

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/1146
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<b>Responsible Officer:</b>	Gareth David
<b>Land to be developed (Address):</b>	Lot 122 DP 29010, 35 Kanimbla Crescent BILGOLA PLATEAU NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Hilde Rutherford Adam Anthony Rutherford
<b>Applicant:</b>	Hilde Rutherford

<b>Application Lodged:</b>	20/07/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	20/10/2021 to 03/11/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 680,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The new works will provide for demolition works and the construction of alterations and additions to an existing dwelling. Specifically the proposed works consist of the following:

#### Demolition

- Demolition of existing carport, studio and internal dwelling walls.

#### Upper Level 1 (New Level)

- Double Carport

- Entry / Stairs
- Master Bedroom, Ensuite & Robe
- Covered Terrace

#### Mid Level 2 (Alterations to Existing Level)

- Stairs down from entry above.
- Open plan Living, Dining & Kitchen.
- WC
- Combined Laundry & Pantry
- Guest room & Ensuite under carport.
- Existing terrace and stairs extended.
- Stairs to lower level moved.

#### Lower Level 3 (Alterations to Existing Level)

- Stairs down from lounge above.
- Existing bedrooms re-configured.
- Rumpus, hall and bathroom extended under existing house.

#### External Works

- New driveway and crossover
- Landscaping and tree removal
- Associated excavation, fill and retaining walls
- Stairs and entry walkway
- Relocation of stormwater pipe

### **ASSESSMENT INTRODUCTION**

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks  
 Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection  
 Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards  
 Pittwater 21 Development Control Plan - A4.3 Bilgola Locality  
 Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community  
 Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation  
 Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve  
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
 Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management  
 Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill  
 Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan  
 Pittwater 21 Development Control Plan - C1.1 Landscaping  
 Pittwater 21 Development Control Plan - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures  
 Pittwater 21 Development Control Plan - C1.23 Eaves  
 Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure  
 Pittwater 21 Development Control Plan - D3.1 Character as viewed from a public place  
 Pittwater 21 Development Control Plan - D3.6 Front building line  
 Pittwater 21 Development Control Plan - D3.7 Side and rear building line  
 Pittwater 21 Development Control Plan - D3.9 Building envelope  
 Pittwater 21 Development Control Plan - D3.14 Construction, Retaining walls, terracing and undercroft areas

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 122 DP 29010 , 35 Kanimbla Crescent BILGOLA PLATEAU NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment identified as Lot 122 in DP 29010 and is located on the southern side of Kanimbla Crescent, Bilgola Plateau.</p> <p>The site is slightly irregular in shape with a frontage of 18.29m along Kanimbla Crescent and a depth of 41.715m. The site has a surveyed area of 767.3m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing one and two storey dwelling with a detached single carport and outbuilding located beneath. A Council stormwater pipe runs through the north-eastern portion of the site.</p> <p>The site falls steeply from north-east to south-west (front to rear) with a cross-fall of approximately 25m. The site is located atop the southern edge of Bilgola Plateau and enjoys expansive south facing views which include Newport,</p>

Newport Beach and Bungan Head.

Landscaping on site is strongly characterised by rock outcrops, native canopy tree's, non-native vegetation and small to medium shrubs.

### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by one, two and three storey residential dwellings of varying ages, sizes and architectural styles located within similar sized allotments.

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:

#### DA2020/1236

Development Application for alterations and additions to an existing dwelling house

Withdrawn on 08 December 2021 due to issues associated with the location of a stormwater easement and pipeline and the location of the proposed development.

#### DA2018/1298

Development Application for alterations and additions to an existing dwelling house including a swimming pool

Withdrawn on 31 October 2018 due to non-compliance and missing information

#### BC0116/13

Building Certificate for a one and two storey brick and timber sole occupancy dwelling with a tile roof, together with a carport over a brick storage area, timber decks at the front, rear and eastern side of the

dwelling and a concrete and timber retaining wall and timber stairs at the rear of the dwelling  
Issued 14 November 2013

N0145/11

Development Application for minor demolition works and alterations and additions to the existing dwelling

Approved 10 October 2011

P0351/96

Building Application for alterations and additions to existing dwelling

Approved 25 October 1996

## APPLICATION HISTORY

10 June 2021

Following concerns raised by Council, amended plans were received which:

- Deleted the "Level 2 Decking" along the north-western boundary and replaced with landscaping
- Shifted the "Level 1" addition from the north-western boundary
- Replaced a portion of the "Level 1" eastern elevation enclosing wall (of the terrace) to privacy screening

15 October 2021

Amended plans were re-notified to the original list of residents

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of



Section 4.15 Matters for Consideration	Comments
(EP&A Regulation 2000)	<p>consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 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 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 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 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 Matters for Consideration	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/10/2021 to 03/11/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Suzanne Neylon	37 Kanimbla Crescent BILGOLA PLATEAU NSW 2107

The matters raised within the submissions are addressed as follows:

- View loss**

Comment:

One submission was received by an adjoining neighbour to the north-west of the proposal. This submission was primarily concerned about the proposed "level 2" privacy screen located on the western edge of the proposed balcony extension. This matter is detailed in the section of this report relating to Section C1.3 *View Sharing* of the P21 DCP. In summary, the requirements of this clause and the view sharing principles of *Tenacity Consulting vs Warringah Council [2004] NSWLEC 140* have been addressed and the issues raised within the neighbour's submission is considered to warrant a condition of consent to delete this privacy screen and replace with glass balustrading to match the remainder of the balcony.

Overall, subject to recommended conditions, Council is satisfied that the proposed development achieves consistency with the outcomes of Clause 1.3 View Sharing of P21 DCP and the Land and Environment Court's Planning Principle for view sharing *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.

## REFERRALS

Internal Referral Body	Comments

Internal Referral Body	Comments
Landscape Officer	<p>This application is for the alterations and additions to an existing residential dwelling. Alterations include the minor demolition of internal structures in order to create a more open internal layout, with additions inclusive of a new carport, new first floor with master bedroom and deck, additional guest room on the ground floor, as well as a rumpus room extension on the lower ground floor.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D3.11 Landscaped Area - Environmentally Sensitive Land</li> </ul> <p><b><u>Original Comments - 26/07/2021</u></b></p> <p>The Statement of Environmental Effects provided with the application notes that a total of five low value trees are to be removed as a result of proposed works. For this reason, an Arboricultural Impact Assessment has been provided with the application.</p> <p>The Arboricultural Impact Assessment has identified a total of sixteen trees located within the site, neighbouring properties as well as within the road reserve. Similarly to the Statement of Environmental Effects, the Arboricultural Impact Assessment has noted five trees are to be removed to facilitate proposed works. Four of these trees, Trees No. 9, 10, 11, and 13, have been identified as exempt species, and as a result can be removed without Councils approval. It should be noted that Tree No. 13 is located outside of the property boundaries within the road reserve, and as a result is a Council asset. The removal of this tree would be supported as long as it is replaced elsewhere within the road reserve. Tree No. 12, is a large native canopy tree that has been proposed for removal as it is said to be exempt due to being located within 2m of an approved building. Upon review of the Architectural Plans provided, Tree No. 12 is not located within 2m of an approved dwelling, hence making it a prescribed tree and a tree of noteworthy value that should be retained. It should be noted that decks, pergolas, sheds, patios and the like, even if they are attached to a building, are excluded from this 2m calculation as per control B4.22. In addition, Tree No. 12 is also located on the boundary line and is partially located within the neighbouring property to the south-east. In order to consider the removal of this tree, consent must be attained from the neighbouring property owners as it is partially located within their land.</p> <p>With that in mind, considering the value this tree provides to not only the residents in the form of shade and privacy, but also to the streetscape character of the area, the retention of this tree should be a priority. Considering the proposed works in this area are limited to the removal of the existing carport, the retention of this tree appears to be viable with minimal disturbance to its Tree Protection Zone</p>



Internal Referral Body	Comments
	<p>(TPZ) and Structural Root Zone (SRZ) expected. It is therefore recommended that the Arboricultural Impact Assessment be updated to assess the proposed works and their potential impacts on Tree No. 12. The retention of this tree, as well as other trees noted for retention, is vital to satisfy control B4.22, as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", "to protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>It is also noted in the Statement of Environmental Effects that a comprehensive Landscape Scheme is proposed in order to mitigate the loss of existing trees, which includes the planting of new trees. This Landscape Scheme has not been provided with the application. It is recommended that this Landscape Scheme, in addition to a comprehensive Planting Schedule, be provided with the application, demonstrating replacement tree planting where applicable. Considering the proposal seeks to increase the overall built form of the property by adding an additional level, this Landscape Plan shall demonstrate how this increase in built form is to be softened and mitigated by landscaping, particularly when viewed from the street. This landscape plan is necessary to satisfy control C1.1 and D3.11, as key objectives of these controls seek to ensure "landscaping enhances habitat and amenity value", landscaping reflects the scale and form of development", as well as that landscaping softens and complements the built form.</p> <p>The landscape component of the proposal is therefore not currently supported due to unknown impacts of proposed works on significant native canopy trees, as well as minimal information being provided regarding proposed landscape treatments. It is recommended that Tree No. 12 be protected and retained as part of the proposal due to its high value to both the residents of the property, but also to the streetscape character of the area. For this reason, the Arboricultural Impact Assessment should be updated to reflect this, assessing the proposed works and their potential impacts towards this tree, and recommending any tree protection measures that should be adhered to. In addition, it is recommended that a Landscape Plan be provided demonstrating the required tree planting to compensate those removed (Tree No. 13), as well as screen planting that is to effectively mitigate and soften the increase in built form.</p> <p>Upon receipt of the required information, further assessment can be made.</p> <p><b><u>Updated Comments - 16/08/2021</u></b> Following original concerns regarding the removal Tree No. 12, a significant native canopy tree, further information has been provided outlining why it can be removed. This additional information is inclusive of owners consent from the neighbouring property, a</p>

Internal Referral Body	Comments
	<p>landscape statement, as well as a new Landscape Plan.</p> <p>As Tree No. 12 is located on the boundary line and located within both properties, owners consent was required from No. 33 Kanimbla Crescent, the neighbouring property to the east, prior to considering its removal. As this owners consent has since been received, it is clear that Tree No. 12 is in fact located within 2m of an approved dwelling in the neighbouring site. For this reason, this tree is considered exempt and may therefore be removed without Councils approval. This tree will also require removal in order to facilitate the necessary works for Council's Stormwater Asset.</p> <p>The Landscape Plan provided proposes the in-ground planting of trees, shrubs, grasses as well as groundcovers. No concern is raised regarding proposed species, as majority of those proposed are native. It should be noted that two trees are proposed within the road reserve to replace both Tree No. 12, a locally native canopy tree, as well as Tree No. 13, an exempt palm species located within the road reserve. This replacement tree planting is supported, however these trees should be located clear of proposed stormwater infrastructure to minimise any possible future impacts.</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plan.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for the construction of alterations and additions to an existing dwelling, including the demolition of the existing metal roof, rumpus and carport, and the construction of a new entry, carport, guest bedroom, terrace, and accommodation level.</p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p><b>Biodiversity Conservation Act 2016 (BC Act)</b> <b>Pittwater Local Environmental Plan (PLEP)</b></p> <ul style="list-style-type: none"> <li>7.6 Biodiversity Protection</li> </ul> <p><b>Pittwater Development Control Plan (PDCP)</b></p> <ul style="list-style-type: none"> <li>B4.17 Littoral Rainforest - Endangered Ecological Community</li> </ul> <p>The application seeks to remove five (5) trees (T. 9, 10, 11, 12 &amp; 13). All trees (except for Tree 12 ; <i>Corymbia maculata</i>) are exempt species within the Northern Beaches, additionally Tree 12 is located within 2m of an approved building and is therefore also exempt and does not require Council's consent for removal.</p>

Internal Referral Body	Comments
	Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.
NECC (Coast and Catchments)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Coastal Management) 2018 (sections 11 &amp; 15); and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies.</p> <p>The application is supported subject to conditions:</p> <ul style="list-style-type: none"> <li>• Installation and maintenance of erosion and sediment controls (prior to commencement)</li> <li>• Stormwater management (prior to construction certificate)</li> </ul>
NECC (Development Engineering)	<p>The proposal is for alterations to the existing dwelling including a elevated carport. The stormwater management plan showing the realignment of the Council stormwater asset has been reviewed. To facilitate the possible reconstruction of the stormwater pit to a kerb inlet pit, should kerb and gutter ever be constructed along that section of Kanimbla Road, Pit (P01) shall be repositioned to behind the gutter of the road as conditioned.</p> <p>No objections to approval subject to conditions as recommended.</p>
NECC (Water Management)	<p>The proposal was assessed under the current creek and water management legislation framework, the relevant parts of the LEP, DCP, Protection of Waterways and Riparian Lands Policy and Water Management for Development Policy.</p> <p>The supplied documentation has been generally assessed satisfactory.</p> <p>A filtration device must be installed to capture organic matter and coarse sediments prior to discharge of stormwater from the site, and maintained throughout the life of the development.</p> <p>Due to the sensitivity of the downstream environment it is imperative that an erosion and sediment management strategy is developed and implemented to ensure protection of this area during construction.</p> <p>Should the applicant demonstrate that this is achieved, the application can be supported, and on this basis conditions of consent are provided.</p>
Road Reserve	The proposed development does not impact existing road infrastructure assets. The proposed stepping stones on the verge shall be removed from the proposal.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided the following 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.

External Referral Body	Comments
	<p><b>Overhead Powerlines</b></p> <p>Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.</p> <p>The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, <a href="http://www.ausgrid.com.au">www.ausgrid.com.au</a></p> <p>It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.</p> <p>"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."</p>
Aboriginal Heritage Office	<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>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

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

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

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

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

### **SEPP 55 - Remediation of Land**

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

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No.A379287\_03 dated 28 June 2021).

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

### **SEPP (Infrastructure) 2007**

#### Ausgrid

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

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

#### Comment:

The proposal was referred to Ausgrid who provided the following 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.

### **Overhead Powerlines**

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are



outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

### **SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

#### **11 Development on land in proximity to coastal wetlands or littoral rainforest**

- (1) *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

#### Comment:

The proposal has been reviewed by Council's Bushland & Biodiversity Officer and Coast and Catchments who are satisfied that the proposal would meet the requirements and objectives of this control (subject to conditions).

#### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

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

#### Comment:

The proposal has been reviewed by Coast and Catchments who are satisfied that the proposal would meet the requirements and objectives of this control

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

### **Pittwater Local Environmental Plan 2014**

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

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10m (CI2D of CI4.3 PLEP)	9.6m	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

#### Detailed Assessment

##### **4.3 Height of buildings**

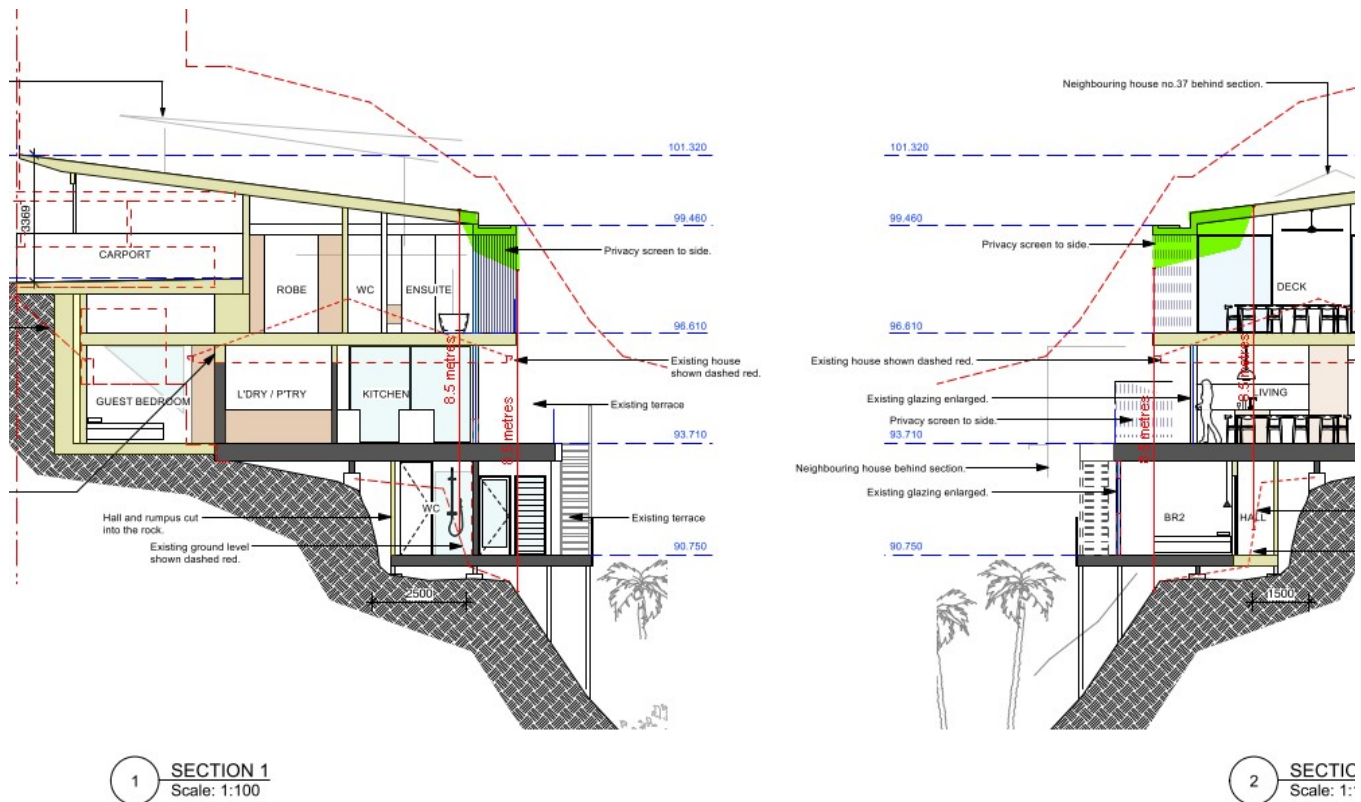
The proposed dwelling additions has a maximum building height of 9.6m which does not comply with the 8.5m requirement. This measurement is based on interpolated ground levels for the site (pre-excavation) and AHD levels as per the Building Height definition under PLEP 2014

Clause 2D of the of the height of building control within PLEP 2014 identifies the height of buildings may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

- ***(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and***

#### Comment

The variation to the 8.5m height limit is not excessive and is demonstrated in Figure 1 below. As shown the extent of the variation is predominantly limited to the roof form and upper portion of the "level 1" balcony enclosing wall and privacy screening on the outer eastern and western elevation.



**Figure 1: Height of building variation highlighted in green**

- **(b) the objectives of this clause are achieved, and**

#### Comment

The objectives of 4.3 Height of Building are achieved as follows:

*(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

#### Comment

The proposed additions are comparable with that of the built form of the existing dwelling and surrounding newer dwellings located on Kanimbla Crescent. The addition is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey as viewed from Kanimbla Crescent. The existing dwelling and surrounding dwellings along Kanimbla Crescent present a mixture of two and three storey typology as viewed from the south. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

As discussed within section *D3.9 Building Envelope* of this report, the area of largest building height (and envelope) non-compliance on both the eastern and western elevation are the full height enclosing walls and privacy screening adjoining both side elevations of the upper "level 1" balcony. It is considered these enclosing elements are excessive and contribute to unwarranted building bulk, particularly as view from adjoining neighbouring private open space. As such, a condition is recommended to ensure that these elements are replaced with louvre style privacy screening to a maximum height of 1.65m from FFL. It is considered this will result in the rear balconies having a more open design and reduce the visual dominance and building height non-compliance of the proposal.

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

Comment

The proposed ridge (RL101.32) and maximum height (RL99.78) would be similar to the ridge height of adjoining and surrounding properties.

*(c) to minimise any overshadowing of neighbouring properties,*

Comment

This matter has been addressed within C1.4 Solar access of this report. In summary, given the south facing orientation and topography of the site, the overshadowing impacts are considered reasonable and acceptable. The elements of the roof form above 8.5m is not considered to result in unreasonable solar access impacts.

*(d) to allow for the reasonable sharing of views,*

Comment

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. The elements above 8.5m is not considered to result in unreasonable view impacts to adjoining neighbours.

*(e) to encourage buildings that are designed to respond sensitively to the natural topography,*

Comment

The proposal would be stepped with the topography of the land and the majority of the dwelling will sit well below the 8.5m development standard. Given the subject site slopes away from the street, with the proposed development would have the appearance of being single storey as viewed from Kanimbla Crescent and the non compliances will not be prominent from the streetscape. The proposed development is generally set below the height of canopy trees surrounding the site and in the locality. It is considered that the bulk and scale of the proposal would not be out of character with the existing streetscape and wider locale. It is further noted that the works are largely confined to the existing building footprint and do not result in unreasonable excavation, tree removal or environmental impact.

*(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comment

As above, the slope and topography of the land is considered steep. The development has considered compatible with the existing dwelling and newer development along the low side of Kanimbla Crescent. It is further noted that the works are largely confined to the existing building footprint and do not result in unreasonable excavation, tree removal or environmental impact. The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer; Coast & Catchment Officer and Development Engineer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

There are no heritage items in the vicinity of the subject site.

- ***(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is,***

**30%), and**

Comment

The building footprint is situated on a slope of approximately 36.25 degrees (73.33%) which exceeds the 30% requirement.

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

Comment

The proposal dwelling additions requires a portion of cut below the existing dwelling to facilitate a new rumpus room and hall. As detailed throughout this report, the level of excavation is not considered excessive in this instance. Other ancillary earthworks on the site have been addressed elsewhere in this report. The dwelling house steps down the site and the extent of the three storey element is limited to small portion of the dwelling away from the street and rear boundary.

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

## **7.2 Earthworks**

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of an suitable quality.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during



excavation/construction.

*(e) the source of any fill material and the destination of any excavated material*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(f) the likelihood of disturbing relics*

Comment:

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area*

Comment: The development has been assessed by Council's Coastal Engineers, Water Management Officer and Biodiversity Officers, who have raised no objection to the proposal subject to conditions.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

*(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.*

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **7.6 Biodiversity protection**

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

*(a) whether the development is likely to have:*

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on

the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

*(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

*(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*

*(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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 development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

## **7.7 Geotechnical hazards**

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

*(a) site layout, including access,*

*(b) the development's design and construction methods,*

*(c) the amount of cut and fill that will be required for the development,*

*(d) waste water management, stormwater and drainage across the land,*

*(e) the geotechnical constraints of the site,*

*(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The proposed development is supported by a geotechnical risk assessment, architectural plans, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:

*(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater

management plans that demonstrate waste water, stormwater and drainage are suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

*(b) the consent authority is satisfied that:*

*(i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*

*(ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*

*(iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Nil (carport) 1.7m (dwelling additions)	100%	No
Rear building line	6.5m	28.7m	N/A	Yes
Side building line	2.5m (South East)	4.0m (dwelling & Terrace)	N/A	Yes
	1m (North West)	0.1m (Carport & Level 2 Ensuite)	90%	No
Building envelope	3.5m (South East)	Outside envelope	N/A	No
	3.5m (North West)	Outside envelope	N/A	No
Landscaped area	60% (460.38m <sup>2</sup> )	71.7% (550sqm)	N/A	Yes

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

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	No	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.1 Flora and Fauna Conservation Category 1 Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	No	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	No	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	No	Yes
C1.4 Solar Access	No	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	No	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	No	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D3.1 Character as viewed from a public place	No	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	No	Yes
D3.7 Side and rear building line	No	Yes
D3.9 Building envelope	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	No	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

#### **A4.3 Bilgola Locality**

The proposed development consists of a part two/part three storey dwelling house, where the locality

calls for two storey development.

The addition is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey as viewed from Kanimbla Crescent. The development would be stepped to fall with the slope of the land, and the three storey element would be sited centrally and would be a small portion of the overall development. The surrounding dwellings along Kanimbla Crescent present a mixture of two and three storey typology as viewed from the south and the proposal would be of a similar scale and height to adjoining properties. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal provides an appropriate balance between respecting the landform and encouraging development. In consideration of the existing built form and the topography and constraints of the site, the proposal is considered consistent with the desired future character of the Bilgola locality.

#### **B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community**

Please refer to the comments prepared by Council's Landscape Officer and Biodiversity Officer for further information related to the tree removal.

In summary, subject to compliance with recommended conditions adherence with the landscape plan and replacement tree planting the application is seen to meet the outcomes of this clause and is supported on merit.

#### **B4.22 Preservation of Trees and Bushland Vegetation**

The application is accompanied by an Aboricultural Impact Assessment to address the proposed tree removal. This report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

#### **B6.1 Access driveways and Works on the Public Road Reserve**

The proposal seeks the construction of a driveway, paving and landscaping works on Council road reserve. Council's Road Assets Officer, Development Engineer and Landscape Officer have reviewed the proposed works on the road reserve and have raised no objection subject to conditions. Such conditions ensure appropriate approval under the provisions of the Roads Act 1993 and ensure the works structurally adequate and meet appropriate engineering standards. These conditions also require the removal of the proposed "pavers" on the road reserve. Given the steep topography of the sites and the location of approved works of the road reserve the proposed works are considered acceptable subject to conditions.

#### **B6.3 Off-Street Vehicle Parking Requirements**

The off-street parking requirements for a dwelling with two (2) or more bedrooms is two (2) vehicle parking spaces. The existing site has one off-street parking space.

The proposed development provides a double carport, however, the internal dimensions of this carport are insufficient to meet the requirements of this control. There is a non-compliance with the internal length of one of the car spaces, as the control requires a 6.0m internal length.



Nevertheless, given the constraints of the site, including the location of the existing dwelling and the topography of the land, as well as the fact that the existing site only accommodates one parking space, the proposed parking arrangement is considered acceptable in this instance. Clause B6.3 specifies that on steeply sloping sites, car parking solutions may need to be negotiated for each individual site.

While the carport can only facilitate space for one (1) vehicle (under the requirements of this control), the width of the carport is sufficient to allow for a additional informal vehicle parking space. Thus providing adequate off-street parking. Additionally, the design of the carport being incorporated into the built form of the dwelling house will allow for safe and convenient pedestrian and vehicular access to the site.

While the proposal is numerically non-compliant with the minimum requirement for off-street parking, it is considered to be consistent and appropriate with the outcomes of the control and is therefore supported on merit.

### **B6.7 Transport and Traffic Management**

A condition has been imposed requiring the Applicant to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person and further conditions ensure this will be implemented during works.

### **B8.1 Construction and Demolition - Excavation and Landfill**

The proposal seeks to excavate portions of the land to facilitate the development. Council's Development Engineers have reviewed the proposal and submitted Geotechnical Report and have raised no objection subject to recommended conditions.

In order to ensure that there are no adverse impacts on the adjoining neighbours, conditions have been imposed which:

- Ensure structural adequacy of landfill and excavation work;
- Ensure the adherence to the submitted Waste Management Plan;
- Ensure the recommendations of the Geotechnical report is adhered to;
- Ensure the proper installation and maintenance of sediment and erosion control;
- Ensure topsoil is stockpiled on site and stabilised during construction works;
- Require the submission of a pre and post construction dilapidation report,

The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer and Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

### **B8.6 Construction and Demolition - Traffic Management Plan**

A condition requiring the provision of a construction management plan has been included in the recommendation of this report.

### **C1.1 Landscaping**

#### Description of non-compliance

The proposal is technically non-compliant with the landscaping requirements of this control, which require at least 60% of the front setback area to be landscaped and for at least two canopy trees to be planted in the front yard.

The proposal would result in an overall increase in the amount of landscaped area within the front setback. Additionally, replacement canopy tree planting is proposed for the trees proposed to be removed on the road reserve.

Given the location of the existing dwelling and the topography of the site, there is limited opportunity for substantial landscaping within the front setback. Given the slope of the land, falling away from the street, the bulk and scale of the proposal would appear as one storey and would not dominate the streetscape.

The application has been reviewed by Council's Landscape Officer and Bushland & Biodiversity officer who raised no objection subject to recommended conditions.

Under these circumstances, the non-compliance is supported in this instance.

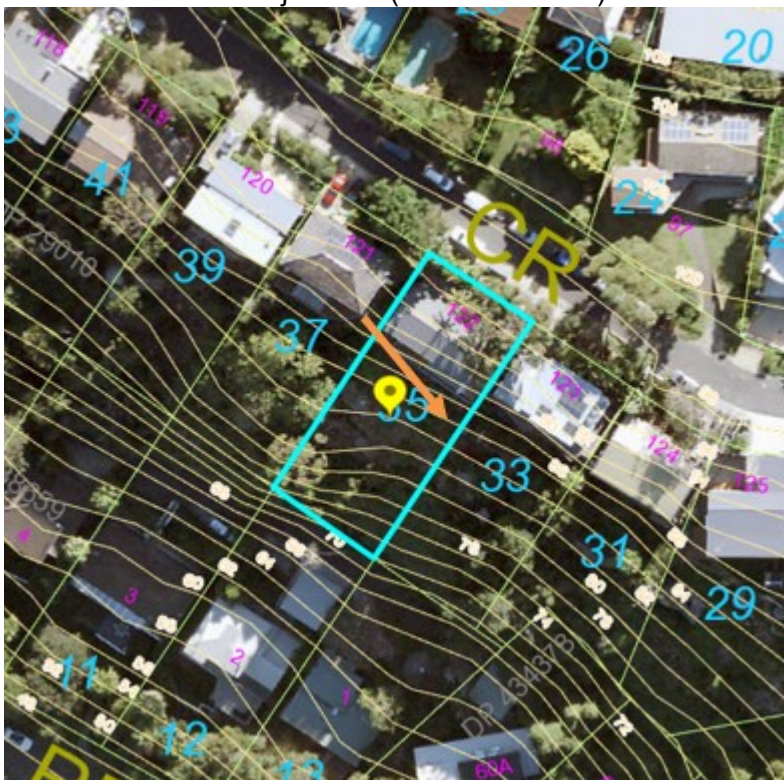
### C1.3 View Sharing

#### Merit Consideration

One (1) submissions was received from the following properties which included concerns regarding view loss from a private property:

- 37 Kanimbla Crescent, BILGOLA PLATEAU

Figure 2 below shows the origin of the submissions relative to the subject site, and the view angles of the sites over the subject site (outlined in blue).



**Figure 2: View angles over the subject site**







***Photo 1: Existing views from No.37 Kanimbla Crescent to the south-east (Upper level deck).***



***Photo 2: Existing views from No.37 Kanimbla Crescent to the south-east (Lower level deck).***





**Photo 3: Existing views from No.37 Kanimbla Crescent to the south-east (kitchen).**



**Photo 4: Existing views from No.37 Kanimbla Crescent to the south-east (kitchen).**

Comment to Principle 2:

**2. What part of the affected property are the views obtained**

*"The second step is to consider from what part of the property the views are obtained. For example the*

*protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.*

The view of the Newport Beach; Newport Reef; Bungan Headland; land and water interface which is of concern is obtained from both a sitting and standing position and are over the south-eastern side boundary. The expansive ocean, headland and district views to the south remain unaffected by the proposal.

The views of key concern are obtained from the kitchen and rear facing deck area located on the lower floor level. This is demonstrated in photos 2, 3 and 4 above.

### **3. Extent of impact**

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

As viewed from No.37 Kanimbla Crescent, the proposal is expected to result in the following view loss:

- Loss of ocean; beach and land and water interface views from the lower level kitchen
- Partial loss of ocean views from the lower level deck off the kitchen and dining room
- Partial loss of ocean views from the upper level deck off the living room

These views are already partially obstructed by the existing and surrounding dwellings.

Given the design and layout of No.37 Kanimbla Crescent, expansive ocean, beach and headland views including the interface between land and water are obtained from the majority of the internal and external principle living areas to the south, south-east remain unaffected by the proposal.

In considering the entirety of the views obtained by No.37, and the fact that the expansive views of the ocean and headland from the principle living area to the north are unaffected by the proposal (see photo 1) the extent of the impact is considered minor to moderate.

The extent of the impact is considered to be **Minor to Moderate**.

### **4. Reasonableness of the proposal that is causing the impact**

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

Comment to Principle 4:



The portion of the proposed development which would cause the greatest view loss impacts to No.37 Kanimbla Crescent would be the proposed "level 2" privacy screen on the western elevation. This privacy screen is highlighted in figure 3 above. This privacy screen is expected to result in the loss of ocean and beach views from the south-east facing kitchen window as demonstrated in photo 4 above. Concern is raised that this privacy screen would breach the building envelope control on the western elevation. As such, a condition of consent is recommended that the plans be amended to delete this privacy screen and replace with glass balustrading to match the remainder of the balcony. It is considered the deletion of this privacy screen would allow the maintenance of views from this kitchen. The matter of privacy has been addressed within *C1.5 Visual privacy* of this report. Overall it is not considered that the removal of this privacy screen would result in unacceptable privacy impacts, particularly given the context of the site, on the location of the main area of the proposed private open space being located on the south-eastern portion of the site.

Subject to this condition, the the proposal is considered to be satisfactory with regard to this element of the planning principle.

Overall, subject to the condition to delete the "level 2" privacy screen, the proposed dwelling additions would represent a modest increase to the existing built form as viewed No.37 and the proposal would not result in a significant additional projection towards the south. Overall, subject to conditions, loss of ocean views are considered minor when put in context of the entirety of views obtained from this property. As such, the proposal is not considered to result in an unreasonable view loss for the neighbouring dwelling at No.37 Kanimbla Crescent and will satisfy the provisions of this clause (subject to conditions).

#### Neighbours to the North

District views and distant ocean views are available across the subject site towards the south. These views are heavily filtered by existing landscaping. No view loss concerns have been raised by the neighbours to the north of the proposal (located on the high side of Kanimbla Crescent). Nevertheless, consideration is given to potential view loss created from the proposal. Due to the slope of the site, the properties on the northern side of Kanimbla Crescent are elevated well above (approximately 10.0m) the proposed additions and are expected to maintain equitable preservation of existing views. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Kanimbla Crescent. The proposal would also remove existing screen vegetation and the existing carport located on the eastern boundary which may open up view corridors to the ocean.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

#### Comment

The impacted view from the public domain (i.e. Kanimbla Crescent and Road reserve) consists of heavily filtered district and distant ocean views to the south and south-east. These views are heavily obscured by existing vegetation (as demonstrated in photo 5 below). Any view loss associated with the proposal is considered to be minor. Additionally, as above, the proposal would also remove existing screen vegetation and the existing carport located on the eastern boundary which may open up view corridors to the ocean.

The proposal is considered to be satisfactory and not considered to have an unreasonable impact to views and vistas from Kanimbla Crescent.



**Photo 5: Existing views from Kanimba Crescent to the south-east over the subject site.**

- Canopy trees take priority over views.

Comment:

The proposed development does not unreasonably impact upon trees.

Overall, subject to recommended conditions, Council is satisfied that the proposed development achieves consistency with the outcomes of Clause 1.3 View Sharing of P21 DCP and the Land and Environment Court's Planning Principle for view sharing *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.

#### **C1.4 Solar Access**

The submitted shadow diagrams demonstrate that the subject site and adjacent sites are in self-shadow for the majority of the day due to the steep topography of the land and the southern orientation of the site.

The subject site has a slope of approximately 36.25 degrees (73.33%), which is considered a steep and adverse slope. Furthermore, the orientation of the lot precludes northerly orientation. Where there is adverse slope or topography and the orientation of a lot precludes northerly orientation, reasonable solar access to main private open space and to windows to principal living areas will be assessed on a merit basis. Subject to that merit assessment, consent may be granted where a proposal does not comply with the standard, provided the resulting development is consistent with the general principles of the development control, the desired future character of the locality and any relevant State Environmental Planning Policy. The proposal is consistent with the desired future character of the locality for the reasons detailed in the section of this report relating to A4.3 Bilgola Locality of the Pittwater 21 DCP 2014. The State Environmental Planning Policies relevant to this application are addressed throughout this report. The proposed development is acceptable in relation to the relevant

outcomes of this clause of the P21 DCP, as follows:

- *Residential development is sited and designed to maximise solar access during mid-winter. (En)*

The proposed additions would be predominantly situated atop of the existing footprint of the dwelling. The location of these additions is considered reasonable and appropriate given the siting of the existing building and constraints of the site. The proposal incorporates a low pitched skillion roof to minimise the overall bulk of the development. The minor breach in height of the proposal is not considered to result in unreasonable overshadowing impact. The proposed development is acceptable in relation to the relevant built form controls within the P21 DCP, for the reasons detailed throughout this report. In this way, the proposed development is reasonable in its context. No objection with regards to solar access have been received by adjoining neighbours.

- *A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)*

The proposal provides a reasonable level of solar access to the subject site and surrounding sites, considering the site's slope and context. The level of overshadowing resulting from the proposed development is a product of the steep topography of the site and the surrounding land. In this way, overshadowing impacts on the adjoining are inherently exacerbated compared to flat land. To require strict adherence to the solar access requirements in this case would unreasonably restrict development of the subject site. The proposed development demonstrates it is acceptable in relation to the objectives of all built form controls, for the reasons detailed in this report. As such, given the reasonableness of the proposed additions, the overshadowing impact is considered reasonable. No objection with regards to solar access have been received by adjoining neighbours.

- *Reduce usage and/dependence for artificial lighting. (En)*

The subject site achieves adequate solar access in order to reduce its reliance upon artificial lighting. As above, the proposal provides a reasonable level of solar access to the subject site and surrounding sites, given the context of the area's topography and the vulnerability to overshadowing.

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

## **C1.5 Visual Privacy**

### Description of Non-compliance

Clause C1.5 of the P21DCP stipulates that private open space areas and windows of adjoining properties are to be protected from direct overlooking within 9.0m by building layout, landscaping,



screening devices or greater spatial separation. The proposed development contains elevated balconies and windows that are within 9.0m from north-western and south-eastern neighbours.

### Merit Assessment

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

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

### Comment:

#### **No.33 Kanimbla Crescent (south-east)**

##### Upper "Level 1"

Privacy screening is proposed on the south-eastern elevation of the upper "level 1" terrace/balcony. As discussed in section 4.3 *Height of buildings* and D3.9 *Building envelope* of this report, this privacy screening is to be conditioned to a maximum height of 1.65m in order to reduce the overall perceived bulk and scale of the proposal. This conditioned privacy screening is considered to adequately mitigate potential privacy impacts.

##### "Level 2"

The "level 2" terrace is existing and represents an existing situation. As such any privacy impacts associated with this terrace to the No.33 are considered reasonable. The proposed level 2 east facing door and window would be appropriately offset from adjoining neighbouring windows and private open space.

#### **No.37 Kanimbla Crescent (north-west)**

##### Upper "Level 1"

An enclosing wall is proposed on the north-western elevation of the upper "level 1" terrace/balcony. As discussed in section 4.3 *Height of buildings* and D3.9 *Building envelope* of this report, this privacy screening is to be conditioned to a maximum height of 1.65m in order to reduce the overall perceived bulk and scale of the proposal. This conditioned privacy screening is considered to adequately mitigate potential privacy impacts and direct overlooking.

##### "Level 2"

A balcony is proposed on the southern (rear) elevation which is 1.0m from the north-western (side) boundary. This deck would be within 9m of No.37 Kanimbla Crescent private open space. The plans propose a 1.7m privacy screen to prevent potential privacy impacts between these neighbours. However, as discussed in section C1.3 *View Sharing* of this report, a condition of consent is recommended that the plans be amended to delete this privacy screen and replaced with glass balustrading in order to mitigate potential view loss impacts. This amendment comes after a submission was raised in regards to view loss by the owner of No.37 Kanimbla Crescent.

With regards to privacy impacts, it is not considered that the removal of this privacy screen would result in unacceptable privacy impacts in this instance. Given the prominent view corridors to the east and south east, this portion of Kanimbla Crescent is characterised by open balconies void of screening. Furthermore, this area of balcony, being 2m in depth, would unlikely facilitate high usage, particularly

given the proposed location of the main area of private open space being located on the south-eastern portion of the site. As such, given the context of the site and in consideration of balancing views with privacy, the removal of this privacy screen is considered warranted in this instance and the associated privacy impacts are considered acceptable.

The plans stipulate the the proposed west facing windows would be appropriately screened and treated as to mitigate potential privacy impacts.

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

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

Comment:

The proposed development is considered capable of providing a sense of territory and safety for residents on the subject site and adjoining properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

#### **C1.14 Separately Accessible Structures**

This application includes a separately accessible structure located on Level 3 of the existing dwelling. A new bathroom is proposed within the structure. The structure is designed to be ancillary to the existing dwelling and a bathroom is considered acceptable in this circumstance as there are no bathroom facilities located on this level of the dwelling.

A condition has been included within this consent to ensure the structure is not designed for separate habitation and does not contain any cooking facilities.

#### **C1.23 Eaves**

Description of non-compliance

Clause C1.23 of the Pittwater 21 DCP requires dwellings to incorporate 450mm wide eaves on all elevations. The proposed dwelling does not incorporate 450mm wide eaves on all elevations, which fails to meet this requirement.

The modified skillion roof does not incorporate eaves of 450mm minimum width on all elevations. Despite this non-compliance, consideration has been given that the roof form will continue to reflect the coastal character of the locality. The BASIX information submitted also demonstrates that appropriate solar access and shading will be achieved. Furthermore, the proposed development allows for compliant solar access to the subject site and adjacent properties, whilst also providing covered outdoor private open space to ensure appropriate shading.

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

#### **C1.24 Public Road Reserve - Landscaping and Infrastructure**

As discussed by Council's Landscape Officer and Roads Assets Officer, the proposed works within the

road reserve are considered to be appropriate given the gradient of the site (subject to recommended conditions and the deletion of the proposed pavers).

### **D3.1 Character as viewed from a public place**

#### Description of Non-Compliance

The proposed carport with nil setback from the front boundary, is inconsistent with the specific requirements of this clause, which prescribe that parking structures must not be the dominant site feature when viewed from a public place, and should be located behind the building line, preferably setback further than the primary building.

It should be noted that the location of this carport is a result of the site's topography, existing site constraints and access gradients that limit the siting opportunities of such structure. Furthermore, the siting of the carport structure is consistent with a permitted variation prescribed by the front building line development control, which allows parking forward of the front building line on steeply sloping sites. Additionally, the proposal seeks to demolish an existing parking structure within the front setback.

#### Merit Consideration

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

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

#### Comment:

As discussed with regard to clause A4.3 of P21 DCP (above), the proposed development is considered to be consistent with the desired future character of the Bilgola locality.

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

#### Comment:

Given the topography of the site and the location of the existing dwelling, as well as the location of a stormwater pipe running through the north-eastern portion of the site, it is considered proposed parking structure has been situated in the most logical and practical position. The parking structure would be of an open design and its location within the front setback would be in keeping with that of surrounding properties on the low side of Kanimbla Crescent with parking structures. The height and scale of the parking structure would be below the height of surrounding canopy trees. Further, no significant vegetation removal is required to facilitate the works. Therefore the development is considered to respond to, reinforce and sensitively relate to the spatial characteristics of the existing built and natural environment

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

#### Comment:

The carport has been designed with a low pitch skillion roof to minimise height, bulk and scale. The height and scale of the carport would be in keeping with that of other properties along the lower side of Kanimbla Crescent.

- *The visual impact of the built form is secondary to landscaping and vegetation, or in commercial*



*areas and the like, is softened by landscaping and vegetation.*

Comment:

The proposed carport would be predominantly built upon existing hard surface area. Furthermore, the proposal would increase the amount of landscaping within the front setback. The proposal would remove the existing carport within the front setback and replace with landscaping. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

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

Comment:

The proposed development will be conditioned to meet all relevant Australian Standards and BCA requirements and conform with the recommendations of the submitted Geotechnical report. Conditions have also been imposed to ensure there are no adverse impacts on the adjoining neighbours. It is therefore anticipated the works to be high quality and built for the natural context and any natural hazards.

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

Comment:

The development will appear as one storey as viewed from the street, due to the steep cross fall of the site away from the frontage. The slope of the site means that the garage would be below average eye level when viewed from the street and would appear "human scale".

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

Comment:

This matter has been addressed elsewhere in this report (refer to Clause C1.3 View Sharing under Pittwater Development Control Plan). In summary, the assessment of this application has found that the development achieves consistency with this clause and extent of qualitative impact upon view sharing is considered to be minor and the proposal is reasonable in this instance.

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

Comment:

As above, the application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions for tree protection and replacement planting. Subject to recommended conditions, the built form is suitably designed and incorporates landscaping to ensure the development fits comfortably within the landscape and streetscape character of the locality.

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

Comment:

As discussed elsewhere in this report (refer to Clause C1.3 View sharing), the proposal will proportionately hinder the availability of ocean views from the streetscape.

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

### **D3.6 Front building line**

Description of Variation

Clause D3.6 of the P21DCP requires development (other than driveways, fences or retaining walls) to be setback at least 6.5m from the front boundary or the established building line, whichever is greater.

- The proposed carport would have a nil from the front boundary representing a 100% variation to the 6.5m requirement
- The proposed entry platform and access stairs would have a nil - 1.8m setback from the front boundary representing a 100% variation to the 6.5m requirement
- The proposed "Level 2" Bedroom and ensuite would have a 1.7m setback from the front boundary representing a 73.8% variation to the 6.5m requirement
- The proposed "Level 2" Entry would have a 4m setback from the front boundary representing a 38.5% variation to the 6.5m requirement
- The proposed "Level 1" additions and terrace would have a 5.3m setback from the front boundary representing a 18.5% variation to the 6.5m requirement

The DCP contains a variation clause which reads as follows:

- *Where carparking is to be provided on steeply sloping sites, reduced or nil setbacks for carparking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable*
- *Considering established building lines;*
- *Where the topographic features of the site need to be preserved;*
- *Where it is difficult to achieve acceptable levels for building*

Given the topography of the land, the site is considered to be steep and is considered to warrant consideration of a reduced or nil setback for the hardstand to enable a parking area that is safe and practical for the resident. Furthermore, consideration is given to the setback of the existing dwelling and surrounding dwellings.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying

Objectives of the Control as follows:

- *To achieve the desired future character of the Locality. (S)*

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.3 Bilgola locality of the Pittwater 21 DCP.

- *The amenity of residential development adjoining a main road is maintained. (S)*

Comment:

The subject site adjoins a local road, therefore, this outcome is not applicable.

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

Comment:

The proposed works would be predominantly built upon existing hard surface area. Furthermore, the proposal would increase the amount of landscaping within the front setback area. The proposal would remove the existing carport within the front setback and replace with landscaping. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal. The development will appear as one storey as viewed from the street, and would appear "human scale. The carport structure and terrace would be of an open design and would not attribute to excessive bulk or scale, or dominate the site as seen from the street.

- *Vehicle manoeuvring in a forward direction is facilitated. (S)*

Comment:

Vehicular movement in a forward direction is not facilitated by the proposal. However, as prescribed by clause B6.2 of P21 DCP, the provision for vehicles to enter and leave in a forward direction is not required for this site, irrespective of the front setback proposed. The proposal has been reviewed by Council's Development Engineer who has raised no objection to the proposal.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with development along the low side of Kanimbla Crescent. The proposed upper level carport and terrace would be predominantly open structures. Notwithstanding the non-compliance, sufficient space remains within the front setback area for additional vegetation planting to provide an attractive street frontage and improve pedestrian amenity.

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

Comment:

The southern side of Kanimbla Crescent accommodates examples of structures located forward of the front building line. In this regard, the location of the structures will not be out of context with the established streetscape character. Furthermore, given the significant slope of the site, the proposed dwelling additions would be at and below and street level and would not dominate the streetscape. Additionally, the proposed access stairs and entry platform, terrace and carport would be open structures of minimal bulk and scale. Existing and proposed vegetation and landscaping will further alleviate the visual impacts when viewed from the street and surrounding properties. Based on the above, it is concluded that the development responds to the spatial characteristics of the existing built and natural environment.

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

### **D3.7 Side and rear building line**

Description of non-compliance

Clause D3.7 of the Pittwater 21 DCP requires development be setback at least 6.5m from the rear boundary, 2.5m from the south-eastern side boundary and 1m from north-western side boundary.

The development proposes the following non-compliance:

**Rear setback** - Complies

**South-eastern side setback**- Complies

**North-western side setback**- 0.1m (Carport & Level 2 Bedroom and Ensuite)

It should be noted that the proposed carport and level 2 bedroom and ensuite have been moved from the east of the site to the west of the site in consideration of the existing Council stormwater pipe and to facilitate the new stormwater infrastructure. It should also be noted that during the assessment of this application, amended plans were received which deleted the proposed decking within the side setback adjoining the north-western boundary.

Merit Consideration

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

Comment

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality.

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

#### Comment

The proposed additions are comparable with that of the built form of the existing dwelling and surrounding dwellings located on the low side of Kanimbla Crescent. The carport parking structure would be of an open design and given the topography of the site would appear as single storey as viewed from the street. The dwelling addition within the side setback would be below street level and not readily visible from the street. Although located adjacent to the boundary, given the relative position of the adjoining dwelling to the north-west (No.37 Kanimbla Cres), the structure would primarily adjoin dense landscaping. Furthermore, this structure would not adjoin any prominent side facing window or principle area of private open space. During the assessment of this application, amended plans were received which deleted the proposed decking within the side setback (and replaced with landscaping) adjoining the north-western boundary (adjacent to this neighbours' east facing deck and dwelling wall) to minimise the bulk and scale of the proposal.

- *Equitable preservation of views and vistas to and/or from public/private places. To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

#### Comment

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP (subject to conditions).

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

#### Comment

As detailed elsewhere within this report (refer to Clause C1.5 Visual privacy and C1.4 Solar access), a reasonable level of privacy, amenity and solar access is maintained by the residents of the subject site and the adjoining dwellings (subject to recommended conditions).

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

#### Comment

The proposed works would be predominantly built upon existing hard surface area. Furthermore, the proposal would increase the amount of landscaping within the front setback area. The proposal would remove the existing carport within the front setback and replace with landscaping. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal. The development will appear as one storey as viewed from the street, and would appear "human scale. The carport structure and terrace would be of an open design and would not attribute to excessive bulk or scale, or dominate the site as seen from the street.

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

#### Comment

Despite non-compliance in small areas, the proposal is considered to be an appropriate

response to the development of the site. The proposed carport and "level 2" bedroom and ensuite has been moved from the east of the site to the west of the site in consideration of the existing Council stormwater pipe and to facilitate the new stormwater infrastructure. Adequate pedestrian access to the site is maintained.

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

Comment

As above, the proposed works would be predominantly built upon existing hard surface area. Furthermore, the proposal would increase the amount of landscaping within the front setback area. Although located adjacent to the boundary, given the relative position of the adjoining dwelling to the north-west (No.37 Kanimbla Cres), the carport and "level 2" addition within the side setback would primarily adjoin dense landscaping. During the assessment of this application, amended plans were received which deleted the proposed decking within the side setback (and replaced with landscaping) adjoining the north-western boundary (adjacent to this neighbours' east facing deck and dwelling wall) to minimise the bulk and scale of the proposal. Additionally, the proposal would remove the existing carport within the front setback and replace with landscaping.

The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal. The development will appear as one storey as viewed from the street, and would appear "human scale."

- *A landscaped buffer between commercial and residential zones is achieved.*

Comment

N/A the subject site does not adjoin a commercial zoned area.

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

### **D3.9 Building envelope**

Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries.

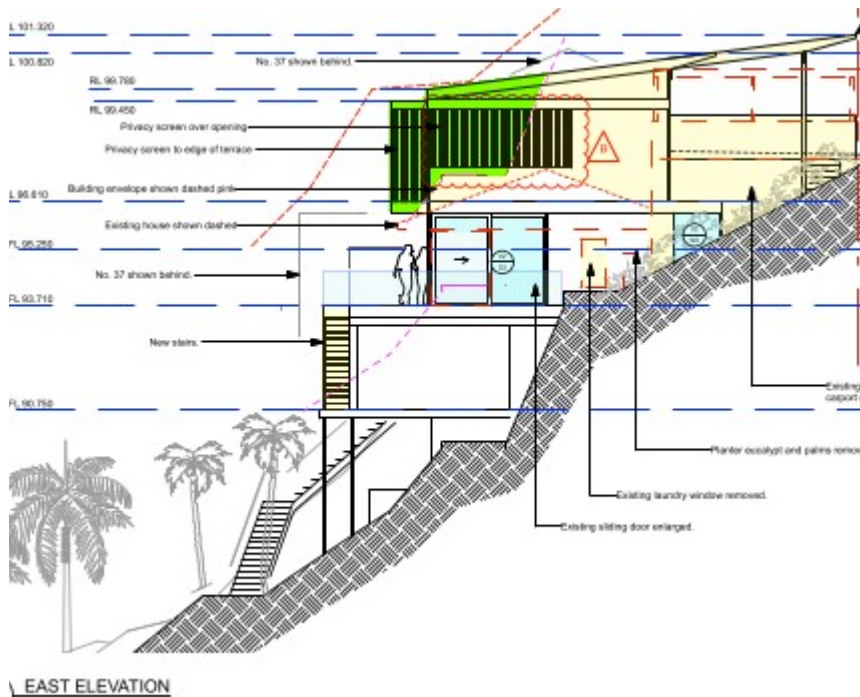
The proposed dwelling additions has a encroachment into the prescribed building envelope along the eastern and western elevations. This variation is represented in figure 1 and 2 below.

This building envelope non-compliance is largely attributed to the slope of the site, which exceeds 30%. P21DCP allows for a variation to the prescribed building envelope for development on steep sites, subject to consistency with the outcomes of this Clause.





**Figure 4 - Proposed building envelope non-compliance on the western elevation (highlighted in green).**



**Figure 5 - Proposed building envelope non-compliance on the eastern elevation (highlighted in green).**

### Merit Consideration

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

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

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.3 Bilgola Locality of the Pittwater 21 DCP.

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

Comment:

The proposal would be stepped with the topography of the land and the majority of the dwelling will sit well below the 8.5m development standard. Given the subject site slopes away from the street, with the proposed development would have the appearance of being single storey as viewed from Kanimbla Crescent and the non-compliances will not be prominent from the streetscape. The proposed development is generally set below the height of surrounding canopy tree surrounding the site and in the locality. It is considered that the bulk and scale of the proposal would not be out of character with the existing streetscape and wider locale.

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

Comment:

As above, the slope and topography of the land is considered steep. The development has considered compatible with the existing dwelling and newer development along Kanimbla Crescent. It is further noted that the works are largely confined to the existing building footprint and do not result in unreasonable excavation, tree removal or environmental impact. The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer; Coast & Catchment Officer and Development Engineer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

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

Comment:

The proposed addition is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey as viewed from Kanimbla Crescent. The proposal would be stepped with the topography of the land and the majority of the dwelling will sit well below the 8.5m development standard.

The proposed additions are comparable with that of the built form of the existing dwelling and surrounding dwellings located on the low side of Kanimbla Crescent. During the assessment of this application, amended plans were received which increased the side setback of the proposed upper "level 1" dwelling addition from the western boundary and deleted the proposed decking adjoining this boundary to replace with landscaping in order to reduce bulk and scale of the proposal.

The area of largest building envelope (and height) non-compliance on both the eastern and western elevation are the full height enclosing walls and privacy screening adjoining both side elevations of the upper "level 1" balcony/terrace. It is considered these enclosing elements are excessive and contribute

to unwarranted building bulk, particularly as view from adjoining neighbours private open space. As such, a condition is recommended to ensure that these elements are replaced with louvre style privacy screening to a maximum height of 1.65m from FFL. It is considered this will result in the rear balconies having a more open design and reduce the visual dominance and building envelope (and height) non-compliance of the proposal.

Subject to recommended conditions, the bulk and scale of the works are minimised as a result of varied setbacks, modulation of the facades, open side and rear balconies and the use of differing materials. The 28.5m rear setback and maintenance of a vegetation buffer also allows for some visual relief and view corridors for adjoining neighbours. This provides a situation in which presentation of bulk and scale is adequately minimised.

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

Comment:

As discussed within Clause C1.3 View Sharing of the P21 DCP, the proposed "level 2" balcony privacy screen on the western elevation, would exceed the building envelope control and contribute view loss of the ocean from the adjoining north-western neighbour. As such conditions are recommended to delete this privacy screening and replace with balustrading. Subject to this condition, the proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

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

Comment:

As detailed elsewhere within this report (refer to Clause C1.5 Visual privacy and C1.4 Solar access), a reasonable level of privacy, amenity and solar access is maintained by the residents of the subject site and the adjoining dwellings (subject to recommended conditions).

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

Comment:

The proposed works would be predominantly built upon existing hard surface area. Furthermore, the proposal would increase the amount of landscaping within the front setback area. Although located adjacent to the boundary, given the relative position of the adjoining dwelling to the north-west (No.37 Kanimbla Cres), the carport and "level 2" addition within the side setback would primarily adjoin dense landscaping. During the assessment of this application, amended plans were received which deleted the proposed decking within the side setback adjoining the north-western boundary adjacent this neighbours' east facing deck and dwelling wall to facilitate landscaping to minimise the bulk and scale of the proposal. Additionally, the proposal would remove the existing carport within the front setback and replace with landscaping.

The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal. The development will appear as one storey as viewed from the street, and would appear "human scale".

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

### **D3.14 Construction, Retaining walls, terracing and undercroft areas**

#### Merit Assessment

Excavation and retaining walls are proposed in order to provide terracing within the front (northern) garden. The subject site has already been heavily modified, with significant retaining walls and pre-existing excavation currently existing on site. It is therefore considered that the resultant development does not unreasonably impact on natural landforms. Landscaping has been proposed in order to minimise the visual impact of the development as viewed from adjoining public land. Furthermore, elevated decks and balconies have also been provided in order to facilitate additional outdoor recreation space.

The proposed development, while including earthworks, steps down with the topography of the land, thereby minimising the impacts the proposal has in relation to bulk and scale. The level of excavation included in this proposal is consistent with developments in the Bilgola area, due to the land's steep topography and valuable views.

As discussed previously in this report, the level of excavation is considered acceptable subject to recommended conditions. The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer; Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2021**

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

A monetary contribution of \$6,800 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$680,000.

### **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/1146 for Alterations and additions to a dwelling house on land at Lot 122 DP 29010, 35 Kanimbla Crescent, BILGOLA PLATEAU, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-000 Rev.B (Site Plan)	07/10/2021	Utz-Sanby Architects
DA-100 Rev.B (Roof and Floor Plans)	07/10/2021	Utz-Sanby Architects
DA-101 Rev.A (Sections)	05/07/2021	Utz-Sanby Architects
DA-102 Rev.B (Elevations)	07/10/2021	Utz-Sanby Architects
DA-104 Rev.A (Demolition Plan)	05/07/2021	Utz-Sanby Architects
DA-105 Rev.A (Excavation Plan)	05/07/2021	Utz-Sanby Architects
DA-107 Rev.A (Driveway Plan & Section)	05/07/2021	Utz-Sanby Architects
DA-109 Rev.A (Finishes Schedule)	05/07/2021	Utz-Sanby Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
D01 Issue.B - Conceptual Stormwater Drainage General Notes	29/06/2021	NB Consulting Engineers
D02 Issue.B - Conceptual Stormwater Drainage Assets Plan	29/06/2021	NB Consulting Engineers
D03 Issue.B - Conceptual Level 1 Stormwater Drainage Plan	29/06/2021	NB Consulting Engineers
D04 Issue.B - Conceptual Level 2 Stormwater Drainage Plan	29/06/2021	NB Consulting Engineers
D05 Issue.B - Conceptual Level 3 Stormwater Drainage Plan	29/06/2021	NB Consulting Engineers
D06 Issue.B - Conceptual Roof Stormwater Drainage Plan	29/06/2021	NB Consulting Engineers
D07 Issue.B - Conceptual Stormwater Drainage Details	29/06/2021	NB Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Basix Certificate (A379287_03)	28/06/2021	BASIX Certificate Centre
Arboricultural Report	24/06/2021	Naturally Trees
Geotechnical Report Rev.2	03/08/2021	Douglas Partners

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-112 Rev.A (Landscape Plan)	05/08/2021	Utz-Sanby Architects

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	09/09/2020	Utz-Sanby Architects

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

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

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

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



Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	28/07/2021

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house

A dwelling house is defined as:

*"dwelling house means a building containing only one dwelling."*

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

### 4. **Ausgrid Referral - Overhead Powerlines**

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

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

### 5. **No approval for fencing**

No approval is granted under this consent for any fencing.

Reason: To ensure compliance with the terms of this consent.

## 6. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

**7. No Works on Adjoining Land**

With the exception of the tree removal of *Corymbia maculata*, located on the eastern boundary line, no approval is granted under this consent for any works within or on the property boundaries of adjoining privately owned land.

Reason: To ensure compliance with the terms of this consent.

**8. General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

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

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

system in 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

### 9. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$6,800.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$680,000.00.

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

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

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

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

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

### 10. Security Bond

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

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



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

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

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

**11. Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$23,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

**12. Amended Landscape Plan**

An Amended Landscape Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- i) The deletion of the "level 2" terracing adjacent to the north-western boundary and the replacement with 1.0m of landscaping as demonstrated on the approved stamped plans.

Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: Landscape amenity.

**13. 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 Clause 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Water Management for Development Policy are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Douglas Partners Pty Ltd dated 3/8/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of

the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **No Clearing of Vegetation**

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

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

Reason: To protect native vegetation.

16. **Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. The Applicant is to ensure footings of any new development within this development consent adjacent to an easement or pipeline are to be designed in accordance with Northern Beaches Council's Water Management for Development Policy. Details and certification prepared by a suitably qualified Structural Engineer demonstrating compliance are to be submitted to Council for approval. Council's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

17. **Stormwater Treatment Measures – Minor**

The applicant must install sediment control pit that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

18. **Amendments to the approved plans**

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

a) The blade wall located on the western edge of the upper "Level 1" balcony/terrace (adjacent to the bathroom/ensuite) shall be replaced with balustrading and a 1.65 metre privacy screen (measured from finished floor level). The privacy screen may be of fixed panels or louver style construction (with a maximum spacing of 20mm) in materials that complement the design of the

approved development, or of obscure glazing,

b) The enclosing privacy screening located on the eastern edge of the upper "Level 1" balcony/terrace shall be reduced to a height of 1.65 metres (measured from finished floor level).

c) The proposed privacy screen located on the western edge of the "Level 2" balcony/terrace (adjacent to the Kitchen) shall be deleted and replaced with glass balustrading to match the approved development.

d) The proposed "pavers" located on Council's road reserve, adjacent to the proposed driveway, shall be deleted from all plans.

e) All structures are to be wholly located within the property boundaries. These plans must clearly specify the dimensions of setbacks of any new works proposed within 1 metre of any site boundary. The plans are to accurately reflect the property boundaries as shown on the boundary identification survey, prepared by a Registered Surveyor.

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

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

19. **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 Certifying Authority 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.

20. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of elevated vehicular crossing and associated retaining structures which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer.

The design must include the following information:

1. 4.5 meter wide at the kerb widening to 5.7 meters at the boundary elevated driveway crossing in accordance with Northern Beaches Council Drawing No. A4-3330/1N.
2. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.

3. Barriers must be installed on both sides of the proposed elevated driveway in accordance with AS/NZS 2890.1: 2004.
4. Structural details of the driveway, retaining wall, and slab designed by a Structural Engineer including certification.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

**21. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

**22. Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the realignment of the council pipeline in the road serve to connect to the existing Council pit with the site and connection of the site stormwater to the Council pipeline which are to be generally in accordance with the civil design prepared by NB Consulting Engineers, drawing number 201189-D01 to 201189 - D07, dated 29/6/2021 approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1.

The drainage plans must address the following:

1. Stormwater Pit (PO1) is to be repositioned to be located behind the gutter of the road
2. The flood walls proposed along the front boundary and within the site is to have a minimum 500mm freeboard
3. The landing proposed adjacent to the carport shall have a freeboard of minimum 500mm.
4. The weir proposed in the flood wall adjacent to Pit P2 shall have an invert lower than the top of kerb RL of the driveway of No 33. Kanimble Crescent.

The form can be found on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au) > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance

with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

23. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction/demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The pre-construction/demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

24. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.

25. **Compliance with Standards**

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

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

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

26. **External Colours and Finishes**

The external colours and finishes to the external walls and roof shall have a medium to dark



range (BCA classification M and D). Light colours such as off white, cream, silver or light grey colours are not permitted. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure building colours and materials compliment and enhance the natural landscapes and to ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

**27. Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://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.

**28. Construction Traffic Management Plan**

A Construction Traffic Management Plan is to be prepared for the development given its difficult access arrangements.

The Construction Traffic Management Plan shall include (but not be limited to) the following:

- a) 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
- b) Details for storage of materials
- c) Provision of parking for workers
- d) Details for loading and unloading of materials
- e) Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- f) 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
- g) The location and operation of any on site crane

The Construction Traffic Management Plan shall be submitted to Council for approval prior to the issue of the Construction Certificate.

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

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**29. Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on

Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

i) all demolition, excavation and construction works within the TPZ's and SRZ's of trees to be retained.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

### 30. **Tree Removal Within the Property**

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

i) *Corymbia maculata*, located on the eastern boundary line adjacent to the existing and proposed terrace, Tree No. 12.

Note:

- i) Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.
- ii) Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

Reason: To enable authorised building works.

### 31. **Tree Removal Within the Road Reserve**

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

i) *Syagrus romanzoffiana*, located within the road reserve adjacent to the northern boundary, Tree No. 13.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: To enable authorised building works.

**32. Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority 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.

- 37 Kanimbla Crescent BILGOLA PLATEAU
- 33 Kanimbla Crescent BILGOLA PLATEAU

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority 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 Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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 Certifying Authority prior to the commencement of any works on site.

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

**33. Installation and Maintenance of Sediment and Erosion Control**

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

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

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

**34. Tree and Vegetation Protection**

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

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

b) Tree protection shall be undertaken as follows:

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

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:

- i) Section 3 - Arboricultural Impact Appraisal,
- ii) Section 4 - Arboricultural method Statement,
- iii) Appendix 8 - Tree Management Plan.

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

35. **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.

36. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

37. **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:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- 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.

38. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.



All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

39. **Survey Certificate**

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

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

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

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

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

40. **Installation and Maintenance of Sediment Control**

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

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

41. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval and Section 68 are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

42. **Notification of Inspections (infrastructure works to be handed over to Council)**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter, vehicular crossing

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

**43. Vehicle Crossings**

The Applicant is to construct one vehicle crossing 4.5 metres wide at the kerb and 5.7metres wide at the boundary in accordance with Northern Beaches Council Drawing No A4-3330/ 1N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

**44. Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection.

**45. Stockpiling of Topsoil**

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment.

**46. Geotechnical Recommendations During Works**

All works and construction activities shall be undertaken in accordance with the recommendations of the risk assessment required to manage the hazards as identified in Geotechnical Report referenced within Condition 1.

Reason: To ensure geotechnical risk is mitigated appropriately.

**47. Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/businessindustry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

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

**48. Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

i) the proposed street trees that are to replace existing trees removed, are required to be clear of existing and proposed stormwater infrastructure by a minimum of 2 metres to minimise the potential of future impacts.

All street trees shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees.

All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be located at least 2.0 metres from any structures including driveways, kerbs, and paths, and shall generally be centralised within the road verge.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

**49. Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: Tree protection.

**50. Stormwater Disposal**

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

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

development.

**51. Protection of Habitat Features**

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

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

Reason: To protect wildlife habitat.

**52. New Vegetation Planting**

Landscaping is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the species found on the site or listed in Littoral Rainforest Endangered Ecological Community.

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

Reason: To ensure compliance with the requirement to retain and protect native planting on the site.

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

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

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

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

**54. Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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

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

**55. 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 Certifying Authority prior to the issuing of any Occupation Certificate.

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

56. **Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

Reason: To protect reserve amenity and public safety.

57. **Waste Management Confirmation**

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

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

58. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

The Applicant shall submit a suitably qualified Structural Engineer's certification that the completed footing works have been constructed in accordance with this consent, Northern Beaches Council's Water Management for Development Policy and the approved Construction Certificate plans. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure.

59. **Certification Elevated Parking Facility Work**

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

Reason: Compliance with this consent.

60. **Retaining wall**

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

Reason: Public and Private Safety



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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

62. **Easement for Drainage**

An easement for drainage 1.8 meters wide centrally located over the pipeline (under the provisions of Section 88B of the Conveyancing Act) is to be created on the title in favour of Northern Beaches Council. The easement is to be created to ensure all drainage infrastructure is located within the easement and include a minimum 1 meter horizontal clearance to the edge of any pipeline and pit structure.

The easement plan is to be prepared to Council's requirements at the applicant's expense and be endorsed by Northern Beaches Council's delegate prior to lodgement with the Land and Property Information NSW.

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

**Reason:** To create encumbrances on the land

63. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)**

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

64. **Certification of Council Drainage Works and Works as Executed Data**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 68 approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage plans) certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' shall be submitted.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

65. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

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

66. **Landscape Maintenance**

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

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 and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

67. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

68. **Retention of Natural Features**

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on

approved plans.

Reason: To ensure the retention of natural features.

69. **Use of "Level 3 - lower ground floor level"**

The proposed "Level 3 - lower ground floor level" is not to be used for the purpose of separate habitation (including a secondary dwelling or dual occupancy) and is not to contain any cooking facilities.

Reason: To ensure that the ground floor remains ancillary to the dwelling house.

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

**Signed**



**Gareth David, Planner**

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



**Tony Collier, Acting Development Assessment Manager**