

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1438
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Responsible Officer:	Simon Ferguson Tuor
Land to be developed (Address):	Lot 1 DP 121939, 1130 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Evgenia Lednyak
Applicant:	Joseph Hamlin

Application Lodged:	12/10/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	18/10/2023 to 01/11/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 3.5%
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,324,032.01
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition of existing dwelling house and construction of a new dwelling house and associated works.

There is no tree removal proposed.

AMENDED PLANS

Following the preliminary assessment of the application, Council requested additional information in relation to setbacks, bulk and scale, landscaping and amenity impacts. Amended plans were subsequently submitted which addressed the issues raised. The amended plans constitute a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance

with the Northern Beaches Community Participation Plan (CPP).

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

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 6.5 Coastline hazards
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 1 DP 121939 , 1130 Pittwater Road COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Pittwater Road.</p> <p>The site irregular in shape with a frontage of 10.060m along Pittwater Road and side boundaries of 39.795m and 40.115m. The site's rear boundary adjoins Collaroy Beach. The site has a surveyed area of 381m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two storey dwelling.</p> <p>The site is relatively flat and obtains 180 degree ocean views to the north, east and south.</p>

Landscaping on site is minimal and contained predominantly within the eastern portion of the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential development to the north, south and west, with Collaroy Beach sited to the east.

Map:



SITE HISTORY

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

- **EPA2016/0125** - An emergency order from a storm event was logged with Council.
- **DA2017/0591** - This Development Application sought consent for the construction of coastal protection works. This application was approved as a deferred commencement on 5 September 2018. The deferred commencement conditions were satisfied and the Applicant was notified of this on 20 July 2022.
- **CDC2021/1247** - Complying Development Certificate approved for demolition of existing garage 1 December 2021
- **Mod2022/0136** - This modification application sought consent to modify DA2017/0591. This application was withdrawn on the NSW Planning Portal on 11 May 2022.
- **PLM2022/0094** - A pre-lodgment meeting (PLM) was held for 'Demolition works and construction of a dwelling house including a swimming pool' on 31 May 2022.
- **CC2022/0574 and NOC2022/0526**. The construction certificate and notice of commencement was submitted to Council, for DA2017/0591, on 8 June 2022.

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	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 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. Additional information was requested in the form of a request for further information (RFI) letter.</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,	(i) Environmental Impact The environmental impacts of the proposed development on the

Section 4.15 Matters for Consideration	Comments
including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>natural and built environment are addressed under the Warringah 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 application has been publicly exhibited from 18/10/2023 to 01/11/2023 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
Landscape Officer	<p>The proposal is supported with regard to landscape issues.</p> <p><u>Additional Information Comment 22/02/24:</u> Conditions have been amended in response to Council's Traffic Engineer's requirements and the amended plans.</p> <p><u>Original Comment:</u> <i>Landscape Referral raises concern that the proposed development</i></p>

Internal Referral Body	Comments
	<p><i>does not achieve the 40% landscaped area under the WDCP requirement, and this matter shall be assessed and determined under merit consideration by the Assessing Planning Officer.</i></p> <p><i>Should the development application be approved, additional planting will be required to help satisfy the WDCP part D1 objectives "To enable planting to maintain and enhance the streetscape" and "To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building". The location of the garage makes it difficult to provide landscaped open space at sufficient dimensions to mitigate the bulk and scale of the building; however, one locally native tree shall be installed in the landscaped area to the north of the driveway. An additional locally native tree shall be installed in the rear building setback to help offset the non-compliant landscaped area.</i></p> <p><i>All proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent. On slab landscape planters must meet Council's minimum soil depth requirements.</i></p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the objectives of Warringah Development Control Plan 2011 Controls E1 Preservation of Trees or Bushland Vegetation, E2 Prescribed Vegetation, E4 Wildlife Corridors, E6 Retaining unique environmental features, and State Environmental Planning Policy (Resilience and Hazards) 2021 clause 2.10 Development on land within the coastal environment area. The development will not result in any removal of significant native vegetation or fauna habitats, and is considered unlikely to have an adverse impact to the integrity and resilience of the ecological values of the site and adjoining land.</p> <p>The site does not have any substantial landscaping or mature trees, and proposed new landscaping will enhance the site and its roll within the wildlife corridor to Collaroy Beach. The proposed landscaping is generally acceptable, however some species substitutions have been conditioned for the area fronting the beach. Therefore the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p>General Comments 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>Supplied plans and reports</p>

Internal Referral Body	Comments
	<p>The proposed works are located landward of recently constructed coastal protection works completed under DA2017/0591. At the time of completing this referral the Occupation Certificate for DA2017/0591 had not been granted. The works proposed under this application are not to commence until the Occupation Certificate for DA2017/0591 has been granted.</p> <p>This response has been prepared based on review of the following documents relevant to the site and application:</p> <ul style="list-style-type: none"> Coastal Engineering report prepared by Horton Coastal Engineering Pty Ltd, dated 3 October 2023, submitted with application DA2023/1438. <p>The matters relevant to the coastal assessment of this application are the impacts to the proposal from coastal process and location of the building in relation to minimum set backs for development outlined in the Coastal Zone Management Plan for Collaroy-Narrabeen Beach and Fisherman's Beach.</p> <p>Based on this assessment the proposal is supported subject to condition. Specifically that the recommendations made in sections 5 and 7 of the Coastal Engineering report prepared by Horton Coastal Engineering Pty Ltd, dated 3 October 2023 be incorporated into the development.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to this DA. The proposed development is considered to be consistent with the objects, as set out under Part 1 Section 3 of the Coastal Management Act 2016.</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 (SEPP). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>On internal assessment the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Warringah LEP 2011 and Warringah DCP 2011 The proposal is considered to comply with clause 6.5 of Warringah LEP 2011 and E9 of Warringah DCP 2011.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	The proposed development is in Region 2. A geotechnical report has been prepared. Vehicle crossing construction is not proposed. I have no objections to the proposed development.
Parks, reserves, beaches, foreshore	The property adjoins the public beach to the east. No physical encroachments over the site boundaries are permitted, and structures and built elements are not permitted beyond the site boundaries. All development works must ensure that surface sediment runoff and/or erosion is controlled, managed and contained within the site boundaries.
Traffic Engineer	No Traffic Engineering objections to the development noting that 2 parking spaces are being provided offstreet (compliant with DCP requirements) that are designed in accordance with AS2890.1

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.
Aboriginal Heritage Office	<p>The proposal was referred to the Aboriginal Heritage Office who provided a response stating that the proposal is acceptable subject to recommendations which will be included as a condition of consent. The Aboriginal Heritage Officer provided the following comment:</p> <p>'No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.'</p>
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	<p>The application was referred to Transport for NSW (TfNSW) on 12 October 2023 for concurrence under Section 138 of the Roads Act, 1993.</p> <p>TfNSW reviewed the application and provides concurrence to the civil works on Pittwater Road under section 138 of the Roads Act 1993, subject to the conditions that have been included in the notice of determination.</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. 1412073S_02 dated 12 February 2024).

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.

Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

TfNSW reviewed the application and provides concurrence to the civil works on Pittwater Road under section 138 of the Roads Act 1993, subject to the conditions that have been included in the notice of determination. Council's Traffic Engineer has reviewed the application and is supportive subject to conditions. The proposed development maintains the existing vehicle access provision off Pittwater Road. The site does not have a frontage to a secondary road to obtain access. The proposal is consistent with similar residential dwelling development along the eastern side of Pittwater Road. Subject to satisfying the conditions of consent, Council is satisfied that the proposal will not adversely affect the safety, efficiency and ongoing operation of the classified road.

Section 2.120 - Impact of road noise or vibration on non-road development states:

- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
 - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Comment:

The applicant has submitted a Traffic Noise Assessment (Acouras, 12.02.2024) that includes recommendations to ensure compliance with the above requirements. The recommendations contained in the Traffic Noise Assessment have been included as a condition of consent. Subject to compliance with the Traffic Noise Assessment recommendations and conditions of consent, Council is satisfied that appropriate measures will be taken to ensure the proposed development achieves the above requirements.

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 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 subject site is located within the Coastal Environment Area. As such, Council's Coast and Catchments Officer has reviewed the proposed development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

- 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 subject site is located within the Coastal Environment Area. As such, Council's Coast and Catchments Officer has reviewed the proposed development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

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
 - ii) adverse 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 subject site is located within the Coastal Use Area. As such, Council's Coast and Catchments Officer has reviewed the proposed development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

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:

This Clause applies to the subject site. As such, Council's Coast and Catchments Officer has reviewed the proposed development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

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.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.8m	3.5%	No (see comments)

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.5 Coastline hazards	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	8.8m
Percentage variation to requirement:	3.5%

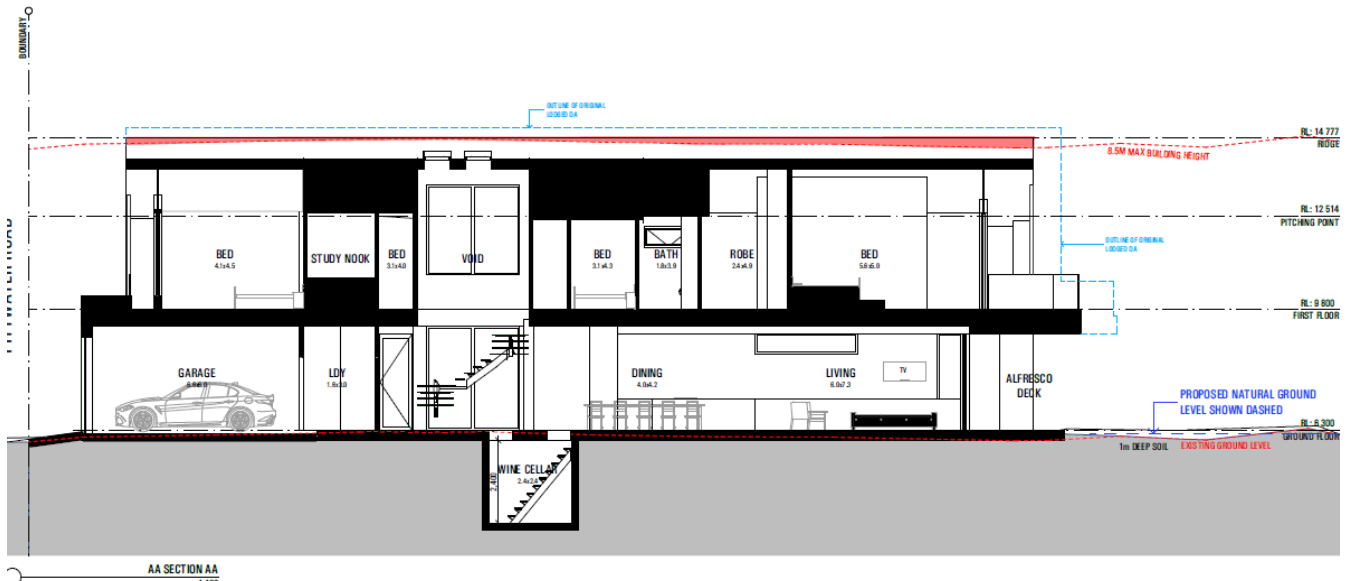


Figure 1. Maximum building height encroachment indicated in red.

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment:

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

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- *Having regard to Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, and further to the proposal's consistency with the above strategic and statutory environmental planning provisions, the proposal is consistent with the following objectives under Section 1.3 of the Environmental Planning and Assessment Act 1979 (the Act):*

- (c) to promote the orderly and economic use and development of land; and*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (g) to promote good design and amenity of the built environment*

1. In response to (c), the proposal will facilitate the orderly and economic use and development of the land, in a highly appropriate location, in a manner that is desired by the planning controls because it will facilitate low density residential development which is of good architectural design to accommodate for the current and future needs of residents. In considering the contrary (refusal of the DA), retention of the site in its current, constrained form would not promote the orderly and economic use and development of land in the manner that council's strategic and statutory planning provisions seek. Retention of the site in its current form makes no advancement towards achieving the goal of creating functional residential space and accessible dwellings noting the current constraints on the dwelling with regard to space and accessibility.

2. In response to (e) the proposal has been designed to ensure the retention of the existing ecological values on site. The proposal does not remove any vegetation and has no impact on the environment.

3. In response to (g) the proposal has been designed to promote good design and amenity of the built environment while respecting the amenity of adjoining properties and the public foreshore to Collaroy Beach. The proposal will be consistent with the aims and objectives of the Warringah LEP, the objectives of the height of building standard and the objectives of the R2 Low Density Residential.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

Council's Planning Assessment Officer concurs with the applicant's justification.

It is considered the Applicant's written request to vary Clause 4.3 Height of Buildings of the Warringah Local Environmental Plan 2011 (WLEP 2011) is acceptable given the proposed resultant built form will be commensurate with surrounding and nearby residential developments. The proposed variation to building height is contained to a minor portion of the new upper level roof. The works will not result in unreasonable excavation, tree removal or environmental impact. The extent of non-compliance is unlikely to be discernible from the Pittwater Road frontage and from Collaroy Beach, and due to the siting of the dwelling it is unlikely to create unreasonable overshadowing upon adjoining public and private properties. Notwithstanding the non-compliance to this Clause, the resultant building mass will achieve compatibility and consistency with the building bulk of adjoining properties along the eastern side of Pittwater Road. In this instance, the overall building height will not adversely or unreasonably impact upon the existing character of the streetscape and beachscape.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

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

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

Comment:

The subject site is surrounded by residential development, ranging from single and two storey

dwelling to residential flat buildings. The dwelling to the north is 40mm lower than the proposed dwelling and the dwelling to the south is 400mm higher than proposed dwelling. Furthermore, the encroachment of the maximum building height is a minor portion of the roof which is unlikely to be easily discernible when viewed from the Pittwater Road or Collaroy Beach. In this instance, the proposed dwelling will be commensurate with the height and scale of the surrounding and nearby residential development.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

As detailed above, the encroachment is minor and unlikely to be easily discernible from surrounding properties. No objections in relation to view loss were received and amended plans increased rear setbacks so as to ensure adequate view sharing was achieved. It is considered that the proposal does not give rise to unreasonable view sharing opportunities. Shadow plans were submitted with the application that demonstrate there is no unreasonable overshadowing to adjoining private properties. Furthermore, the rear of the proposed dwelling is sited in generally on the existing building footprint, therefore there is no material increase to loss of privacy. In this instance, the proposed development will result in a reasonable level of amenity between properties.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The proposal is architecturally designed and includes articulation, landscaping and different materials so as to improve the existing site conditions. It is consistent with adjoining properties will have minimal adverse impacts upon the scenic quality of Warringah's coastal environment.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

When viewed from the street frontages and Collaroy Beach, the extent of encroachment is unlikely to be easily discernible as it will continue the ridgeline of the existing dwelling. Therefore the visual impact has been appropriately managed so as to integrate into the existing dwelling.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development will continue to provide for the housing needs of the community in a low density residential environment.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

There are a variety of different land uses that are permissible within the R2 zone. However, the proposed development seeks to retain the low density residential nature of the site.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposed development will improve landscaped settings on the site, thus ensuring that the subject site will continue to be characterised by landscaped settings.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Exception to Development Standards conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development is considered appropriate that flexibility in the application of the Height of Buildings development standard be applied. In this context the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020 issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

6.5 Coastline hazards

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

(a) will not significantly adversely affect coastal hazards, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not significantly adversely affect coastal hazards.

(b) will not result in significant detrimental increases in coastal risks to other development or properties, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in significant detrimental increases in coastal risks to other development or properties.

(c) will not significantly alter coastal hazards to the detriment of the environment, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not significantly alter coastal hazards to the detriment of the environment.

(d) incorporates appropriate measures to manage risk to life from coastal risks, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development incorporates appropriate measures to manage risk to life from coastal risks.

(e) avoids or minimises exposure to coastal hazards, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development avoids or minimises exposure to coastal hazards.

(f) makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks.

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the foundations of the development have been designed to be constructed having regard to coastal risk.

Comment: The development has been assessed by Council's Coastal Officer and Development Engineering Officer . The Coastal and Engineering Officers raised no objections to approval, subject to conditions. Furthermore, the application is accompanied by a Geotechnical Investigation Report (Nepean Geotechnics, 18.12.2023) and a Coastal Engineering report prepared by Horton Coastal Engineering (3.10.2023) that include recommendations that have been included as conditions of consent. Therefore, Council is satisfied that the foundations of the development have been designed to be constructed having regard to coastal risk.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.3m	N/A	Yes
B3 Side Boundary Envelope	North - 4m	Encroachment of between 0m and 1.3m in height, for a length of 26.4m	15% - 32%	No (see comments)
	South - 4m	Encroachment of between 600mm and 1.2m in height, for a length of 26.4m	0% - 30%	No (see comments)
B5 Side Boundary Setbacks	0.9m (N)	0.9m	N/A	Yes
	0.9m (S)	0.9m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	0.6m (1st floor planter) 1.1m (garage)	92% 83%	No (see comments)
B9 Rear Boundary Setbacks	6m	8.8m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	34.2%	14.5%	No (see comments)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E9 Coastline Hazard	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B3 Side Boundary Envelope

Description of non-compliance

This control requires development to be sited within a side boundary envelope, which is determined by projecting planes at 45 degrees from a height of 4.0 metres above the natural ground level along the northern and southern side elevation.

The proposed development extends beyond the prescribed side boundary envelope along both elevations. The encroachment along the northern elevation is between 0m and 1.3m in height (0% - 30% variation), for a length of 26.4m. The encroachment along the southern elevation is between 600mm and 1.2m (15% - 32%) in height for a length of 26.4m. These non-compliances are shown in the figures below.

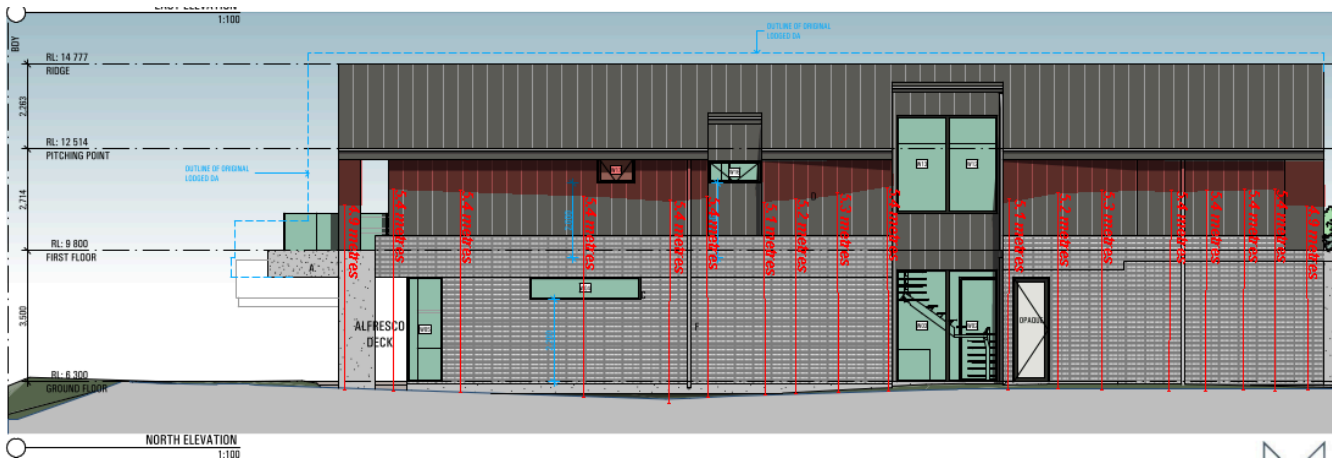


Figure 2: Northern Elevation - Envelope non-compliance shown in Red.

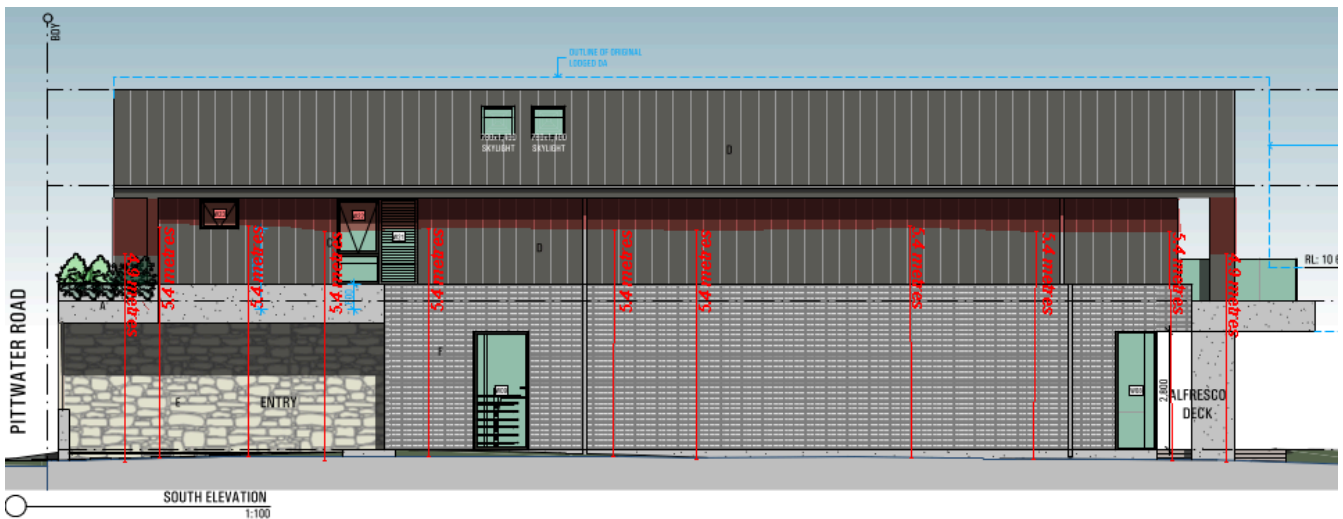


Figure 3: Southern Elevation - Envelope non-compliance shown in Red.

Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposal will present as a two storey building viewed along the side elevations, which is a compatible form of development in the R2 Zone. The proposed development has compliant side and rear setback and wall height controls. Whilst there is a minor Building Height breach, the proposed dwelling is a similar height to the adjoining dwellings to the north and south. Hence, the proposal will be compatible with the height of the adjoining buildings and the character of the area. There were no objections to the proposal and the design has employed landscaping, articulation and a variety of materials to soften the perceived height and bulk. It is considered that the proposal will not result in any unacceptable visual dominance, and the proposal presents an overall appropriate height, and scale.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

Shadow diagrams have been provided with this application which shows compliance with the requirements for solar access as prescribed within D6 Access to Sunlight. The proposed design has carefully considered privacy impacts and there are no windows at the first floor level presenting to the neighbouring properties. Compliant side setbacks, articulation and screening planting along side boundaries ensure adequate privacy is provided.

- *To ensure that development responds to the topography of the site.*

Comment:

The site has minimum fall and a relatively flat topography. Giving consideration to the narrow width of the site and size and scale of the adjoining dwellings, it is considered that the development responds to the site and its topography.

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

B7 Front Boundary Setbacks

Description of non-compliance

The control requires development to be setback a minimum of 6.5m from the front boundary. The proposal would result in the following front boundary setbacks:

- first floor planter box: 0.6m (variation of 90%)
- Garage: 1.1m - 3m (variation of 53% - 83%)

It is noted that the site previously had a detached garage structure with a nil front setback that was demolished via a complying development certificate (CDC2021/1247).

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The proposed design has varying setbacks to the front boundary and elements to create a sense of openness with the addition of a planter with shrubs to soften the front façade.

Compliant side setbacks are proposed which will provide view corridors from the street to the ocean, which improves the sense of openness from existing site conditions.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

Visual continuity of the prevailing building pattern is considered to be achieved as the front setback of the proposed dwelling presents as an improvement to the existing site conditions. The adjoining dwelling houses and established character of the area all contain built form elements, driveways and garages within the front setback. The proposal presents an improvement to the existing dwelling through view corridors to the ocean and the introduction of landscaped elements at ground level and via the first floor planter box.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

As above, landscaped elements are proposed in the front setback area to ensure the visual dominance of the development is mitigated and the visual quality of the streetscape is maintained. The compliant side setbacks provide view corridors from the street to the ocean and are an improvement to existing site conditions. It is considered that the modern design, landscaped elements and view corridors will enhance the quality of the streetscape.

- *To achieve reasonable view sharing.*

Comment:

The proposal demonstrates acceptable levels of view sharing between dwellings and achieves improved view corridors from the street.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

This control requires development to result in a landscaped area of at least 40% of the total site area. In this instance, the proposal is required to be provide 154.3m² of landscaped area. The site, as existing, has a landscaped area of approximately 125m², being 32%. The proposed development provides a landscaped area of 132m² (or 34.2%). While this is less than the minimum requirement, it is an improvement to what is existing.

Regardless of the improvement, a merit consideration of the proposal against the underlying objectives of this control is conducted below.

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The existing site has a large concrete hardstand area at the front of the site. The proposal includes deep soil areas within the front setback and a first floor planter box. This will enable planting at the front of the site and will be a considerable enhancement to the streetscape. Whilst plantings are limited in the rear yard due to the site abutting Colloroy Beach, the proposal has utilised articulation and courtyard spaces to allow for plantings.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

Council's Aboriginal Heritage Officer has reviewed the proposed development and no concerns have been raised regarding potential indigenous vegetation or artefacts on the site. The proposed development does not include the removal of any significant topographical features. The proposed landscaping within the rear yard will provide habitat for wildlife.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The numerical non-compliance to the landscaped area does not give rise to any unreasonable impacts upon the site's ability to facilitate low lying shrubs and medium high shrubs and canopy trees.

- *To enhance privacy between buildings.*

Comment:

The non-compliance does not give rise to any unreasonable or adverse privacy impacts. As such, the proposed development will maintain and enhance an acceptable degree of privacy between dwellings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The proposed development will provide open space areas that will accommodate outdoor recreational opportunities that will meet the needs of the occupants of the dwelling.

- *To provide space for service functions, including clothes drying.*

Comment:

There are sufficient areas throughout the site that can accommodate space for service functions, such as clothes drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Appropriate conditions have been recommended within this report to ensure that stormwater management measures are put in place, allowing for the facilitation of water management and the infiltration of stormwater.

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

D7 Views

There were no objections received in relation to view loss, however, considering the ocean views afforded to the site and adjoining properties, the proposal impact on views has been assessed thoroughly. The amended design responded to Council's RFI and increased the rear setback of the proposed dwelling.

The development is considered against the Objectives of the Control:

- *To allow for the reasonable sharing of views.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To ensure existing canopy trees have priority over views.*

The amended design is sited in a way that follows the existing pattern of development along the beachfront. The proposed first floor rear bedroom and balcony are sited very close to the existing dwelling and previously approved rear balcony. A site visit was conducted by the assessing officer which confirmed the design will be consistent with view sharing principles. The amended design includes compliant side setbacks, a generous rear setback and an improved balcony design that considers the views, privacy and amenity of adjoining properties. The proposal incorporates modern and contemporary architecture that is responsive to the natural and urban environment of the locality. There are no canopy trees proposed to be removed, and there are no large trees proposed to be planted that will impact the views of adjoining properties.

Given the above, it was not considered that a full merit assessment of views was necessary in this instance. Council is satisfied the proposal meets the objectives of the control.

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 \$13,240 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,324,032.

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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority permits a contravention of clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2023/1438 for Demolition works and construction of a dwelling house on land at Lot 1 DP 121939, 1130 Pittwater Road, COLLAROY, 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

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A0002	B	Site Plan	MAP Architects	09.02.2024
A1000	B	Demolition Plan	MAP Architects	09.02.2024
A2101	B	Ground Plan	MAP Architects	09.02.2024

A2102	B	First Floor Plan	MAP Architects	09.02.2024
A2103	B	Roof Plan	MAP Architects	09.02.2024
A3000	B	North/East Elevation	MAP Architects	09.02.2024
A3001	B	South/West Elevation	MAP Architects	09.02.2024
A3002	B	Courtyard Elevations	MAP Architects	09.02.2024
A3101	B	Section AA	MAP Architects	09.02.2024
A3102	B	Section BB	MAP Architects	09.02.2024
A3103	B	Section CC/DD	MAP Architects	09.02.2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Geotechnical Investigation Report (Report No. R23146)	Rev1	Nepean Geotechnics	18.12.2023
Traffic Noise Assessment	Final	Acouras Consultancy	12.02.2024
Coastal Engineering report	-	Horton Coastal Engineering	03.10.2023
Parking Design Certification	-	Fernway Traffic Engineering	24.08.2023
Waste Management Plan	-	Applicant	09.10.2023
BASIX certificate (Certificate No. 1412073S_02)	02	House Energy Certified	12.02.2024
Landscape Plan (Drawings C1 - C6)	C	Contour Landscape Architecture	14.09.2023

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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	02.11.2023
Transport For NSW	TfNSW Referral Response (Reference: SYD23/01150)	02.11.2023

(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 following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any

contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

- iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018

- (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred 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 \$13,240.32 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 \$1,324,032.01.

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 \$10,000 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. On Slab Landscape Planters

a) details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections. The following soil depths are required to support landscaping: 300mm for groundcovers or succulents.

b) design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and ensure waterproofing and drainage is installed.

8. Amendment of Landscape Plans

The submitted Landscape Plan is to be amended in accordance with the following:

- Delete *Liriope* and *Crassula* species from the area between the sewer main and beach
- replace with small tree, shrub and ground cover species selected from the following *Acacia longifolia ssp. sophorae*, *Scaevola calendulacea*, *Hibbertia scandens*, *Leucopogon parviflorus*, *Pelargonium australe*, *Leptospermum laevigatum*, *Banksia integrifolia ssp. integrifolia*, *Correa alba var. alba*, *Isolepis nodosa*, *Spinifex sericeus*.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

9. Stormwater Disposal from Low Level Property

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with Northern Beaches Council's policy

by an appropriately qualified Civil Engineer 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.

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

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.

- How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
- If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of

- vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
 - The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
 - Proposed protection for Council and adjoining properties.
 - The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

12. Pedestrian sight distance at property boundary

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

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

Reason: To maintain pedestrian safety.

13. Amendments to the approved plans

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

- Landscape plan is to be amended to reflect consistency with Architectural Plans in Condition 1

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

14. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the

property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

15. Certification of Foundation Requirements

Construction details and specifications in accordance with section 5 of the coastal engineering report prepared by Horton Coastal Engineering Pty Ltd, dated 3 October 2023, submitted with application DA2023/1438, shall be prepared and signed by a suitably qualified coastal engineer demonstrating that the footings of the proposed development extend below the zone of influence of the sewer and stormwater located in the services easement seaward of the proposed development.

Reason: To ensure foundations are in accordance with submitted coastal engineering report

16. Management of Coastal Inundation

Construction details and specifications in accordance with section 7 of the coastal engineering report prepared by Horton Coastal Engineering Pty Ltd, dated 3 October 2023, submitted with application DA2023/1438, shall be prepared and signed by a suitably qualified coastal engineer demonstrating that the following measures are in place to reduce coastal inundation risk to an acceptable level:

- seaward side of the deck shall be located at 100mm above natural ground to provide a 'trip' to wave action;
- any door entries on the side of the dwelling shall be located at least 100mm above natural ground;
- power points and other electrical items that could be damaged by inundation shall be raised at least 0.5m above the ground floor;
- floors and walls up to 0.5m above the ground floor shall be able to withstand inundation (eg concrete or tiles).

This certification is to be submitted to the Principle Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure appropriate mitigation of coastal inundation risk.

17. 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.

18. **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

19. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

20. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows on Pittwater Road.

Reason: Requirement of TMC for any works that impact on traffic flow.

21. **Pre-Construction Dilapidation Report**

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

Properties:

- 1128 Pittwater Rd, Collaroy NSW 2097
- 1132 Pittwater Rd, Collaroy NSW 2097

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

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have

been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

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

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

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

DURING BUILDING WORK

22. Tree and Vegetation Protection

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

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 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 AS 4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) the Principal Certifier must ensure that:

i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

23. **Wildlife Protection**

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

Reason: To protect native wildlife.

24. **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.

25. **No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

26. **Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

27. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

28. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

29. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in

accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

30. **Survey Certificate**

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

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

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

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

31. **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

32. **Landscape Completion**

- a) landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawing C1 and C3 by Contour dated 14/09/23), and inclusive of the following conditions:
 - i) landscape works are to be contained within the legal property boundaries,
 - ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
 - iii) one locally native tree shall be installed in the rear building setback, and shall be located at least 3.0 metres from the building or more, and at least 1.5 metres from common boundaries,
 - iv) native trees shall be a minimum pre-ordered planting size of 75 litres; selected from Northern Beaches Council's Native Plant Species Guide - Narrabeen Ward (suggested species *Banksia integrifolia*); to achieve at least 6 metres height at maturity; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth

minimum and maintained, and watered until established; and located either within garden bed or within a prepared bed within lawn,

v) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

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

Reason: Environmental amenity.

33. **Stormwater Disposal**

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

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

34. **Post-Construction Dilapidation Report**

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

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

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

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

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

35. **Post Construction Coastal Certificate**

Prior to issue of the Occupation Certificate, a suitably qualified coastal engineer is to provide written confirmation to the Principle Certifying Authority that the recommendations impacting foundation design and coastal inundation risk outlined in sections 5 and 7 of the coastal engineering report prepared by Horton Coastal Engineering Pty Ltd, dated 3 October 2023, submitted with application DA2023/1438 have been incorporated into the construction of the building.

Reason: To ensure the development has been constructed to the engineers requirements.

36. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public

domain.

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

Reason: Proper identification of buildings.

37. 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.

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

38. Landscape Maintenance

a) if any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

b) trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

c) if any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

d) a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

e) the approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

39. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

40. Maintenance of Existing Easement for Access, Construction, Support & Maintenance

A minimum width of 5.8 metres from the rear boundary is to be kept clear of all plantings other than lawn, kept clear of all permanent and semi permanent structures and all structures that can impede access by Council's staff and machinery.

Reason: Protection of Easement benefitting Council

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

Signed



Simon Ferguson Tuor, Planner

The application is determined on 01/03/2024, under the delegated authority of:



Daniel Milliken, Manager Development Assessments