

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0246
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<b>Responsible Officer:</b>	Olivia Ramage
<b>Land to be developed (Address):</b>	Lot 1 DP 818730, 18 Hillcrest Avenue MONA VALE NSW 2103
<b>Proposed Development:</b>	Construction of a secondary dwelling
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Jennifer Lee Robins
<b>Applicant:</b>	Jennifer Lee Robins

<b>Application Lodged:</b>	14/03/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New second occupancy
<b>Notified:</b>	17/07/2023 to 31/07/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	5
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 583,000.00
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### EXECUTIVE SUMMARY

This development application seeks consent for construction of a secondary dwelling.

The application is referred to the Development Determination Panel (DDP) due to the application receiving five objections.

Concerns raised in the objections predominantly relate to view loss, character, scenic protection, privacy, access and parking, zone objectives and landslip safety.

The assessment of the proposed development has found that the development fails to meet the Objectives of the C4 Environmental Living Zone of the Pittwater Local Environmental Plan 2014, and

is inconsistent with the requirements of A4.9 Mona Vale Locality of the Pittwater 21 Development Control Plan, C1.3 View Sharing of the Pittwater 21 Development Control Plan, C1.5 Visual Privacy of the Pittwater 21 Development Control Plan, and D9.2 Scenic Protection - General of the Pittwater 21 Development Control Plan. In summary, the proposed development is not considered to be appropriately designed and sited as it results unacceptable visual and amenity impacts to adjoining properties.

This report concludes with a recommendation that the DDP refuse the development application for the reasons outlined at the end of this report.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development consists of the construction of a detached secondary dwelling. The secondary dwelling includes a bedroom with ensuite, living room, kitchen and dining area. External decks adjoin the dwelling to the north-west, north and east.

### **Application History**

Additional information was requested in relation to Foreshore Area, View Sharing, Visual Privacy and Floor Space. The applicant provided amended plans and height poles were requested to be erected. The application was then re-notified from 17/07/2023 to 31/07/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

## **ASSESSMENT INTRODUCTION**

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

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

## **SUMMARY OF ASSESSMENT ISSUES**

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living  
Pittwater Local Environmental Plan 2014 - 7.5 Coastal risk planning  
Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality  
Pittwater 21 Development Control Plan - B3.4 Coastline (Bluff) Hazard

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
Pittwater 21 Development Control Plan - C1.3 View Sharing  
Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
Pittwater 21 Development Control Plan - D9.2 Scenic protection - General

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 818730 , 18 Hillcrest Avenue MONA VALE NSW 2103
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the north-eastern side of Hillcrest Avenue.</p> <p>The site is irregular in shape with a frontage of 7.035 metres along Hillcrest Avenue. The site has a surveyed area of 3495m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living Zone under the PLEP 2014. The site is currently occupied by a single storey dwelling house.</p> <p>The site slopes down gradually to the north and falls steeply to the east down the cliff edge to the beach.</p> <p>The site consists of a grassed area and does not contain any significant trees or vegetation.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by residential dwellings of varying sizes and styles.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters are capable of being addressed via a condition of consent, in the event that the development is approved.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Foreshore Area, View Sharing, Visual Privacy and Floor Space.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter is capable of being addressed via a condition of consent, in the event that the development is approved.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home</p>



Section 4.15 Matters for Consideration	Comments
	Building Act 1989. This matter is capable of being addressed via a condition of consent, in the event that the development is approved.  <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter is capable of being addressed via a condition of consent, in the event that the development is approved.
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	(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.  (ii) <b>Social Impact</b> The proposed development will have a detrimental social impact in the locality considering the character of the proposal.  (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.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is not 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	Approval of the application is not considered to be within the public's 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 17/07/2023 to 31/07/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Mrs Robyn Annette Terrell	6 Park Avenue BEECROFT NSW 2119

Name	Address
Mr Angelo Auricchio	16 Hillcrest Avenue MONA VALE NSW 2103
Mrs Margaret Jennifer Scott	14 Hillcrest Avenue MONA VALE NSW 2103
Mr Geoffrey Ian Webster	12 Hillcrest Avenue MONA VALE NSW 2103

The subject development application was first notified from 20/03/2023 to 3/04/2023. A submission was received from Robyn Terrell at No. 10 Hillcrest Avenue and a submission from iObject on behalf of No. 12, 14 and 16 Hillcrest Avenue and 154 Barrenjoey Road.

The subject development application was then re-notified from 17/07/2023 to 31/07/2023. A submission was received from Margaret Scott at No. 14 Hillcrest Avenue, Angelo Auricchio at No. 16 Hillcrest Avenue and iObject on behalf of Geoffrey Webster at No. 12 Hillcrest Avenue.

The following issues were raised in the submissions:

- Local Character and Scenic Protection
- View Loss
- Privacy
- Landslip, Safety and Cliff Track
- Foreshore Building Line
- Access and Parking
- Zoning and Secondary Dwelling Controls
- Loss of Habitat

The above issues are addressed as follows:

- **Local Character and Scenic Protection**

The submissions note that Clause D9.2 Scenic Protection seeks the following "Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment." The submissions raised concerns that the proposed secondary dwelling will alter the natural vista presented by North Mona Vale Headland and will visually dominate the natural features of the landscape when viewed from Bungan Beach. Bungan Headland and Mona Vale Headland is typified by development with generous rear setbacks to the cliff edge providing a green corridor for scenic protection. The submissions raised concerns that the siting of the proposed secondary dwelling is inconsistent with the pattern of surrounding development.

Comment:

This matter is further discussed in this report under A4.9 and D9.2. The assessment found the proposal to be contrary to the controls and warrants refusal.

- **View Loss**

The submissions raised concerns that the proposal disrupts significant views from No. 12, 14

and 16 Hillcrest Avenue and does not allow for view sharing.

Comment:

A detailed assessment on view loss has been provided under C1.3 View Sharing of this report. The proposal was found to be inconsistent with the requirements and outcomes of this clause, forming a reason for refusal.

- **Privacy**

The submissions raised concerns that the siting and layout of the rear elevated entertainment space results in acoustic privacy impacts for the surrounding properties. The submissions raised concerns that the secondary dwelling could be used as an Airbnb and party house generating significant acoustic impacts. Additionally, concerns are raised regarding the removal of the timber slatting to the western edge of the deck in the south-western corner which creates additional privacy impacts to No. 12.

Comment:

The proposal provides extensive decked areas which are not compatible with the low scale nature anticipated for a secondary dwelling. A detailed assessment is provided under C1.5 Visual Privacy finding the proposal to be unsupported, forming a reason for refusal.

- **Landslip, Safety and Cliff Track**

The submissions raised concerns that the site is identified as a geotechnical hazard area and coastal risk area and the development presents landslide and coastal erosion risk. Concerns are also raised regarding an illegal cliff track from the subject site down to Bungan Beach which poses a safety risk.

Comment:

The proposal has been reviewed by Council's Coast and Catchments Team and Development Engineering Team with regards to coastal risk and geotechnical risk. The application is supported by a Geotechnical Assessment Report and a Coastal Engineering Report. As per the referral comments, the proposal is supported in relation to coastal and landslip risk subject to the recommended conditions. In relation to the cliff track to Bungan Beach, this is not a matter for assessment under this development application.

- **Foreshore Building Line**

The submissions raised concerns that the proposal varies Clause 7.8 and encroaches over the foreshore building line and the Clause 4.6 variation request is insufficient.

Comment:

The proposal has been amended to comply with Clause 7.8 and the development is outside the foreshore area.

- **Access and Parking**

The submissions raised concerns that the proposal does not provide additional parking or a driveway for the proposed secondary dwelling. Hillcrest Avenue currently experiences high

parking demand due to the Bicentennial Coastal Walkway attracting tourists and adding parking pressures.

Comment:

A detailed assessment on parking is provided under B6.3 Off-street Vehicle Parking Requirements of this report. In summary, the Housing SEPP does not require additional parking spaces to be provided for a secondary dwelling provided the existing number of parking spaces is retained. As the SEPP prevails over the P21 DCP, compliance with this control is not required. This matter does not warrant refusal.

- **Zoning and Secondary Dwelling Controls**

The submissions raised concerns that the proposed secondary dwelling, while permissible in the zone, does not meet the C4 zone objectives. Specifically, the proposal does not enhance foreshore vegetation, does not consider the aesthetic values of the area, does not integrate with the landform and landscape and is not low-scale. Additionally, the proposal does not meet DCP control C1.11 which requires secondary dwellings to be only one storey. Concerns are raised that the overall visual bulk and scale of the development is inconsistent with surrounding development.

Comment:

A detailed assessment is provided against the C4 zone objectives in this report. This assessment found the proposal to be inconsistent with the zone objectives, forming a reason for refusal. Whilst the design of the secondary dwelling is slightly stepped, it provides only a ground floor level and one storey in total. As such, the proposal complies with C1.11.

- **Loss of Habitat**

The submissions raised concerns that the proposal results in a loss of habitat and passageway for native animals and disrupts the green corridor viewed from Bungan Beach.

Comment:

The proposed secondary dwelling is located upon cleared land and existing trees are to be retained. Council's Landscape Officer has provided conditions to ensure appropriate tree and vegetation protection, if the application were to be approved.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<b><i>Supported, with conditions</i></b>  The proposed secondary dwelling is located upon cleared land. The site is exposed to the coastal environment and in terms of landscape outcome, a Landscape Plan is submitted providing planting to common residential boundaries and conditions shall be imposed to ensure the planting is nominated as shrub planting able to reach no more than 3 metres in height to both the south and west boundaries

Internal Referral Body	Comments
	to preserve existing neighbouring views. Existing trees within the property are noted as retained and standard consent conditions shall be imposed for protection.
NECC (Coast and Catchments)	<p data-bbox="526 430 906 463"><b><i>Supported, with conditions</i></b></p> <p data-bbox="526 497 1425 667">The application has been assessed in consideration of the plans and documents submitted, the Coastal Management Act 2016, State Environmental Planning Policy (Resilience &amp; Hazards) 2021 and has also been assessed against the requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p data-bbox="526 707 951 741"><b>Coastal Management Act 2016</b></p> <p data-bbox="526 743 1417 913">The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is generally consistent with the objects, as set out under Part 1 Section 3 of the Coastal Management Act 2016.</p> <p data-bbox="526 954 1366 1021"><b>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</b></p> <p data-bbox="526 1023 1417 1160">The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 (SEPP R &amp; H). Hence, Divisions 3, 4 and 5 of the SEPP R &amp; H apply for this DA.</p> <p data-bbox="526 1162 1425 1406">On internal assessment and as assessed in the submitted Coastal Engineering Advice report prepared by Horton Coastal Engineering Pty Ltd, dated 23 February 2023, the DA satisfies requirements under Divisions 3, 4 and 5 of the SEPP R&amp;H. As such, it is considered that the application does comply with the provisions of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021 subject to conditions.</p> <p data-bbox="526 1447 1094 1480"><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p data-bbox="526 1482 1002 1516">Coastline Bluff Hazard Management</p> <p data-bbox="526 1518 1417 1722">The subject site is also shown to be affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014. As such, the Geotechnical Risk Management Policy for Pittwater (Appendix 5, Pittwater 21 DCP) and the relevant B3.4 Coastline (Bluff) Hazard controls in P21 DCP will apply to new development of the site.</p> <p data-bbox="526 1724 1417 1928">A Geotechnical Assessment Report by Crozier Geotechnical Consultants dated February 2023 assessing coastline (bluff)/coastal cliff or slope instability has been submitted with the DA. A coastal engineering report prepared by Horton Coastal Engineering Pty Ltd, dated 23 February 2023 has been submitted with the Geotechnical Report.</p> <p data-bbox="526 1930 1417 2110">The Coastal Engineering Report determined that coastal inundation is not a significant risk to the proposed development over a planning period of well over 100 years. Further an allowance for erosion/weathering of 6mm/year of the cliff at 18 Hillcrest Avenue Mona Vale, with sensitivity testing up to 12mm/year, should be</p>

Internal Referral Body	Comments
	<p>considered and assessed by the geotechnical engineer. The Geotechnical report concluded that the landslip risk was assessed as Acceptable when assessed against the criteria of the AGS 2007. As such, it is considered that the application does comply, subject to conditions, with the requirements of the coastal relevant geotechnical clauses of the Pittwater LEP 2014 and Pittwater 21 DCP, as well as those contained in SEPP R&amp;H.</p> <p>Development on Foreshore Area A section of the subject property is seaward of the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. Assessment of this control will be undertaken by the planning officer.</p> <p>No other coastal planning or development controls relevant to the subject proposal were identified.</p>
NECC (Development Engineering)	<p><b><i>Supported, with conditions</i></b></p> <p>The proposed development is mapped as a geotechnical hazard H1. A geotechnical engineers and coastal engineers report has been provided. The site falls away from the street frontage to the rear. It is proposed to drain the secondary dwelling to the rear using a dispersion trench. This is acceptable.</p>
NECC (Water Management)	<p><b><i>Supported with conditions</i></b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WM Policy); and</li> <li>• Relevant LEP and DCP clauses</li> </ul> <p>The geotechnical report provided states that, due to the presence of impermeable bedrock/clay soils, the property is not suitable for onsite absorption disposal system. The site may be suitable for a dispersion system utilising an Onsite Detention System (OSD) and a level spreader designed by a suitably qualified Hydraulic Engineer. The applicant must ensure that the stormwater system meets the requirements of the geotechnical report for site slope stability. On assessment, the proposal is considered acceptable regarding water quality management.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b><i>Supported, without conditions</i></b></p> <p>The proposal was referred to Ausgrid who provided a response stating that there are no Ausgrid assets present near the proposed development and their decision is not required.</p>

External Referral Body	Comments
Aboriginal Heritage Office	<p><b><i>Supported, with conditions</i></b></p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

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

A BASIX certificate has been submitted with the application (see Certificate No. 1364242S dated 19 January 2023).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	45
Thermal Comfort	Pass	Pass
Energy	50	60



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

## SEPP (Housing) 2021

### Part 1 – Secondary Dwellings

<b>Clause 52 – Development may be carried out with consent</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
<p>(2) Development consent must not be granted for development to which this Part applies unless—</p> <p>a) No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and</p> <p>b) The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and</p> <p>c) The total floor area of the secondary dwelling is:</p> <ul style="list-style-type: none"> <li>i) no more than 60m<sup>2</sup>, or</li> <li>ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument - the greater floor area.</li> </ul>	<p>The total floor area of the secondary dwelling is 59.9m<sup>2</sup>.</p>

<b>Clause 53 – Non-discretionary development standards—the Act, s 4.15</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
a) For a detached secondary dwelling - a minimum site area of 450m <sup>2</sup> .	The site area is 3495m <sup>2</sup> .
b) The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	The number of parking spaces provided on the site is the same as the number of parking spaces provided on the existing site.

## SEPP (Transport and Infrastructure) 2021

### Ausgrid

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

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

Comment:

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

## **SEPP (Resilience and Hazards) 2021**

### **Chapter 2 – Coastal Management**

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

#### **Division 3 Coastal environment area**

##### **2.10 Development on land within the coastal environment area**

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - b) coastal environmental values and natural coastal processes,
  - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - f) Aboriginal cultural heritage, practices and places,
  - g) the use of the surf zone.

Comment:

The proposal has been reviewed by Council's Coast and Catchments Team deeming it acceptable subject to conditions. The Aboriginal Heritage Officer has also reviewed the proposal deeming it acceptable subject to conditions, in the event that the development is approved. As such, the proposed development is not likely to cause adverse impacts on the biophysical, hydrological and ecological environment, coastal environmental values and natural coastal processes, water quality, vegetation and habitats, public open space and foreshore access, Aboriginal cultural heritage, or the

use of the surf zone.

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

Comment:

The proposed development is sited on the southern headland of Bungan Beach which consists of other residential development. As such, the proposed development is designed and sited to avoid adverse impacts on the above matters.

**Division 4 Coastal use area**

**2.11 Development on land within the coastal use area**

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

Comment:

As above, the proposed development is sited on the southern headland of Bungan Beach adjoining existing residential development. The proposed development is not likely to cause adverse impacts on foreshore access, overshadowing, wind funnelling, view loss from public places, visual amenity, scenic qualities and Aboriginal Cultural Heritage. The proposal consists of a secondary dwelling that is minor in size and scale and is compatible with surrounding development.

**Division 5 General**

**2.12 Development in coastal zone generally—development not to increase risk of coastal**

## hazards

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

### Comment:

The proposed development is not likely to cause increased risk of coastal hazards.

## 2.13 Development in coastal zone generally—coastal management programs to be considered

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

### Comment:

The proposal has been reviewed against all relevant legislation and policies.

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

## Chapter 4 – Remediation of Land

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

## Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	No

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	5.5m	5.5m	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.5 Coastal risk planning	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

#### Detailed Assessment

#### **Zone C4 Environmental Living**

##### The underlying objectives of the C4 Environmental Living zone

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

##### Comment:

The proposal provides a secondary dwelling located on the edge of Mona Vale Headland in an area with special ecological, scientific and aesthetic values. The siting and design of the development is not considered to be low-impact and will have an adverse impact on the aesthetic values on the Mona Vale Headland to which it is proposed to be located.

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

##### Comment:

The proposal is incompatible with surrounding development which consists of low-impact headland development. Surrounding development consists of buildings with adequate spatial separation from the cliff edge providing foreshore vegetation. The proposed development disrupts visual continuity and the aesthetic values of Mona Vale Headland.

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

##### Comment:

The size of the proposed secondary dwelling is excessive for the site with the extent of decking contributing to the unsympathetic scale of the development. The proposal requires significant excavation near the cliff edge and is not appropriately integrated with the landform and landscape.

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

Comment:

The proposed development does not facilitate the establishment of riparian and foreshore vegetation and wildlife corridors.

## **7.5 Coastal risk planning**

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

*(a) is not likely to cause detrimental increases in coastal risks to other development or properties, and*

Comment: The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions that could be applied in the event that the development is approved. It is considered that the development is not likely to cause detrimental increases in coastal risks to other development or properties.

*(b) is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and*

Comment: The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions that could be applied in the event that the development is approved. It is considered that the development is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment.

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

Comment: The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions that could be applied in the event that the development is approved. It is considered that the development incorporates appropriate measures to manage risk to life from coastal risks.

*(d) is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and*

Comment: The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions that could be applied in the event that the development is approved. Therefore, it is considered that the development is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards.

*(e) provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and*

Comment: The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions that could be applied in the event that the development is approved. It is considered that the development provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards.

(f) has regard to the impacts of sea level rise, and

Comment: The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions that could be applied in the event that the development is approved. It is considered that the development has regard to the impacts of sea level rise.

(g) will have an acceptable level of risk to both property and life, in relation to all identifiable coastline hazards.

Comment: The development has been assessed by Council's Coastal Engineers. The Engineers have raised no objections to approval, subject to conditions that could be applied in the event that the development is approved. It is considered that the development will have an acceptable level of risk to both property and life, in relation to all identifiable coastline hazards.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	50.8m	N/A	Yes
Rear building line	FBL	Above	N/A	Yes
Side building line	SW - 2.5m	3.0m	N/A	Yes
	NW - 1m	2.5m	N/A	Yes
Building envelope	SW - 3.5m	Within Envelope	N/A	Yes
	NW - 3.5m	Within Envelope	N/A	Yes
Landscaped area	60%	89.6% (3104.6m <sup>2</sup> )	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	No	No
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.4 Coastline (Bluff) Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
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	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	No	No
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	No
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	No	No
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	Yes	Yes
D9.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D9.12 Fences - General	Yes	Yes

#### Detailed Assessment

#### **A4.9 Mona Vale Locality**

The desired character of the Mona Vale Locality includes the following:

*Existing residential areas will remain primarily low-density with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations.*

#### Comment:

The proposed secondary dwelling is sited on the edge of Mona Vale Headland within a coastal risk area and geotechnical hazard area. This is an environmentally sensitive area of special ecological and aesthetic value and is not considered an appropriate location for a secondary dwelling, due to the built form dominance over the landscape. The proposal requires significant excavation near the cliff edge and is not appropriately integrated with the landform and landscape. The proposed secondary dwelling is located quite a distance from the primary dwelling and is not considered to provide compact housing.

The proposed secondary dwelling does not align with the character and low scale nature anticipated by the applicable controls. Clause 5.4(9) of the PLEP 2014 requires the total floor area of the secondary dwelling to not exceed 60m<sup>2</sup> or 25% of the total floor area of the principal dwelling. The total floor area of the secondary dwelling is 59.9m<sup>2</sup> which complies with this clause. However, the proposal also includes an additional 68.7m<sup>2</sup> of decking surrounding the secondary dwelling, which exacerbates its bulk. This adds significant scope, bulk and scale to the secondary dwelling which is inconsistent with the character and nature anticipated for secondary dwellings.

### **B3.4 Coastline (Bluff) Hazard**

The subject site is affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014. As such, the Geotechnical Risk Management Policy for Pittwater (Appendix 5, Pittwater 21 DCP) and the relevant B3.4 Coastline (Bluff) Hazard controls in P21 DCP will apply to new development of the site.

A Geotechnical Assessment Report by Crozier Geotechnical Consultants dated February 2023 assessing coastline (bluff)/coastal cliff or slope instability has been submitted with the application along with a Coastal Engineering Report prepared by Horton Coastal Engineering Pty Ltd, dated 23 February 2023.

The Coastal Engineering Report determined that coastal inundation is not a significant risk to the proposed development over a planning period of well over 100 years. Further an allowance for erosion/weathering of 6mm/year of the cliff at 18 Hillcrest Avenue Mona Vale, with sensitivity testing up to 12mm/year, should be considered and assessed by the geotechnical engineer. The Geotechnical report concluded that the landslip risk was assessed as Acceptable when assessed against the criteria of the AGS 2007.

Council's Coast and Catchments Team have reviewed the proposal and it is considered that the application does comply, subject to conditions to be included as part of any approval for the development, with the requirements of the coastal relevant geotechnical clauses of the Pittwater 21 DCP.

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

This control requires two (2) off-street parking spaces for a dwelling house, and an additional one (1) space for a secondary dwelling.

The subject site currently provides off-street parking for two (2) vehicles within the existing garages. The existing driveway also provides space for one (1) vehicle in an informal arrangement.

The proposed development does not seek additional on-site parking spaces.

Chapter 3, Part 1, Clause 53(b) of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) stipulates the following:

*The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.*

While the proposal is technically numerically non-compliant with the requirements of this control, the Housing SEPP prevails over the Pittwater 21 Development Control Plan. In this instance, consideration of this control for this assessment is not required.

### C1.3 View Sharing

#### 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:

No. 12 Hillcrest Avenue

This property enjoys whole water views to the north of Bungan Beach including the land and water interface and extends to Bungan Headland. Whole water views are also available to the east of the Pacific Ocean. The views are obtained from the upper ground floor kitchen and dining area, lower ground floor living area, first floor bedrooms and balcony, studio/home office and eastern side decks all from both sitting and standing positions.



*Figure 1 - View from 12 Hillcrest Ave Living Room*





*Figure 2 - View from 12 Hillcrest Ave Kitchen and Dining Area*



*Figure 3 - View from 12 Hillcrest Ave First Floor Bedroom*





*Figure 4 - View from 12 Hillcrest Ave First Floor Balcony*



*Figure 5 - View from 12 Hillcrest Ave Studio/Home Office*



*Figure 6 - View from 12 Hillcrest Ave Eastern Side Deck*

**No. 14 Hillcrest Avenue**

This property enjoys predominantly whole water views to the north of Bungan Beach including the land and water interface and extends to Bungan Headland. The views are partly obstructed by the dwelling to the north at No. 12 and medium high vegetation. Water views are also available to the east of the Pacific Ocean which are partly obstructed by vegetation and fencing. The views are obtained from the ground floor kitchen, living and dining area, rear deck and yard, first floor bedroom, study and deck and stairwell.





*Figure 7 - View from 14 Hillcrest Ave Kitchen, Living and Dining Area*



*Figure 8 - View from 14 Hillcrest Ave Rear Deck*





*Figure 9 - View from 14 Hillcrest Ave Rear Yard*



*Figure 10 - View from 14 Hillcrest Ave First Floor Bedroom*





*Figure 11 - View from 14 Hillcrest Ave First Floor Study*



*Figure 12 - View from 14 Hillcrest Ave First Floor Deck*

No. 16 Hillcrest Avenue

This property enjoys whole water views to the north of Bungan Beach including the land and

water interface and extend to Bungan Headland. Water views are also available to the east of the Pacific Ocean which are partly obstructed by vegetation and fencing. The views are obtained from the ground floor kitchen, living and dining area, rear patio, swimming pool and yard, first floor kitchen, living area and balcony.



*Figure 13 - View from 16 Hillcrest Ave Ground Floor Kitchen*





*Figure 14 - View from 16 Ave Ground Floor Living Area and Swimming Pool*



*Figure 15 - View from 16 Hillcrest Ave Rear Patio*





*Figure 16 - View from 16 Hillcrest Ave Rear Yard*



*Figure 17 - View from 16 Hillcrest Ave First Floor Kitchen*





Figure 18 - View from 16 Hillcrest Ave First Floor Living Area



Figure 19 - View from 16 Hillcrest Ave First Floor Balcony

## 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 water views to the north of Bungan Beach from No. 12, 14 and 16 are obtained over the rear boundaries from both sitting and standing positions as per above. The water views to the east are obtained across the side boundaries from both sitting and standing positions as per 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”.*

#### Comment to Principle 3:

##### **No. 12 Hillcrest Avenue**

The views to the north of the land and water interface of Bungan Beach and Bungan Headland from the dwelling and external decks will remain largely unaffected by the proposed development. However, the views to the east of the Pacific Ocean will be largely obstructed by the proposed development from all locations where views are currently available. In particular the views from the ground floor living area, eastern side decks and studio/home office will be most affected. Given the high use nature of these rooms and high value of the view, the view loss is considered moderate to severe.

##### **No. 14 Hillcrest Avenue**

The water views to the north of Bungan Beach from the ground floor, first floor and rear yard will be partly obstructed by the proposed development. The view of the land and water interface and Bungan Headland will be largely retained along with the ocean views to the east which will be unaffected. The affected views are obtained from high use areas including the kitchen and living room along with private open space areas and the view loss is considered minor to moderate.

##### **No. 16 Hillcrest Avenue**

The water views to the north of Bungan Beach and Bungan Headland will be largely retained from the ground floor kitchen, living area, rear patio and swimming pool. As one moves further north in the rear yard towards the rear boundary, the view loss becomes more severe obstructing the land and water interface of Bungan Beach. A portion of the land and water interface views from the first floor balcony will be obstructed but the northern portion of Bungan Beach and Bungan Headland view will be retained. Additionally, the view to the east of the Pacific Ocean will remain unaffected. Given the high use nature of the affected areas, the view loss is considered 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:

Whilst the proposed development is numerically compliant with the built form controls, the nature and extent of the development renders it incompatible with the character of the area. The floor area of the secondary dwelling and roofed deck areas provide a development with quite a large footprint in an area of high ecological and aesthetic significance. This assessment has found the proposal to be inconsistent with the controls and outcomes prescribed for the Mona Vale Locality and Scenic Protection areas. It is considered that a more skilful design including a reduction in the building footprint, would provide the same development potential and reduce the impact on views. As such, the proposal and resultant view loss is considered unreasonable.

- *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 proposed secondary dwelling is located on the edge of Mona Vale Headland and will be highly visible from Bungan Beach. As such, the proposal does not appropriately protect, maintain or enhance views and vistas of the headland.

- *Canopy trees take priority over views.*

#### Comment:

The proposal does not impact on any canopy trees.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 not supported, in this particular circumstance.

### **C1.5 Visual Privacy**

This control requires private open space area including swimming pools and living rooms of any proposed and any existing adjoining dwellings to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation.

#### Comment:

Concerns were raised regarding the proposed northern deck given its elevated nature and close proximity to No. 12. Amended plans were subsequently provided reducing the extent of the deck and a privacy screen is included to the north-western edge.

However, the amended plans also involved the deletion of the privacy screen to the north-western edge of the deck in the south-western corner which is setback 2.5m from the side boundary. This creates potential opportunities for overlooking within 9 metres of the dwelling and private open spaces areas at No. 12. The proposal provides a total of approximately 68.7m<sup>2</sup> of decking surrounding the secondary dwelling which is considered excessive for the nature and scope of the development. Given the extent of decking along the northern and western edge of the secondary dwelling, the south-western deck is not necessary and results in unreasonable privacy impacts.

## **D9.2 Scenic protection - General**

This control stipulates that development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve. The following outcomes are to be achieved:

- *Achieve the desired future character of the Locality.*
- *Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment.*

### Comment

The proposed secondary dwelling is located on the edge of Mona Vale Headland and will be highly visible from Bungan Beach. The siting and scope of the development does not allow for the visual impact to be minimised when viewed from the waterway and public reserve. The proposed development becomes the dominant feature when viewed from Bungan Beach and surrounding properties. The proposal does not allow for bushland landscape to be the predominant feature of the headland and the development is a visually dominating building contrary to the DCP control.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

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

A monetary contribution of \$5,830 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$583,000.

## **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 2021;
- All relevant and draft Environmental Planning Instruments;

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

## **PLANNING CONCLUSION**

This proposal, for construction of a secondary dwelling has been referred to the Development Determination Panel (DDP) due to receiving five objections.

The concerns raised in the objections have been addressed within this assessment report. The applicant provided amended plans during the assessment period, however the objections remain unresolved.

The assessment of the proposed development has found that the development fails to meet the Objectives of the C4 Environmental Living Zone of the Pittwater Local Environmental Plan 2014, A4.9 Mona Vale Locality of the Pittwater 21 Development Control Plan, C1.3 View Sharing of the Pittwater 21 Development Control Plan, C1.5 Visual Privacy of the Pittwater 21 Development Control Plan, and D9.2 Scenic Protection - General of the Pittwater 21 Development Control Plan. In summary, the proposed development is not considered to be appropriately designed and sited resulting in unacceptable visual and amenity impacts.

This report concludes with a recommendation that the DDP refuse the development application for the reasons outlined at the end of this report.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## **RECOMMENDATION**

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2023/0246 for the Construction of a secondary dwelling on land at Lot 1 DP 818730, 18 Hillcrest Avenue, MONA VALE, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979.

Particulars:

- i) Given the adverse visual impact upon adjoining properties and the public domain, the site is not considered to be suitable for the proposed development.

- 2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the objectives of Clause Zone C4 Environmental Living of the Pittwater Local Environmental Plan 2014.

Particulars:

- i) The proposed development disrupts visual continuity and the aesthetic values of the area. It does not provide for low impact residential development in an area of special aesthetic value.
- ii) The proposed development if not appropriately integrated with the landform and landscape as it dominates and augments the existing landform.

- 3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause A4.9 Mona Vale Locality of the Pittwater 21 Development Control Plan.

Particulars:

- i) The proposed secondary dwelling is sited in an environmentally sensitive area and is not considered to be an appropriate location, as it is inconsistent with the prevailing low density character of the surrounding locality.

- 4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.3 View Sharing of the Pittwater 21 Development Control Plan.

Particulars:

- i) The proposed development results in moderate to severe view loss impacts to adjoining properties and does not maintain a reasonable sharing of views.
- ii) A more skilful design would provide the same development potential and reduce the impact on views.

- 5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.5 Visual Privacy of the

Pittwater 21 Development Control Plan.

Particulars:

- i) The proposed south-western deck is located in close proximity to the adjoining dwelling and generates unreasonable privacy impacts.

6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9.2 Scenic protection - General of the Pittwater 21 Development Control Plan.

Particulars:

- i) The proposed secondary dwelling is of significant visual impact and does not allow the natural Mona Vale Headland to be the predominant feature when viewed from the waterway and surrounding properties. Rather, it dominates the natural landscape with unsympathetic built form.