

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0395
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 5 DP 16260, 1 Yachtview Avenue NEWPORT NSW 2106
Proposed Development:	Alterations and additions to Dwelling House
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Paul Allen Godfrey Vanessa Padideh Naderi
Applicant:	The Site Foreman (NSW) Pty Ltd

Application Lodged:	22/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	29/04/2021 to 13/05/2021
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 224,995.00
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PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for alterations and additions to the host dwelling inclusive of:

- enclosure of rear terrace to create an indoor 'alfresco area';
- construction of an attached double garage to the front of the house including new driveway, crossover, front porch and front pathway;
- construction of a gym partially beneath the new double garage, and partially beyond it to run westwards of the existing house.

AMENDED PLANS

During the assessment of the development application the Council raised concerns regarding view loss

from the rear terrace and access to the garage. The applicant subsequently submitted revised plans. The plans are of a lesser environmental impact than the original development and thus were not re-notified.

Herein this report these works are described as the 'development'.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 5 DP 16260 , 1 Yachtview Avenue NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site is legally identified as Lot 5 DP 16260 and is known as 1 Yachtview Avenue, Newport. The site falls within the E4 Environmental Living zone pursuant to the Pittwater Local Environmental Plan 2014.</p> <p>The site is rectangular in shape with a width of 14.33m and a depth of 65.84m with an overall surveyed area of 943.2m².</p> <p>The site presently accommodates a multi-level dwelling house with an in-ground swimming pool to the back. A</p>

concrete driveway runs down the western side of the house.

Topographically the site falls from front to rear (north to south) by approximately 12m, with a further unsurveyed drop to the rear of the site.

The site has vegetation throughout, none of which is thought to constitute as a threatened species.

Surrounding properties consist of other detached dwelling houses of varying age, size and construction.

Map:



SITE HISTORY

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

- **Development Application no: N0252/09** for alterations and additions to the existing dwelling. Approved 03 September 2009.

Modified by:

N0252/09/S96/1 approved 20 December 2011; and
N0252/09/S96/2 approved 06 July 2012; and
N0252/09/S96/3 approved 19 November 2012.

- **Development Application no. N0173/12** for alterations and additions to the existing dwelling and construction of a swimming pool. Approved 13 November 2012.

Modified by:

N0173/12/S96/1 approved 07 November 2017.

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 2014 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan 2014 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/04/2021 to 13/05/2021 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 4 submission/s from:

Name:	Address:
Wayne Howard	123 Wallumatta Road NEWPORT NSW 2106
Toni-Lou Howard	123 Wallumatta Road NEWPORT NSW 2106
Mrs Gitte Bach Lawaetz	2 Yachtview Avenue NEWPORT NSW 2106
Mr Wayne Royston Howard Mrs Toni Louise Howard	123 Wallumatta Road NEWPORT NSW 2106

During the assessment of the application submissions were received from the two adjoining properties. One of those submissions is a 38 page objection discussing various clauses of the DCP and case law. For the purpose of this section of report these objections are clustered into categories and, where

necessary, expanded upon elsewhere in the report.

The following issues were raised in the submissions and each have been addressed below:

- Privacy
- View Loss
- Construction Impacts and Stormwater
- Character, Building Bulk and Trees
- Amenity Impacts

The matters raised within the submissions are addressed as follows:

- Privacy
Comment:
Concern is raised in submissions received that the development could impact on the privacy of neighbours. The proposal seeks to enclose an existing terrace with frosted louvers and external blinds. For reasons explained elsewhere in this report, the recommendation of this report deletes the enclosing walls and windows of the terrace, thus essentially approving a 300mm thick roof structure only (with supporting columns). The privacy impact from the existing terrace is not subject to change as a result of this application.
- View Loss
Comment:
Concern is raised by the objector at 123 Wallumatta Road to the east that the proposal will impact on their existing view and outlook. This matter is discussed in greater detail elsewhere in this report. In summary, it is agreed that the development will cause a level of impact, however that impact can be made acceptable through the imposition of appropriate conditions.
- Construction Impacts and Stormwater
Comment:
The submission received from 2 Yachtview Avenue to the west notes that there are existing issues with stormwater run-off and that an existing boundary retaining wall is showing signs of failure. The submission requests that these issues be rectified as a part of the application.

Conditions are imposed in the recommendation of this report requiring stormwater run-off and dispersal to be done so in accordance with Council's policies. It is not the role of a Development Application to orchestrate repairs to damaged boundary walls and or fences. It is however noted that, given the scope and location of works sought there may be opportunities for neighbours to engage civilly (outside of Council) to resolve any existing boundary wall / fence / retaining wall issues.
- Character, Building Bulk and Trees
Comment:
Concern is raised about the removal of a tree on Council's Road Reserve and the impacts which that may have upon the character of the area. This tree is to be retained in the latest iteration of plans, which form the Approved Stamped Plans. The construction of a double garage is not deemed to create any unreasonable bulk and scale, particularly when it is the most logical location for such a structure.
- Amenity Impacts

Comment:

The submission from 123 Wallumatta Road raises concern with overshadowing from the development. The blocks are largely orientated in a north-south direction. The addition of the pergola structure to the rear terrace (once conditioned to remove enclosing elements) is not considered to detrimentally cause any degree of overshadowing over and above the existing development. The impact caused by the development is lessened by the conditions as recommended.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for alterations and additions to an existing dwelling.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 zone Environmental Living, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation, • C1.1 Landscaping, • D10 Newport Locality. <p>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees.</p> <p>Landscape Plans and a Arboricultural Impact Assessment titled Construction Impact & Management Statement are provided with the application, and following concerns updated versions have been provided.</p> <p>The Updated Landscape Plan proposes works within the front setback of the property and within the public road reserve land. The proposed landscape encroachment within the road reserve, including driveway kerb/walling and planting works are not supported by Landscape Referral based on obstruction to pedestrian access, existing or future utility services, public liability, and ongoing care and management. The proposed kerb/walling along the driveway is for the full width of the road reserve verge and hence obstructs pedestrian access upon the road verge and this is not acceptable. The proposed landscape works within the road reserve is not approved as part of this development application and is subject for consideration under a Roads Act application for encroachment upon the road reserve by Council's Development Engineering section. Street tree planting may be permitted within the road verge however such planting shall not be located under the large existing Cedrus deodara tree required to be retained.</p> <p>At least one (1) small native canopy tree shall be installed within the deep soil area of the front setback, to provide a suitable vegetation</p>

Internal Referral Body	Comments
	<p>option to achieve softening of the built form to satisfy DCP clause C1.1.</p> <p>An Updated Construction Impact & Management Statement dated June 2021 is provided including the recommendation to retain the existing <i>Cedrus deodara</i> street tree, and provides tree protection measures for its preservation, and no objections are raise subject to conditions for street tree protection.</p> <p>Landscape Referral support the application for works within the site with the imposition of conditions of consent.</p>
NECC (Bushland and Biodiversity)	<p>Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:</p> <ul style="list-style-type: none"> • Pittwater LEP cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community • Coastal Management SEPP 2018 cl. 11 Development on land in proximity to coastal wetlands or littoral rainforest <p>The proposed development seeks consent for alterations and additions to an existing dwelling. The Architectural Plans (The Site Foreman 2020 Issue 4) identify that all trees will be retained and protected, as required in accordance with the outcomes of the Pre-lodgment meeting. This includes Tree 1 (<i>Cedrus deodara</i>) which is currently recommended for removal by the Arborist (Growing My Way 2020). Subject to these conditions of consent, Council's biodiversity referrals team are satisfied that the proposed development complies with the biodiversity provisions listed above.</p>
NECC (Development Engineering)	<p>The submitted plans have only provided a long section along the low side of the proposed driveway crossing and not on the high side where the transition grades will exceed Council's maximum allowable grades and as a result vehicles will scrape when using the crossing. Also the crossing proposes a retaining wall on the low side to support the elevated driveway which may reduce the sight distance for vehicles using the adjoining driveway and conflict with an existing Council stormwater pipeline located within the nature strip. In this regard it will be necessary for the driveway crossing to be reduced in width and relocated towards the intersection of Wallumatta Rd to reduce the level difference between the kerb and boundary for each side of the crossing. The crossing must rely upon batters to natural ground and not retaining walls to improve the sight distance and impact upon Council's pipeline. Engineering long sections and cross sections are to be provided for assessment. Where this cannot be achieved, it may be necessary to relocate the proposed garage within the site utilising the existing driveway crossing levels.</p> <p>Development Engineers cannot support the application due to insufficient information to assess vehicular access in accordance with</p>

Internal Referral Body	Comments
	<p>Clause B6 of Pittwater DCP.</p> <p>Additional information submitted 21/06/2021</p> <p>The revised plans and information submitted has been reviewed and the proposal is not satisfactory. The grade of the driveway on the high side is acceptable using Council's maximum low profile however the width of the crossing is too wide and due to the proposed level of the garage at the boundary, a retaining wall is indicated along the low side of the driveway which is not acceptable. In order for the crossing to be considered, the width is to be a maximum of 4 metres at the kerb to 5 metres at the boundary and the low side of the driveway is to be a minimum of 1.5 metres from the side boundary to permit a batter from the driveway edge to the side boundary. It is considered that a retaining wall is to be provided along the frontage of the property between the edge of the driveway and the side boundary to permit a suitable batter along this edge. The kerbs are to be deleted from the edges of the driveway crossing and batters are to be included on the plans to suit.</p> <p>Development Engineers cannot support the application due to insufficient information to assess vehicular access in accordance with Clause B6 of Pittwater DCP.</p> <p>Amended plans submitted 28/07/2021</p> <p>The amended driveway position and width including the battering of the sides to suit the new levels is satisfactory. Road Assets have included a condition for the stair construction. Conditions for the protection of Council's stormwater infrastructure have been included.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Road Reserve	<p>The inclusion of stairs and planter box across the naturestrip is noted. These structures will require a separate Road Act application (Minor Encroachment) to formalise approval, noting however that the planter box structure across the verge is not supported given the potential impact on future utility services and should be avoided or minimized. The stairway should be able to be accommodated at grade without the need for additional structures/walls.</p> <p>The Development Engineering Team will need to assess requirements for driveway, which doesn't appear to comply with the required Council driveway profiles and the retaining walls shown would appear to be unnecessary when compared with the surveyed levels across the verge. As such, the provision of walls should be removed in favour of battered embankments.</p> <p>The proposed landscaping across the naturestrip to the kerb (as shown on landscaping plans) will not be permitted as it restricts pedestrian access. Coloured concrete on driveway and stairs as specified on landscape plans does not comply with Council</p>

Internal Referral Body	Comments
	<p>specifications. Only plain concrete will be permitted. Condition to be added for Road Act application and consent (Minor Encroachment) .</p> <p>Whilst minor, there is no indication regarding the provision of a letterbox. If it is intended to locate a letterbox structure on the naturestrip, this will need to be included in the Road Act Application (Minor Encroachment) .</p> <p>It is noted Council stormwater drainage traverses the naturestrip. Development Engineering or Stormwater Assets Team to comment on the impact of driveway and support structures (retaining walls) over the pipe network.</p> <p>Planner to refer DA to Stormwater Assets Team</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who raised no objection to the development, subject to conditions as recommended.

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. A408229 dated 02 March 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 raised no objection to the development, subject to conditions as recommended.

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 subject site is identified as being in proximity to littoral rainforest. The consent authority is satisfied that the development will not significant impact on the biophysical, hydrological or ecological integrity of the littoral rainforest or the quantity and quality of surface and ground water flows.

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
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Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.25m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Nil	100%	No
Rear building line	6.5m	39.175m	-	Yes
Side building line	(east) 2.5m	Garage - 7.015m Alfresco - 5.705m	- -	Yes Yes
	(west) 1m	Garage - 1m Alfresco - 3.088m	- -	Yes Yes
Building envelope	(east) 3.5m	No encroachment	-	Yes
	(west) 3.5m	Two encroachments: one on corner of balustrade measuring 0.5m in height by 1.5m in width; and one on building measuring 1.5m in height by 4.1m in width	Up to 42.85m	No
Landscaped area	60% (565.92m ²)	48.2% (455m ²)	20%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 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
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D9.17 Scenic Protection Category One Areas	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

An objection was received from the neighbours to the east at no. 123 Wallumatta Road, Newport raising concern that the proposal would result in view loss from their home. Council visited the objector's property on 07 July 2021 to carry out a view loss assessment. It should be noted that the full dwelling at no. 123 Wallumatta Road was not inspected for view loss as such inspection was deemed not appropriate during the times of the COVID-19 pandemic. An inspection was made from the first floor open-plan primary living area and deck only. It was advised that these are the spaces that stand to be impacted the most by the development.

Merit consideration

The development is considered against the underlying Outcomes of the Control as follows:

- *A reasonable sharing of views amongst dwellings.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The views to be affected consist of water views including land-water interface and district views westwards / southwestwards. The views contain no icons. The property currently enjoys approximately 90 degrees of water and district views in a southerly and westerly direction, filtered by existing trees both on the site itself and neighbouring land.

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".

Comment to Principle 2:

The views to be affected are across side boundaries and are enjoyed from both a sitting and standing position.

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”.

Comment to Principle 3:

The primary areas that are to be affected by the development consist of the first floor open-plan living space, comprising the dining and living room with a kitchen to the side. Beyond that is a timber entertaining deck which enjoys the best views from the house. The impact of the development would be most evident from the rear deck and, to a lesser extent, from inside of the house. That impact would comprise view loss, an increased sense enclosure and visual bulk. The development would obstruct westerly views from the living space and deck to such an extent that water views would no longer be available in this direction and at best, the upper tree-line of district hills may be visible.

Whilst the dwelling would retain water and district views southwards, the proposal is considered to cause a moderate to severe impact on the overall quality of views.

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 proposed alfresco area breaches the prescribed building envelope on the western elevation but the eastern elevation complies. The subject property projects uncharacteristically far southwards which already impacts on the downstairs views from no. 123 Wallumatta Road and the subject terrace creates an uncomfortable living environment with little to no privacy with the exception of boundary plantings. The enclosure of this terrace with frosted louvre windows and external blinds would exacerbate the existing impact of the development and would obstruct more views from no. 123 than the original development.

Through negotiations with the applicant it was agreed that the proposed enclosure of the terrace is to be deleted by way of condition, with only the roof structure remaining. The windows, walls and external blinds are to be deleted. This report (if approved) permits an approximate 300mm thick roof structure with posts to support it.

This revision does not change the existing unfortunate privacy situation, but it does allow for a significant proportion of the views that were to be lost to be retained. The revision would allow views to be maintained through the development to such an extent that no water or land-water interface views would be affected; and that only a narrow portion of the district views would be

obstructed.

The development as submitted is deemed to have an unreasonable impact, however the imposition of the agreed upon condition will result in a satisfactory provision of the sharing of views.

- *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 development is not considered to impact on views or vistas from roads or the public domain.

- *Canopy trees take priority over views.*

Comment:

The development does not seek to remove any canopy trees.

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

Subject to the imposition of conditions requiring the outer vertical enclosing elements of the alfresco area to be deleted entirely, the development shall not result in any greater or lesser privacy impact than the terrace currently provides. The effect of this consent authorises the construction of a pergola-like structure over the rear terrace, rather than enclosing it to become a room.

D10.7 Front building line (excluding Newport Commercial Centre)

Description of Non-Compliance

Clause D10.7 of the P 21 DCP requires that structures are set back 6.5m from the front boundary line. The frontage of the proposed double garage has a nil setback to the boundary and therefore seeks to vary the control requirements by 100%.

Merit Consideration

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

- *Achieve the desired future character of the Locality.*
Comment: The development of this site to provide two compliant off-street car parking spaces is inherently going to require a variation to the front boundary setback requirement unless significant demolition works to the existing house were proposed. The encroachment into the front setback area is not unprecedented on sites with a sloping topography and, on balance, the development will enhance the kerb appeal of the house and the wider streetscape, whilst also removing two cars from sight.

The works preserve existing vegetation and will provide new additional plantings on the site. The works are deemed to achieve the desired future character of the locality.

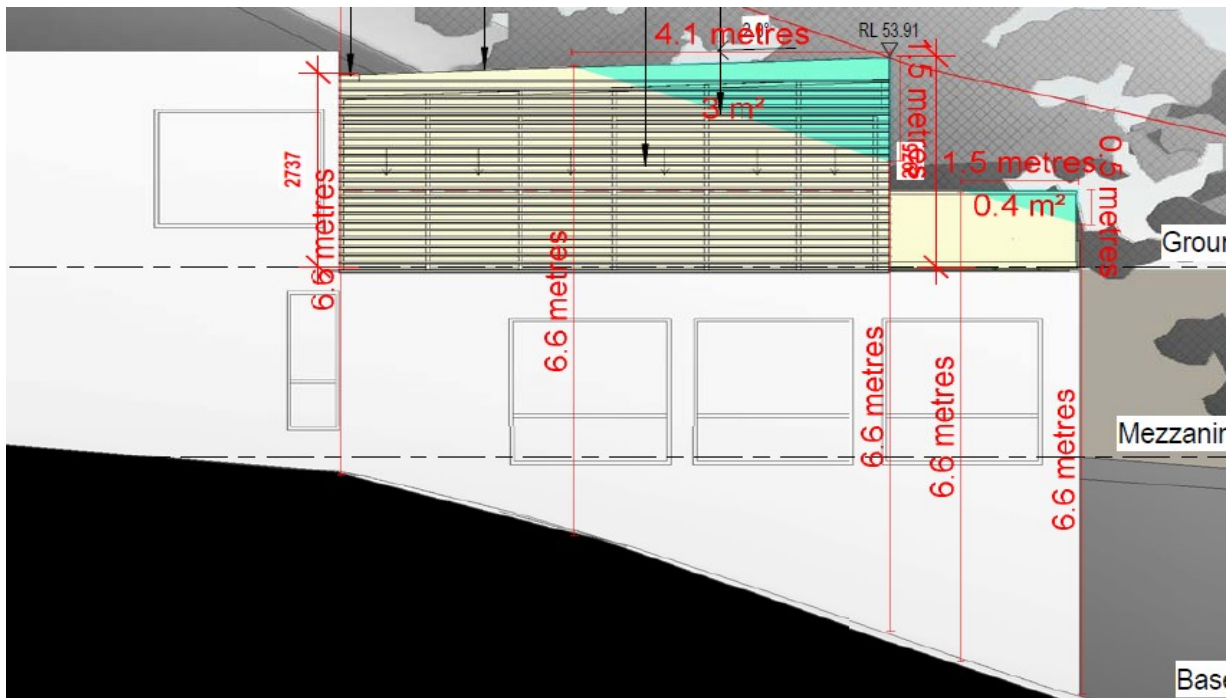
- *Equitable preservation of views and vistas to and/or from public/private places.*
Comment: The encroachment of the garage into the front setback area is not considered to result in any unreasonable view loss from surrounding private properties. The works will result in the partial loss of a small view corridor from the street down to Pittwater, however this view corridor would be lost by any development to the side of the house, regardless if it complied with the front setback controls or not. The impact is not considered to be significant and does not detract from the quality of the streetscape.
- *The amenity of residential development adjoining a main road is maintained.*
Comment: N/A Yachtview Avenue is not a main road.
- *Vegetation is retained and enhanced to visually reduce the built form.*
Comment: The development, as amended through revised plans, will maintain the existing street tree at the front of the site. The proposal includes new plantings (on private property, not the road reserve) which will contribute to lessening the bulk and scale of the house compared to existing.
- *Vehicle manoeuvring in a forward direction is facilitated.*
Comment: Forward manoeuvring is not achieved and is not practical to be achieved on this lot. Forward manoeuvring is not common on Yachtview Avenue and, given the cul-de-sac nature of the street, is not deemed to be necessary.
- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*
Comment: From the street the house shall maintain a single storey appearance which sits significantly lesser than the height of surrounding vegetation. To that extent the works enhance the existing streetscape and promote a scale and density in keeping with the height of the natural environment.
- *To encourage attractive street frontages and improve pedestrian amenity.*
Comment: The development seeks to resolve an existing awkward driveway and front pathway to the house and will present as a much more attractive development. The works will enhance the overall streetscape and thus enhance the pedestrian experience.
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment*
Comment: Whilst the proposed garage is elevated above the natural ground levels, such elevation is necessary to provide a flat parking platform.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P 21 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.

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of Non-Compliance

Clause D10.11 of the P 21 DCP prescribes a 3.5m building envelope to the flank edges of a development. In this case, the western elevation of the proposed alfresco room encroaches the prescribed envelope at a maximum height of 1.5m and for a length of 4.1m equating to a variation of approximately 42%. The extent of variation is roughly shown in blue on the below diagram:



Merit Consideration:

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

- To achieve the desired future character of the Locality.*
Comment: It is common for sites with a topography to have encroachments into the building envelope. The encroachment proposed does not materially change the proposal's ability to meet the desired future character of the Locality. **However**, for reasons explained elsewhere in this report, the proposed vertical enclosing elements of the alfresco area are to be deleted from the plans and as such, once these changes are made (prior to Construction Certificate) there will be no non-compliance with the building envelope control.
- 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 encroachment proposed is not visible from the streetscape.
- To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*
Comment: By virtue of non-compliance it cannot be said that the development relates to the spatial characteristics (topography) of the land. A compliant design would have a lesser impact on neighbours.
- The bulk and scale of the built form is minimised.*
Comment: The development as proposed is not of an unacceptable bulk, but is bulkier than a structure that were to comply with the building envelope control. On balance the bulk of the proposal in itself does not warrant the refusal of the application. The amendments required to be made to the plans will eliminate any bulk over and above the existing development.
- Equitable preservation of views and vistas to and/or from public/private places.*
Comment: This matter is discussed elsewhere in this report.

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

Comment: The encroachment into the side boundary envelope is not considered to directly contribute to any reduced privacy or loss of solar access to an extent that would warrant the refusal of the application.

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

Comment: No vegetation is sought for removal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P 21 DCP 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.

D10.13 Landscaped Area - Environmentally Sensitive Land

Description of Non-Compliance

Clause D10.13 of the P 21 DCP requires a landscaped to site ratio of 0.6:1 or 60%, thus being 565.9m² in this instance. The clause also permits up to 6% of non-permeable recreational areas (i.e. decks and the like) to be included in that 60% if the outcomes of the control are met.

The site has a landscaped area of 455m² and an additional 56.59m² of recreational area, thus resulting in an area of 511.59m² or 54.2% of the total site area.

Merit Consideration

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

- *Achieve the desired future character of the Locality.*

Comment: The shortfall in landscaped area comparative to the existing development occurs to the front of the site where the garage and front porch area sits. The garage is not of an excessive size and cannot be reasonably reduced to result in any significant increase to landscaping. The front porch contributes to a hard-landscaped setting and is sympathetic to the design of the house and the natural topography. The works overall achieve the desired future character.

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

Comment: The shortfall in landscaped area does not directly contribute to any unreasonable bulk and scale. The works preserve the existing street tree and provide new opportunities for landscaping at the front of the site.

- *A reasonable level of amenity and solar access is provided and maintained.*

Comment: The shortfall in landscaped area does not directly contribute to the loss of amenity or solar access enjoyed by occupants or neighbours.

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

Comment: The existing street tree is retained by the aforementioned revised plans received which shall enhance the streetscape and visually reduce the built form.

- *Conservation of natural vegetation and biodiversity.*

Comment: As above.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*
Comment: Stormwater management has been addressed by conditions of consent recommended by Council's Development Engineers.
- *To preserve and enhance the rural and bushland character of the area.*
Comment: The works proposed to add a garage and front porch to the front of the site do not materially alter the character of the area. The structures are not dissimilar to surrounding structures and, given the benefit of a wide road reserve, it is not evident to passersby that structures are built hard-up against the front boundary.
- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*
Comment: Stormwater management has been addressed by conditions of consent recommended by Council's Development Engineers.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P 21 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.

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 \$2,250 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$224,995.

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 DA2021/0395 for Alterations and additions to Dwelling House on land at Lot 5 DP 16260, 1 Yachtview Avenue, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A10 Rev. 6	26 July 2021	The Site Foreman
A11 Rev. 6	26 July 2021	The Site Foreman
A11A Rev. 1	17 June 2021	The Site Foreman
A12 Rev. 5	17 June 2021	The Site Foreman
A20 Rev. 5	17 June 2021	The Site Foreman
A21 Rev. 5	17 June 2021	The Site Foreman
A22 Rev. 4	26 February 2020	The Site Foreman
A23 Rev. 5	17 June 2021	The Site Foreman
A30 Rev. 6	26 July 2021	The Site Foreman
A31 Rev. 3	26 July 2021	The Site Foreman
A32 Rev. 6	26 July 2021	The Site Foreman
A50 Rev. 4	26 February 2021	The Site Foreman

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A408229	02 March 2021	The Site Foreman (NSW) Pty Ltd
Geotechnical Investigation Report (G20558-1)	16 December 2020	Geotechnical Consultants Australia Pty Ltd

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L/01 Rev. B	21 June 2021	Bluegum Design Services

Waste Management Plan		
Report Title	Dated	Prepared By
Waste Management Plan	Undated	The Site Foreman (NSW) Pty Ltd

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated

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

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

3. **Prescribed Conditions**

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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.

4. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$2,249.95 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 \$224,995.00.

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

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

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

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

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

6. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

The applicant is to lodge a bond of \$10,000 as security against any damage to Council's stormwater infrastructure, located in the footpath area under the proposed pedestrian stairs and driveway crossing, 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

8. 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 Policy in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Water Management 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.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Geotechnical Consultants Australia dated 16 December 2020 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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

10. 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.

11. Structures Located Adjacent to Council Stormwater Assets

All structures are to be located clear of any Council stormwater assets. The Applicant is to ensure footings of any new development within this development consent adjacent to a pipeline or other stormwater assets are to be designed in accordance with Northern Beaches Council's Water Management Policy.

Details and certification prepared by a suitably qualified Structural Engineer demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction

Certificate.

Reason: Protection of Council's Infrastructure.

12. Amendments to the approved plans

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

- All new proposed walls, windows, external blinds, louvres and enclosing vertical elements to the 'Alfresco Area' as shown on DWG A11A Rev. 1 are to be deleted from the approved plans. For clarity, this Consent approves only a roof and supporting columns over the 'Alfresco Area' accessible from the Ground Floor Living room.

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.

13. 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.

14. Vehicle Crossings Application

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. 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 facilitate suitable vehicular access to private property.

15. Minor Encroachments/Constructions within in Road Reserve

Applicant to submit and obtain Council consent for a Minor Encroachment/Construction in Road Reserve application for works in the road reserve (stairs and any landscaping) within the road reserve.

Reason: To ensure consent is obtained for works and structures in the public road reserve in

accordance with s138/139 Roads Act 1993.

16. **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.

17. **Compliance with Standards**

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

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

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

18. **External Finishes to Roof**

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

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

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

19. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. **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, for the existing *Cedrus deodara* street tree the subject of the Arboricultural Impact Assessment titled Construction Impact & Management Statement.

The Project Arborist is to supervise all demolition, excavation and construction works near existing *Cedrus deodara* to be retained, including construction methods 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 Updated Arboricultural Impact Assessment, including:

i) section 5. Discussion.

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: Street tree protection.

21. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

22. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages and the Cedrus deodara street tree fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum, the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

23. **Tree and Vegetation Protection**

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

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

b) Tree protection shall be undertaken as follows:

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

submitted by the Arborist to the Certifying Authority,
viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

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.

24. **Road Reserve**

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

Reason: Public safety.

25. **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 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.

26. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 4 metres wide at the kerb to 5 metres wide at the boundary in accordance with Northern Beaches Council Drawing No A4-3330/7 ML 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 kerb and 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.

27. **Waste Management During Development**

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

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

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

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

28. **Landscape Completion**

Landscaping is to be implemented in accordance with the following conditions:

- i) at least one (1) small native canopy tree capable of attaining at least 6 metres in height shall be installed within the deep soil area of the front setback, planted at a minimum 75 litre container size, and selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward
- ii) all tree planting shall be located a minimum of 3 metres from existing and proposed buildings, and other trees.

NOTE: the landscape works proposed within the road reserve verge are NOT APPROVED as part of this development application, and are subject for consideration under a Roads Act application for encroachment upon the road reserve by Council's Development Engineering section. Street tree planting may be permitted within the road verge however such planting shall not be located under the large existing Cedrus deodara tree required to be retained.

Prior to the issue of an Occupation Certificate, details 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.

Note: Please consider registering your new tree through the link below to be counted as part of the NSW State Governments 5 Million trees initiative

<https://5milliontrees.nsw.gov.au/>

29. **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 the Occupation Certificate.

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

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

No Priority or environmental weeds (as specified on the NSW WeedWise website) 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.

31. **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.

32. **Certification of Structures Located Adjacent to Council Stormwater Assets**

The Applicant shall submit a suitably qualified Structural Engineer's certification that the completed footing works adjacent to Council's stormwater assets, have been constructed in accordance with this consent, Northern Beaches Council's Water Management 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.

33. **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.

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

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets 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.

35. Removal of All Temporary Structures, Material and Construction Rubbish

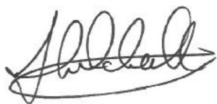
Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

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

Signed



Adam Mitchell, Principal Planner

The application is determined on 06/08/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments