

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

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

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

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

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

7. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 4.6m AHD.

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of 5.1m AHD shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Flood Planning Level of 5.1m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level of 5.1m AHD must have residual current devices installed to cut electricity supply during flood events.

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level of 4.6m AHD. Openings should be a minimum of 75mm x 75mm.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

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 Certifier 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 Certifier 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. **Privacy Screen**

A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the balcony located off the Master Bedroom as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: In order to maintain privacy to the adjoining / nearby property.

10. 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.

11. 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:

- "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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. Installation and Maintenance of Sediment and Erosion Control

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. 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.

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

14. **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 Principal Certifier 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 authority 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 Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

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

Signed



Tony Collier, Principal Planner

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



Adam Richardson, Manager Development Assessments