

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1783
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 4 DP 567442, 23 Baroona Road CHURCH POINT NSW 2105
Proposed Development:	Alterations and additions to a Dwelling House
Zoning:	R5 Large Lot Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Ganna Konareva Andriy Konarev
Applicant:	Andriy Konarev

Application Lodged:	07/10/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/10/2021 to 02/11/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 29.4%
Recommendation:	Approval

Estimated Cost of Works:	\$ 990,000.00
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EXECUTIVE SUMMARY

The subject development application is for alterations and additions to an existing dwelling.

The application includes a request under Clause 4.6 of the Pittwater LEP 2014 to vary the development standard for height. As the application proposes a variation to the height development standard of more than 10% and involves a Class 1 Dwelling, the application is referred to Northern Beaches Development Determination Panel.

The maximum height of the proposed development has been measured at 11.0m which represents a variation of 29.4% to the prescribed 8.5m building height limit.

Due to the steep slope of the site and the siting and form of the existing building, the non-compliant height element would not substantially alter the character or appearance of the existing dwelling. When assessed on its merits, it is concluded that the bulk and scale of the proposal will be commensurate with the existing built form of the site and surrounding built environment and that the height breach will not result in unreasonable amenity impacts to adjoining neighbours.

No submissions were received in response to neighbour notification.

During the assessment, Council's Environmental Health Officer has raised concern that the existing wastewater management system located on site was not appropriately accredited. As such, a Deferred Commencement condition is recommended, whereby the proposed works would be only able to start once accreditation of the wastewater management system has been approved by Council.

On the balance, although the proposed development is non-compliant with a number of planning controls, it is considered that many of these are a consequence of the context of the site and the existing built form. Overall, it is considered that the proposed alterations and additions represent a relatively modest increase to the existing built form. The proposed works do not include significant site disturbance or environmental impact to facilitate additional floor area as the proposed additions are largely sited upon the existing building footprint.

Subject to the recommended conditions of consent, it is considered that the proposal would result in a development that displays reasonable scale and density compatible with the surrounding development and would not result in unreasonable amenity impacts to surrounding properties.

Accordingly, the application is referred to the DDP with a recommendation for approval.

PROPOSED DEVELOPMENT IN DETAIL

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

Demolition

- Partial demolition of the existing dwelling, internal walls, carport, decking, cabana and spa.

Lower Ground Floor

- Demolition works.
- New Pool terrace/balcony and new external steps & landings.
- New lift access.
- New sitting/change area.
- New shower room and WC.
- Addition to rumpus room.

Ground Floor

- Demolition works.
- Balcony & Terrace and new external Steps down to Lower Ground Floor Landing.
- Alterations & Additions to form new - Double Garage; Entry Foyer; Dining; Family & Kitchen with Pantry; a Library; Store; Lift; internal Staircase; Powder room. Laundry; Guest Bedroom and a Hallway.

First Floor

- Demolition works.
- Alterations & Addition forming a Master Suite with Ensuite and Walk in Robe, a new Sitting room & Void over the Ground Floor Dining room; Living room & Lift. internal Staircase; a Games room; two Bedrooms each with Ensuite and Built in Robe; a new Balcony off the Bedrooms and a new Balcony off the Master Bedroom suite.

External Works

- Removal of carport roof and beams to make open hardstand parking area.
- Driveway extension.
- New retaining walls.
- New "secondary dwelling parking area".

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 - 1.9A Suspension of covenants, agreements and instruments

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 5.21 Flood planning

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - A4.2 Bayview Heights Locality

Pittwater 21 Development Control Plan - B4.3 Flora and Fauna Habitat Enhancement Category 2 Land

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.13 Pollution Control
Pittwater 21 Development Control Plan - D2.5 Front building line
Pittwater 21 Development Control Plan - D2.6 Side and rear building line
Pittwater 21 Development Control Plan - D2.9 Landscaped Area - Non Urban

SITE DESCRIPTION

Property Description:	Lot 4 DP 567442 , 23 Baroona Road CHURCH POINT NSW 2105
Detailed Site Description:	<p>The subject site consists of one allotment located on the southern side of Baroona Road.</p> <p>The site is irregular in shape with a frontage of 5.03m along Baroona Road and a depth of 85.56m.</p> <p>The site has a surveyed area of 3709m² and a crossfall of approximately 23m from the north-west to the south-east.</p> <p>The site is located within the R5 Large Lot Residential zone and accommodates an existing two & three storey dwelling house with detached carport. A recently approved detached secondary dwelling is currently being constructed to the south of the dwelling. The site is burdened by a Right of Carriageway easement along the northern boundary which provides vehicle access to 25 Baroona Road. The site also benefits from Right of Carriageway access along the access driveway of No.21 Baroona Road.</p> <p>The site contains a variety of native canopy trees and shrubs.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Adjoining and surrounding development is characterised by similar one to three storey dwelling houses.</p>

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 - DA2020/1278

Construction of a secondary dwelling - Approved 19/11/2020 (under construction)

Development Application - N0137/11

Demolition of the existing dwelling and construction of a new dwelling, driveway, swimming pool and associated landscaping - Approved 09/12/2011 (Not constructed)

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.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to sewerage details.</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 clause is not relevant to this application.</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
	<u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental 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 19/10/2021 to 02/11/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>General Comments</p> <p>Although its not stated that the fireplace will be removed, the site plan shows Open up wall as required for new door, therefore it is expected</p>

Internal Referral Body	Comments
	<p>that the fireplace will be removed and not replaced</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Environmental Health (unsewered lands)	<p>Council preferences a "deferred commencement" condition for this circumstance, whereby, Construction Certificate can only be issued once accreditation of the waste water management system has been completed.</p> <p>It is recommended that the owner/occupier provide proof of 'installation and operation of accredited wastewater management system' for the primary dwelling prior to any other works, approval is required via a 'Section 68 Local Government Act application'.</p>
Landscape Officer	<p>The application seeks consent for alterations and additions to an existing dwelling.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan (R5 Zone) , 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 <p>The Arborist's Report submitted with the application prepared by Aura Tree Services is noted.</p> <p>The plans indicate removal of several small trees adjacent to the existing dwelling. The Arborist's Report raises no issues with the proposed tree removals.</p> <p>No objections are raised with regard to landscape issues subject to conditions as recommended.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for alterations and additions to dwelling. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Biodiversity Conservation Regulation 2017 Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> • 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> B4.3 Flora and Fauna Habitat Enhancement Category 2 Land <p>The northwest of the site is located within the Department of Planning, Industry and Environment's (DPIE) Biodiversity Values (BV) Mapping. Any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS).</p> <p>As the submitted Arboricultural Assessment & Management Report (Aura 2021) states that the application does not require the removal of native trees within the BV mapped areas, the BOS is not triggered. The application does not seek to remove any locally-native trees, therefore the Biodiversity referral team have no objection to the proposal. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	<p>The proposed increase in impervious area does not warrant OSD. The submitted Geotechnical report addresses the relevant DCP controls. The existing driveway crossing is to remain which is acceptable.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. No objection to the application.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposal is for alterations and additions to the dwelling, which is well outside the flood affected part of the property.</p>
NECC (Water Management)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. No objection to the application, subject to conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

application hereunder.

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A425223 dated 23 September 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	11.05m	29.4%	No

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

1.9A Suspension of covenants, agreements and instruments

The site is affected by a right of carriageway easement which runs along the northern portion of the land and provides driveway access to the surrounding properties from Baroona Road. Conditions are recommended to ensure that no works are to be undertaken on the right of carriageway and that any damage during construction is restored. Conditions will also be imposed to ensure that the right of way is not impeded and that access is maintained at all times for properties which benefit from this right of way.

The proposal also seek consent for a parking area located off the access handle No.21 Baroona Road. During the Assessment, confirmation was provided that the subject site has Right of Carriageway through this driveway and owners consent from No.21 Baroona Road was provided.

4.3 Height of buildings

Clause 4.3 (2) stipulates that height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The subject site is located within Area 'I' of the Height of Buildings Map which has a maximum height of 8.5m.

The maximum height of the proposed development has been measured at 11.0m from the interpolated ground levels for the site (pre-excavation) and AHD levels as per the Building Height definition under PLEP 2014. This represents a variation of 29.4%

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	11.0m

Percentage variation to requirement:

29.4%

The site is subject to an 8.5m maximum building height under the requirements of Clause 4.3 of Pittwater LEP 2014. The proposed development contains a maximum building height of 11.0m, which represents a 29.4% variation from the Development Standard.

Figure 1 below demonstrates the area of the development that exceeds the 8.5m statutory height limit (highlighted in green).

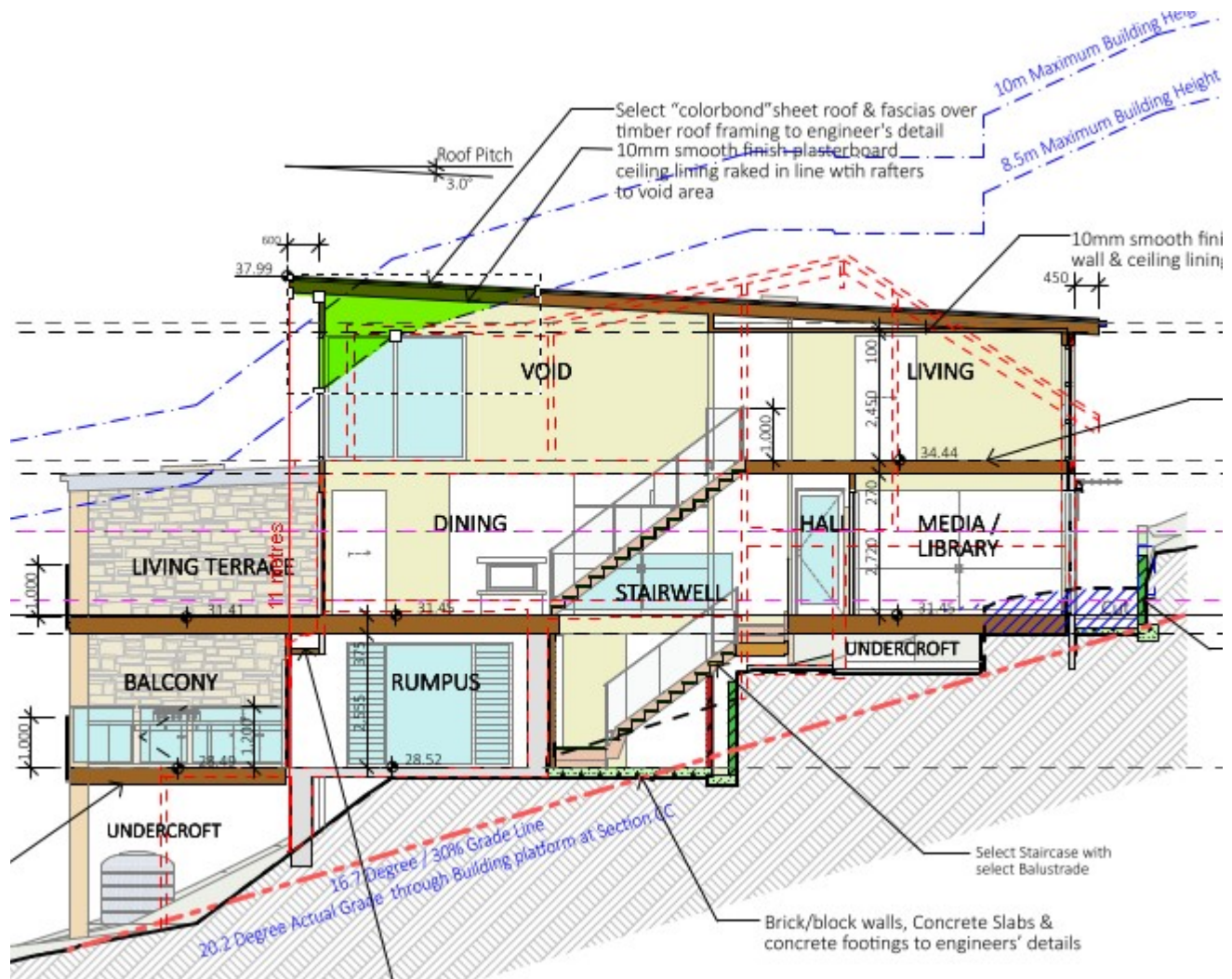


Figure 1: Section Plan demonstrating area of the development that exceeds the 8.5m statutory height limit (highlighted in green)

Figure 2 demonstrates the portion of the proposal over the permitted 10.0m height variation for sites with a steeper than the 16.7 degrees or 30%. The subject site is located on a slope with a gradient steeper than 30%.

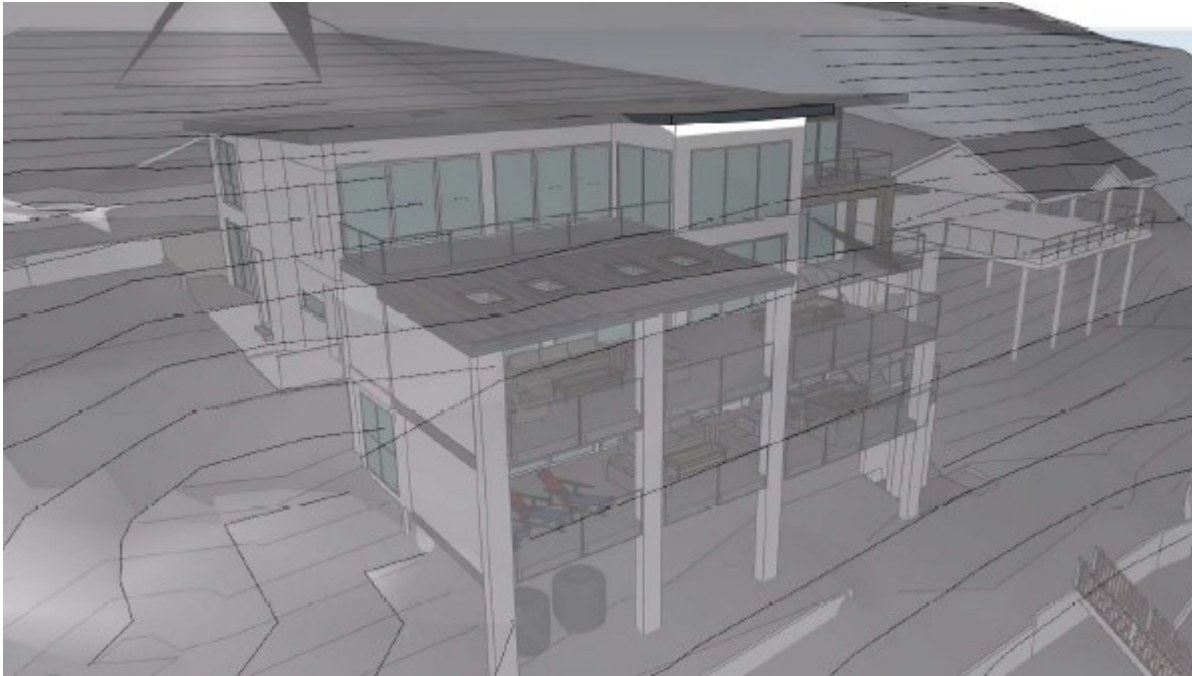


Figure 2: 3D modelling depicting proposed areas above 10.0m height variation.

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental

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

The applicants written request argues, in part:

- *The departure from the standard is a direct function of the site's steep (20.20 slope within the dwelling footprint) and predominantly unaltered topographical characteristics.*
- *The existing built form departs from the standard*
- *The height variation is centrally located over a void area and new flatter roof from located in the mid-section of the ridge line and toward the front of the dwelling, where the site falls sharply.*
- *The built form is not readily visible from the surrounding public domain. There is no unreasonable visual impact or visual built form dominance.*
- *All habitable accommodation is provided below the height standard and established FFL's are not altered.*
- *The building height breaching elements would be over an existing footprint do not themselves require excavation or modification of the landform.*
- *The height standard non-compliance will not result in adverse environmental impacts to neighbouring properties and the surrounding public domain.*
- *The scale is broken down by the articulation of a traditional and integrated façade design. Setbacks and the use of different materials including quality and durable landscaping reduces the perception of any apparent bulk. The retained portions of the dwelling with an integrated first floor addition will positively contribute to the likely future built form character.*
- *A strictly complying development would require demolition of the existing dwelling which is economically impractical. Considering demolition of the existing dwelling, in that sense it can be said that compliance with the standard would hinder the attainment of the objects of Section 1.3 of the Act. The departure from the standard is minor and does not result in any unreasonable environmental or amenity related impacts.*

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

The slope and topography of the land is considered steep. The development has been designed to step with the fall of the land and is considered compatible with the existing dwelling and newer development within the vicinity. It is considered that due to the slope of the site, the siting of the existing building and the generous setbacks (for non-compliant elements), that the non-compliance would not substantially alter the character or appearance of the existing dwelling.

It is further noted that the works are largely confined to the existing building footprint and do not result in unreasonable excavation, tree removal or environmental impact. The non-compliance would also be a direct result of the existing built form.

It is also agreed that the proposal will not have any unreasonable amenity impact to surrounding properties as a result of the height non-compliance. The proposal has been designed to allow for adequate internal amenity, without compromising the amenity of adjoining properties.

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

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

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

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R5 Large Lot Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the PLEP 2014 are:

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

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

Comment:

The proposed additions are comparable with that of the built form of the existing dwelling and surrounding newer dwellings in the vicinity. The development proposes to maintain a similar building footprint and scale as to what exists and does not result in unreasonable excavation, tree removal or environmental impact. Surrounding dwellings present a mixture of two and three storey typology as viewed from the Pittwater Waterway. The areas on non-compliance would be centrally sites and would retain generous setbacks from side, front and rear boundaries. The 60m rear setback and maintenance of a vegetation buffer also allows for some visual relief towards Pittwater Waterway. As such, the building height breach is not considered to impact on the desired character of the locality.

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

Comment:

The development is located on the downward slope of large rural residential allotment which is characterised by undulating topography. This results in variable built forms along the road, such that there is an eclectic mix of height and scale in which to be compatible with. The proposal would be stepped with the topography of the land and the majority of the dwelling will sit well below the 8.5m development standard. The proposed height non-compliance of is largely contained to the new roof form and presents a compatible height and scale with that of the existing dwelling and surrounding and nearby development. As above, the variation is largely attributed to the slope of the land and the the proposal would result in a lowering of the ridge of the dwelling.

In this regard, it is considered that the building height breaching elements do not unreasonable contribute to visual bulk to the extent that the building would be considered incompatible with the existing site and nearby development.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The submitted shadow diagrams demonstrate that the building height breaching elements will not contribute to unreasonable shadow impact on neighbouring properties

d) to allow for the reasonable sharing of views,

Comment:

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. Given the location of the work, the orientation and building alignment of the neighbouring built form and the associated level differences of the nearby built form, particularly that to the site's northwest, existing views and vistas will be equitably retained.

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

Comment:

The variation to the height control occurs as a result of the siting of the existing dwelling in conjunction with the sloping topography of the site. The development proposes no significant excavation or tree removal to facilitate additional floor area. The proposals design maintains the open style rear balcony areas to provide a "stepped" look when viewed from the rear and the neighbouring properties. The proposal reflects the established built form character of existing site and newer dwellings in the vicinity where multi-level, variably stepped houses are prevalent, due to the steep topography of the land.

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

Comment:

The proposed works will maintain consistency with the general height and scale of the existing dwelling and surrounding newer development, and further, the bulk and scale of the works are minimised as a result of the setbacks, modulation of the facades and the use of materials. No unreasonable amenity impacts are envisioned for the subject site or adjoining properties. The proposal will not require the removal of any significant vegetation or require any significant site

disturbance or excavation to facilitate additional floor area, with minimal alteration to the natural ground levels. No heritage conservation areas or heritage items will be affected as a result of this application.

Zone objectives

The underlying objectives of the R5 Large Lot Residential zone are:

- ***To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.***

Comment:

The proposed works do not include any significant excavation or site disturbance to facilitate additional floor area and the proposed additions is to be largely sited within the existing building footprint. The proposal will not require the removal of any significant vegetation. The proposal respects the scale and form and relative height of the existing dwelling. The areas on non-compliance would be centrally sites and would retain generous setbacks form side, front and rear boundaries. The 60m rear setback and maintenance of a vegetation buffer also allows for some visual relief towards Pittwater Waterway. As such, the building height breach is not considered to impact on the desired character of the locality.

It is considered that the development satisfies this objective.

- ***To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.***

Comment:

The proposed works would not hinder the proper and orderly development of urban areas in the future

It is considered that the development satisfies this objective.

- ***To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.***

Comment:

The proposal does not seek a change of use or over intensification of the site. It is considered that the proposed works would not unreasonably increase the demand for public services or public facilities

It is considered that the development satisfies this objective.

- ***To minimise conflict between land uses within this zone and land uses within adjoining zones.***

Comment:

The site's continued use for the purposes of a single dwelling house with an under construction secondary dwelling will not lead to any conflict with any other land use within the R5 zone and land to the site's south and east zoned E4 Environmental Living.

It is considered that the development satisfies this objective.

- ***To provide for a limited range of other land uses of a low intensity and scale, compatible***

with surrounding land uses.

Comment:

The proposal would maintain the residential use of the land

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R5 Large Lot Residential zone.

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

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

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 2 November 2021, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Height of building Development Standard associated with a single dwelling house (Class 1 building).

5.21 Flood planning

The application has been reviewed by Council Flood Officer who has raised no objection to the proposal.

7.2 Earthworks

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

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

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

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

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

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

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

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

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

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

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

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

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

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

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

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

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

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

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

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

7.7 Geotechnical hazards

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

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*

- (e) *the geotechnical constraints of the site,*
(f) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

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

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

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

Comment:

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

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

- (i) *the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
(ii) *if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
(iii) *if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

Comment:

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

7.10 Essential services

During the assessment, Council's Environmental Health Officer has raised concern that the existing wastewater management system located on site was not appropriately accredited. As such, a Deferred Commencement condition is recommended, whereby the proposed works would be only able to start once accreditation of the wastewater management system has been approved by Council.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	20m (NE)	16.6m (Parking structure)	17%	No
Rear building line	20m (S)	53m	N/A	Yes
Side building line	6.5m (SW)	5.3m (Balcony/terrace)	18.5%	No
	6.5m (NW)	7m (Additions)	N/A	Yes

	6.5 (E)	Nil (car stand for secondary dwelling)	100%	No
Building envelope	3.5m (SW)	Within envelope	N/A	Yes
	3.5m (NW)	Within envelope	N/A	Yes
Landscaped area	80% (2967.2sqm)	67.3%	16%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.2 Bayview Heights Locality	No	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	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	No	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D2.1 Character as viewed from a public place	Yes	Yes
D2.3 Building colours and materials	Yes	Yes
D2.5 Front building line	No	Yes
D2.6 Side and rear building line	No	Yes
D2.7 Building envelope	Yes	Yes
D2.9 Landscaped Area - Non Urban	No	Yes
D2.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D2.13 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.2 Bayview Heights Locality

The proposed development includes small areas of three storeys, where the locality calls for two storey development. However, the proposed development involves minimal environmental impact, is set below the general tree canopy height, includes building modulation to minimise bulk, steps with the topography of the land, and provides an appropriate balance between respecting the landform and encouraging development.

The proposal would also retain the general form of the existing dwelling. As such, the proposed development achieves the intention of the desired character of the area and is acceptable in this regard.

B4.3 Flora and Fauna Habitat Enhancement Category 2 Land

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

C1.3 View Sharing

No unreasonable view impacts are envisaged.

The adjoining property at 14 Baroona Rd, which would use 23 Baroona Rd as a view corridor is located significantly higher on the escarpment than the proposed dwelling, resulting in their views being captured over the dwelling. The highest RL of the proposed dwelling is 37.99 AHD where as the assumed lowest level of 14 Baroona, that being the swimming pool is at RL 52AHD.

Therefore there is 14m vertical separation between the dwellings. In addition no submissions have been received in this regard.

C1.5 Visual Privacy

The proposed additions and associated side facing windows and private open space would have adequate spatial separation (greater than 9m) from adjoining neighbours dwellings and private open space. Sufficient landscaping is proposed to be retained along side boundaries in order to mitigate

potential privacy impacts. Additionally, no submissions in relation to privacy have been received by adjoining neighbours. Overall, the privacy impacts associated with the development are considered to be reasonable within a residential environment.

C1.13 Pollution Control

The proposed development includes a fireplace in the Family Room/Dining Room.

No details of the fireplace are included with the application. As such, Council cannot be satisfied that the development is designed to prevent air pollution, or that the development complies with the *Protection of the Environment Operations Act 1997*, and other relevant legislation. As such, a condition of consent has been included to ensure that no solid fuel heaters are approved under this consent.

Subject to compliance with this condition the proposal is considered to meet the requirements of this control.

D2.5 Front building line

Description of Non-Compliance

Clause D2.5 of the P21 DCP requires development (other than driveways, fences and retaining walls) to be setback at least 20m from the front boundary.

The proposal seeks works to convert the existing carport into an open parking area by removing the carport structure. These works would be 16.5m from the front boundary, which would be within the 20m front building line requirement. All other additions would meet the 20.0m requirement.

With regard to the consideration of a variation, the proposed development is considered to meet underlying outcomes of the control as the proposal would result in a reduction in the built form and an increased sense of openness within the front setback. The proposal would also retain existing landscaping within the front setback. Therefore, the application is supported on merit.

D2.6 Side and rear building line

Description of non-compliance

Clause D2.6 of the Pittwater 21 DCP requires development be setback at least 20m from the rear boundary and 6.5m from side boundaries.

The development proposes the following non-compliance:

- **Rear setback** -Complies
- **North-Western side setback**- Complies
- **South-western side setback**- 5.3m (balcony/terrace) representing a maximum variation of 18.5%
- **Eastern side setback**- Nil (car stand for secondary dwelling) representing a variation of 100%

It should be noted that owners consent has been provided by the adjoining neighbour to the east (No.21 Barooka Road) and confirmation of a right of carriageway over No21 driveway has been provided for the proposed secondary dwelling parking area.

Merit consideration

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

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is discussed further within A4.2 Bayview Heights Locality of this report.

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

Comment:

The non-complying elements of the proposal would relate to a small section of an open balcony and an open parking area. These elements would be of minimal bulk and scale.

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

Comment:

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

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

Comment:

The proposal is considered to achieve a reasonable level of view sharing as a result of the complimentary siting of the built form, in conjunction with its site-specific design.

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

Comment:

While numerically non-compliant with the side and rear setback controls, the semi-rural nature of the subject site and surrounding sites allows for substantial spatial separation between existing dwellings. Therefore, it is unlikely the proposal will create any unreasonable impacts upon the privacy and amenity of the occupants of the subject site and those of adjoining properties. In summary, the proposal is considered to provide reasonable amenity for the dwelling occupants and those of adjoining and surrounding properties as a result of adequate building separation, site orientation, aspect and landscape treatment. Further, the retention of existing vegetation throughout the site will provide a reasonable screen between the subject site and adjoining properties. The proposed development will not create any unreasonable solar impacts upon adjoining properties.

The proposed parking space would not contain any associated structure and would be a non-habitable area.

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

Comment:

No significant vegetation is proposed for removal as part of this application. An Arboricultural Impact Assessment has been submitted as part of the application which recommend a series of mitigation measures to guide the maintenance of the retained vegetation. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions. Overall, retained vegetation would appropriately break up the building massing and reduce the visual impact of the proposal.

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

Comment:

Despite non-compliance in small areas, the proposal is considered to be an appropriate response to the development of the site. Adequate pedestrian access to the site is maintained..

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

Comment:

As above, no significant vegetation is proposed for removal as part of this application. An Arboricultural Impact Assessment has been submitted as part of the application which recommend a series of mitigation measures to guide the maintenance of the retained vegetation. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions. Overall, retained vegetation would appropriately break up the building massing and reduce the visual impact of the proposal.

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

Comment:

This control is not applicable given the subject site is located within, and surrounded by, residential zoning.

- ***To preserve and enhance the rural and bushland character of the locality.***

Comment:

The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately preserve the bushland character of the area.

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

Comment:

As above, this control is not applicable given the subject site is located within, and surrounded by, residential zoning.

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

proposal is supported, in this particular circumstance

D2.9 Landscaped Area - Non Urban

Detailed description of non-compliance

This control requires development to result in a minimum landscaped area of 80% (2967m²). The proposed development will result in a landscaped area of 67.3% (2496sqm).

Notwithstanding, clause D2.9 permits the following variations to the landscaped area control:

Residential development (including dwellings, buildings and structures such as garages, home workshops, storage sheds and the like that are ordinarily incidental or subsidiary to a dwelling) with a maximum of 800 square metres will be allowed even if the minimum landscaped area, as per the table above, can't be provided.

The proposed total floor area of the residential development associated with this proposal would be approximately 620sqm, and would thereby comply with the variation which permits a maximum of 800 square metres

Nevertheless, consideration a variation to the control, the proposal is assessed against the outcomes of the control as follows:

Merit consideration

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

Comment:

As established earlier in this report the proposed development achieves the desired future character of the locality. More than half the site is deep soil landscaping and accommodates mature trees. The site maintains an appropriate bushland setting. The site provides adequate room for the establishment of the canopy tree planting required by the DCP. Council is satisfied that the proposed development can achieve the desired future character of the locality.

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

Comment:

The shortfall in landscaped area is not considered attributable to any unreasonable bulk or scale of the built form. The bulk and scale of the dwelling is consistent with the existing dwelling.

- ***To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site.***

Comment:

Given the spatial separation between dwellings, the proposed development will not create any unreasonable solar impacts upon adjoining properties.

- ***To preserve and enhance vegetation to visually reduce the built form.***

Comment:

No significant vegetation is proposed for removal as part of this application. An Arboricultural Impact Assessment has been submitted as part of the application which recommend a series of mitigation measures to guide the maintenance of the retained vegetation. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions. Overall, retained vegetation would appropriately break up the building massing and reduce the visual impact of the proposal.

- ***To minimise the impact of development on Pittwater's biodiversity by minimising the removal of indigenous vegetation and naturally occurring soils, conserving existing significant indigenous and native trees, and encouraging planting of indigenous and native plants and trees on private property.***

Comment:

As above, the application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended condition. The proposed works would be primarily on the existing building footprint.

- ***To conserve significant natural features of the site and contribute to effective management of biodiversity.***

Comment:

As above, the proposed development will retain significant natural features of the site. Council's Bushland and Biodiversity Officer has reviewed this application and, subject to conditions, is satisfied the proposal will effectively management the biodiversity of the site.

- ***To provide for infiltration of water to the water table, minimise stormwater runoff and assist with stormwater management to reduce and prevent soil erosion and the siltation of natural drainage channels.***

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objections subject to conditions included in the recommendation of this report. It is considered the site contains a reasonable amount of pervious surface which will contribute to the prevention of soil erosion and siltation of natural drainage channels.

- ***To preserve and enhance the rural and bushland character of the area.***

Comment:

The general compliance with the built form controls and retention of existing vegetation ensures the rural and bushland character of the area is maintained.

- ***Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.***

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objections subject to conditions included in the recommendation of this report. It is considered the site contains sufficient pervious surfacing is provided on-site which will enable the infiltration of water to the water table, whilst minimising run-off and assisting with stormwater management (subject to conditions).

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979 (subject to recommended conditions). 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 \$9,900 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$990,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

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

The assessment of the proposal against the provisions of Pittwater 21 DCP has found that the proposed development does not strictly comply with the requirements of the applicable controls related to the Bayview Heights locality, landscaped area, and front and side building lines.

It is considered that these non-compliances would not result in unreasonable amenity impacts to surrounding properties or result in a development that is out of character with the style and scale of the existing dwelling or surrounding newer development in the immediate area.

No submissions were received in response to neighbour notification.

On the balance, although the proposed development is non-compliant with a number of planning controls, it is considered that many of these are a consequence of the context of the site and the existing built form. Overall, it is considered that the proposed alterations and additions represent a relatively modest increase to the existing built form. The proposed works do not include significant site disturbance or environmental impact to facilitate additional floor area as the proposed additions are largely sited upon the existing building footprint.

During the assessment, Council's Environmental Health Officer has raised concern that the existing wastewater management system located on site was not appropriately accredited. As such, a Deferred Commencement condition is recommended, whereby the proposed works would be only able to start once accreditation of the wastewater management system has been approved by Council. Subject to the recommended conditions of consent, it is considered that the proposal would result in a development that displays reasonable scale and density compatible with the surrounding development and would not result in unreasonable amenity impacts to surrounding properties.

Accordingly, the application is referred to the DDP with a recommendation for approval (subject to a deferred commencement condition). It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority vary Clause 4.3 Height of Buildings development standard pursuant to Clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2021/1783 for Alterations and additions to a Dwelling House on land at Lot 4 DP 567442, 23 Barooka Road, CHURCH POINT, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. Approval of an On-site Sewage Management System

Approvals under Section 68 of the *Local Government Act 1993* (the Act) must be granted by Northern Beaches Council for any On-site Sewage Management System on the subject property. The following is required to be addressed:

1. Provide accreditation under Section 41 of the Local Government (General) Regulation 2005 for the (Aline) sewage management tanks currently in place on-site; or
2. Install new sewage management tanks that are accredited under Section 41 of the Local Government (General) Regulation 2005. Should a new new sewage system be required to be installed, the following applications must be made to Council to seek the relevant approvals:
 - a) Application for Approval to Operate an On-site Waste Water Management System; and
 - b) Application for Approval to Install Waste Water System.

Note: All of the relevant accreditation information below is relevant:

- Any "sewage management" system under Section 68 Part C(5) & (6), defined under Section 68A of the Local Government Act 1993, must be approved by Council. This includes systems that are 'installed, constructed, or altered'; and
- Wastewater holding tanks must be accredited as required under Section 41 of the Local Government (General) Regulation 2005, to be used for single domestic units - capacity for 10 persons or less.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

Evidence required to satisfy the deferred commencement condition/s must be submitted to

Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **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
DA01 - SITE PLAN - FULL	22/09/2021	Lifestyle Home Designs
DA02 - SITE PLAN -PARTIAL	22/09/2021	Lifestyle Home Designs
DA03 - EXISTING FLOOR PLANS/DEMOLITION PLAN	22/09/2021	Lifestyle Home Designs
DA04 - PROPOSED FLOOR PLANS	22/09/2021	Lifestyle Home Designs
DA05 - ELEVATIONS	22/09/2021	Lifestyle Home Designs
DA06 - SECTIONS A - D	22/09/2021	Lifestyle Home Designs
DA07 - NORTH-EAST ELEVATION & SECTIONS E - G	22/09/2021	Lifestyle Home Designs
Schedule of Colours & Materials	Received 29/09/2021	-

Engineering Plans		
Drawing No.	Dated	Prepared By
SW1 Rev.A - Site Location Plan	22/09/2021	E2 Civil and Structural Design Pty Ltd
SW2 Rev.A - Concept Roof Drainage Plan	22/09/2021	E2 Civil and Structural Design Pty Ltd
SW1 Rev.A - Concept First Floor Drainage Plan	22/09/2021	E2 Civil and Structural Design Pty Ltd
SW1 Rev.A - Concept Ground Floor Drainage Plan	22/09/2021	E2 Civil and Structural Design Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (A425223)	23/09/2021	Lifestyle Home Designs
Geotechnical Assessment Report (STC-2058-18380 GEO2 v1)	10/08/2021	ADE Consulting Group Pty Ltd
Arboriculture Assessment & Management Report	September 2021	Aura Tree Services Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA08 - LANDSCAPE CALCULATIONS PLAN	22/09/2021	Lifestyle Home Designs

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	23/10/2021	J.Adams

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.

3. No works on adjoining land or right of carriageway

No Approval is granted under this consent for any works on adjoining land or on the right of carriageway which burdens the subject site.

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

4. Installation of solid/fuel burning heaters

No approval is granted for the installation of a solid/fuel burning heater.

Reason: To preserve the amenity and environmental health of adjoining properties.

5. Prescribed Conditions

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

- Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

6. 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

7. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$9,900.00 is payable to Northern Beaches Council for the provision

of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$990,000.00.

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

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

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

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.

8. Security Bond

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

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

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

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

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

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

9. Stormwater Disposal from Low Level Property

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches

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

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

10. **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 ADE Consulting Group dated 10 August 2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

12. **Stormwater Treatment Measures – Minor**

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

13. **Boundary Identification Survey**

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

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

14. **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.

15. **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.

16. **External Colours and Finishes**

The external colours and finishes to the external walls and roof shall have a medium to dark range (BCA classification M and D). Light colours such as off white, cream, silver or light grey colours are not permitted. Any roof with a metallic steel finish is not permitted.

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

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

17. Construction Traffic Management Plan

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

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

- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Details for maintaining access to adjacent properties and properties which benefit from the right of carriageway easement
- Details regarding the proposed method of access to and egress from the site for construction vehicles, and demonstration these vehicle will manoeuvre the right of way safely – i.e enter and leave in a forward direction.
- Details for storage of materials
- Provision of parking for workers
- Details for loading and unloading of materials
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- The location and operation of any on site crane

The Construction Traffic Management Plan shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. 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

19. Protection of Landscape Features and Sites of Significance

All natural landscape features including natural rock outcrops, natural vegetation, soil and watercourses are to remain undisturbed during demolition, excavation and construction works except where affected by works detailed on approved plans.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

20. **Tree and Vegetation Protection**

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

The Certifying Authority must ensure that:

- c) 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.

21. **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.

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

Council proactively regulates construction sites for sediment management.

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

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

Reason: Protection of the receiving environment.

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

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

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

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

24. **Demolition Works - Asbestos**

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

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

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

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

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

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

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

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

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

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

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

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

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.

28. **Implementation of Construction Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Management Plan. A copy of the approved Construction Management Plan is to be kept onsite at all times and made available to Council on request.

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

29. **Right of Carriageway Access**

Construction vehicles and material are not to impede access for the properties that benefit from the right of way and turning area throughout the construction phase. The applicant must provide neighbours who use the right of way and turning area with contact details of the contractor in the event that access to the right of way is blocked.

Reason: To ensure access is available to all property owners who benefit from the right of carriageway during the construction phase.

30. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

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

31. **Required Tree Planting**

a) Trees shall be planted in accordance with the following:

- i) Minimum 5 local native trees capable of attaining a minimum height of 5m at maturity; within the grounds of the property; minimum pot size 200mm

b) Native tree planting species may be selected from Council's list:

www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

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

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

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

Reason: To maintain environmental amenity.

32. **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 Occupation Certificate.

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

33. **New Vegetation Planting**

Any new landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the relevant section of the Native Gardening Booklet available on Council's website.

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

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

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

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

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

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

35. **Retaining wall**

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

Reason: Public and Private Safety

36. **Damage to the right of way**

Any damage to the right of way, caused by the construction of the development, is to be repaired prior to the issue of the occupation certificate.

Reason: To ensure the site is left in an acceptable state and that access is maintained for adjoining neighbours.

37. **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.

38. **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.

39. **House / Building Number**

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

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

Reason: Proper identification of buildings.

40. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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 2008;

(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.

(b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(c) All signage shall be located in a prominent position within the pool area.

Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To protect human life.

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

41. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

42. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.