

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0707
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<b>Responsible Officer:</b>	Jordan Howard
<b>Land to be developed (Address):</b>	Lot 81 DP 866452, 2 Manor Road INGLESIDE NSW 2101
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a carport and secondary dwelling
<b>Zoning:</b>	RU2 Rural Landscape
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	John Arthur Vumbaca Esterina Vumbaca
<b>Applicant:</b>	John Arthur Vumbaca

<b>Application Lodged:</b>	06/06/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New second occupancy
<b>Notified:</b>	13/06/2023 to 27/06/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 30.9%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 180,000.00
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### EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to a dwelling house including a carport and secondary dwelling.

The application is referred to the Development Determination Panel (DDP) due to a proposed variation to the height of buildings development standard of greater than 10%.

Following public exhibition of the application, no submissions have been received.

Critical assessment issues included the assessment of the proposed variation to the height of

buildings development standard, as well as proposed variations to the front and side building lines stipulated by the Pittwater 21 Development Control Plan, and archeological / heritage concerns.

The 4.6 request for non-compliance with the height standard arises as PLEP 2014 Clause 4.3 (2FA) stipulates that the maximum height for a secondary dwelling or a rural worker's dwelling in Zone C4 Environmental Living or Zone RU2 Rural Landscape is 5.5m if the secondary dwelling or rural worker's dwelling is separate from the principal dwelling. The proposal includes a detached secondary dwelling with a proposed height of 7.2m, a 30.9% variation to the development standard.

This variation arises as the secondary dwelling is proposed over a sloped portion of the site, with the variation occurring to the rear of the slope. Nonetheless, this variation is supported, as the siting and design of the development has been constrained by heritage / archaeological concerns, as well as topography, stormwater watercourses, access considerations and the irregular site shape. The variation is not considered to unreasonable impact on the rural character of the area, the streetscape or neighbouring properties.

This report concludes with a recommendation that the DDP grant approval to the development application, subject to conditions.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development comprises of alterations and additions to a dwelling house including a carport and secondary dwelling. Specifically, the proposal seeks development consent for the following:

- Construction of a new detached secondary dwelling.
- Construction of a carport attached to the secondary dwelling.
- Driveway, with new crossing and layback leading to proposed carport.
- Associated landscaping and clearing of vegetation.

During the course of the assessment, additional information was requested in relation to:

- Clause 4.3 Height of buildings & 4.6 Exceptions to development standards of the Pittwater Local Environmental Plan 2014.
- Clause D6.5 Front building line & Clause D6.6 Side and rear building line of the Pittwater 21 Development Control Plan.
- A request for a Geotechnical Report.
- A request for further information to be depicted in Architectural Plans.
- Internal referral responses from Council's Heritage team & Development Engineering team.
- An external referral response from Heritage NSW.

Additional information and amended plans were received, which did not require re-notification, in accordance with the Northern Beaches Community Participation Plan.

## **ASSESSMENT INTRODUCTION**

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 5.4 Controls relating to miscellaneous permissible uses

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 5.21 Flood planning

Pittwater 21 Development Control Plan - C1.11 Secondary Dwellings and Rural Worker's Dwellings

Pittwater 21 Development Control Plan - D6.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D6.3 Building colours and materials

Pittwater 21 Development Control Plan - D6.5 Front building line

Pittwater 21 Development Control Plan - D6.6 Side and rear building line

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 81 DP 866452 , 2 Manor Road INGLESIDE NSW 2101
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the north-eastern side of Manor Road.</p> <p>The site is irregular in shape with a frontage of 114.085m along Manor Road and a depth of 300.71m. The site has a surveyed area of 1.931ha.</p> <p>The site is located within the RU2 Rural Landscape zone and accommodates a dwelling house.</p> <p>The site slopes from the front (south-west) down to the rear (north-east), with a fall across the site of approximately 20m. There is another rise at the very rear section of the site.</p> <p>The site contains grassed areas, vegetation, trees and internal gravel / dirt roads and paths. The very rear portion of the site is largely dense bushland. There are no details of threatened species in the vicinity of the proposal.</p>

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by dwelling houses and rural land uses within a bushland / rural area.

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 Applications No. DA2023/0331 and DA2023/0488 were both attempts at lodging a similar application to this application. Both were returned at lodgment due to inadequate and/or insufficient information being provided to assess the proposed development.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p data-bbox="544 586 1465 687"><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p data-bbox="544 719 1465 860"><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p data-bbox="544 898 1465 999"><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to:</p> <ul data-bbox="580 1066 1465 1451" style="list-style-type: none"> <li>• Clause 4.3 Height of buildings &amp; 4.6 Exceptions to development standards of the Pittwater Local Environmental Plan 2014.</li> <li>• Clause D6.5 Front building line &amp; Clause D6.6 Side and rear building line of the Pittwater 21 Development Control Plan.</li> <li>• A request for a Geotechnical Report.</li> <li>• A request for further information to be depicted in Architectural Plans.</li> <li>• Internal referral responses from Council's Heritage team &amp; Development Engineering team.</li> <li>• An external referral response from Heritage NSW.</li> </ul> <p data-bbox="544 1518 1465 1619"><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p data-bbox="544 1657 1465 1798"><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p data-bbox="544 1834 1465 1935"><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p data-bbox="544 1973 1465 2074"><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning Services, dated 2 March 2023) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 13/06/2023 to 27/06/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b>Supported, without conditions</b></p> <p><u>Planner Comment:</u> No comments were provided by the Referral Officer. The proposal was supported, with</p>
Environmental Health (Unsewered Lands)	<p><b>Supported, subject to conditions</b></p> <p><b>General Comments</b> The proposal is for a second dwelling on the site which will have a new AWTS and pres A favourable WW report by Broadcrest Consulting Pty Ltd has been submitted. Comment: Site inspected by Council 14.6.2023 which revealed the following: 1. Proposed AWTS location for 2nd 2 bed dwelling is satisfactory, currently low scrub a necessary, but a NSW Health complying AWTS system tank details have not been sub for DA, with appropriate conditions. 2. The existing septic tank with disposal trenches for the original main dwelling currently This WW0755/01 system also is currently non compliant - trenches sunken - appears to vehicles accessing LAA. Owner advises septic tank pumped out recently. Environmental To Operate form and verbal instruction was left with the owner to facilitate resolution.</p> <p>On this basis to enable the proposal to progress Environmental Health will support the p</p>
Landscape Officer	<p><b>Supported, subject to conditions</b></p> <p>The proposal is supported with regard to landscape issues.</p> <p><u>Additional Information Comment 02/11/23:</u> The amended plans are noted.</p> <p>The increased northern (side) setback is supported and will allow for screen planting. C</p> <p><u>Original Comment Summary:</u></p> <ul style="list-style-type: none"> <li>• no concerns were raised with exempt tree removal and replacement tree plantin</li> <li>• concerns were raised with the visual bulk of the secondary dwelling which wasn</li> </ul>
NECC (Bushland and Biodiversity)	<p><b>Supported, subject to conditions</b></p> <p>The proposal seeks approval for Alterations and additions to a dwelling house including The comments in this proposal relate to the following applicable controls and provisions</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• NSW Biodiversity Regulation 2017</li> <li>• Planning for Bushfire Protection 2019</li> <li>• Pittwater LEP 2014 - Part 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - Clause B4.18 Heathland/Woodland Vegetation</li> </ul>

Internal Referral Body	Comments
	<p>Portions of the site are identified on the Department of Planning and Environment's Bi Act, any removal of native vegetation from within mapped areas will trigger the Bi Development Assessment Report (BDAR).</p> <p>However, the submitted plans and documentation indicate that the proposed works are the BOS.</p> <p>The proposal has been submitted with an arboricultural impact assessment that has accommodate the proposed footprint. No objections are raised. However, protection specified in section 4.5 of the report.</p> <p>The proposal has also been submitted with a Bushfire Report (Report #4272, BPLD M BAL-29 and has recommended that portions of the site be treated as an asset protectio</p>
<p>NECC (Development Engineering)</p>	<p><b>Supported, subject to conditions</b></p> <p><b>Assessment 1 - 10/08/23:</b></p> <p>The Development Application proposes the construction of a new secondary dwelling, c</p> <p>Access: The applicant is proposing a new carport and driveway for the secondary dwelling. Ther The proposed driveway would be the third driveway to service the property. The property frontage is greater than 100m and there is no impact on street parking as</p> <p>The proposed driveway is in close proximity to councils existing open drain. Requesting the applicant to locate the pipeline and show on the revised plans. The grades are also quite steep. Requesting 2 longitudinal sections on both ends of the proposed driveway from the edg There would also be a significant impact on the street trees on the road reserve. Refer 1</p> <p>Stormwater: The site seems to be flood affected. As such, No OSD is required. A referral from our flc</p> <p>Council's records indicate that the subject property is burdened by a Council stormwate information as a reference for detailed stormwater investigations, available under the "S (<a href="https://services.northernbeaches.nsw.gov.au/icongis/index.html">https://services.northernbeaches.nsw.gov.au/icongis/index.html</a>).</p> <p>To demonstrate compliance with Warringah Council's Development Control Plan 2011 a it is recommended that the following details are submitted:</p> <ul style="list-style-type: none"> <li>• Accurately locate, confirm dimensions including depth and plot to scale Council's that outline the proposal. This should be carried out by a service locating contra stormwater system should be provided)</li> </ul> <p>If the applicant proposes to use a CCTV pipeline survey to confirm the location of the pipeli Council's guideline</p> <ul style="list-style-type: none"> <li>• All structures are to be located clear of any Council pipeline, pit or easement an</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Footings of any structure adjacent to an easement, pipeline, culvert or channel &amp;</li> <li>• Structural details prepared by a suitably qualified Civil Engineer demonstrating c</li> </ul> <p>A stormwater plan has been provided. Requesting amended stormwater drainage plans.</p> <p>Geotech: The site falls within council's geotechnical hazard map. Requesting the applicant to submit a geotechnical report and form no. 1 and 1(a), Chec Council's Geotechnical Risk Management Policy for Pittwater.</p> <p>As such, Development Engineering cannot support the application due to insufficient int Appendix 5 of the DCP.</p> <p><b>Assessment 2 - 10/11/23</b></p> <p>Access: The applicant has removed the proposed 3rd driveway which would serve the secondar A third driveway wouldn't affect on street parking and was supported. This is preferred as it would give direct access to the secondary dwelling for constructio watercourse. A turning bay in this site would also benefit users to allow entry and exit in a forward dir Alternatively, if the applicant does not wish to construct the driveway to serve the secon provided to ensure the proposal does not affect council's stormwater infrastructure. At a minimum a pedestrian path shall be created from the primary dwelling to the secon infrastructure.</p>

Internal Referral Body	Comments
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**Scale: 1:443**  
**Date Printed: 10/11/2023**

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Stormwater:  
 A plan of the watercourse and council pipe has been provided. There is another watercourse located adjacent to the proposed secondary dwelling.  
 This shall also be accurately located.  
 The survey plan shall be overlaid onto the architectural and stormwater plans.  
 In accordance with clause 4.4 Stormwater Discharge to Watercourse or Open Channel  
 "Direct discharge to a waterway will only be permitted from land directly adjoining a waterway"

Internal Referral Body	Comments					
	<p>Management Plan that no other alternatives are available. Other alternatives should be As such, a spreader system or method of stormwater discharge that minimises scouring</p> <p>Geotech: Forms 1 and 1(a) and a geotechnical report has been provided by White Geotechnical ( Recommendations have been provided to move the hazards to an acceptable risk. This is supported and can be conditioned.</p> <p>As such, development engineering cannot support the application due to insufficient evi</p> <p><b>Assessment 2 - 19/02/24</b> Amended engineering plans have been submitted. I have no further objections to the pr engineering conditions of consent.</p>					
NECC (Riparian Lands and Creeks)	<p><b>Supported, subject to conditions</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>- Supplied plans and reports;</li> <li>- Coastal Management Act 2016;</li> <li>- State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>- Relevant LEP and DCP clauses; and</li> <li>- Northern Beaches Council Water management for development policy.</li> </ul> <p><i>Riparian</i> The site is located near the headwaters of Mullet Creek and as such proposed developi ecological integrity of Mullet Creek or the quantity and quality of surface and ground wa</p> <p><i>Sediment Management</i> Sediment and erosion controls must be installed prior to any disturbance of soil on site :</p>					
Strategic and Place Planning (Heritage Officer)	<p><b>Supported, subject to conditions</b></p> <table border="1" data-bbox="336 1487 1473 2101"> <tr> <td data-bbox="336 1487 1473 1525">HERITAGE COMMENTS</td> </tr> <tr> <td data-bbox="336 1525 1473 1563">Discussion of reason for referral</td> </tr> <tr> <td data-bbox="336 1563 1473 1700">This application has been referred as the site is part of an archaeological site, being <b><i>It "Ruins of Powder Works", 2 and 10 Manor Road, Ingleside</i></b>, listed in Schedule 5 of 2014.</td> </tr> <tr> <td data-bbox="336 1700 1473 1738">Details of heritage items affected</td> </tr> <tr> <td data-bbox="336 1738 1473 2101"> <p>Details of the heritage item, as contained within the Heritage Inventory, are: <b><i>Item 2270133 - "Ruins of Powder Works", 2 and 10 Manor Road, Ingleside</i></b> <u>Statement of Significance</u> The Ruins of Powderworks are significant as their fabric expresses an unusual (rare) industrial activity and are important through their association with Carl Von Bieren and manufacturing venture, a significant event in the locality with the area being subsequ 'Ingleside' after his house. The listing does not include the houses (fronting Manor Road) located within the curtil: Powderworks. <u>Physical Description</u></p> </td> </tr> </table>	HERITAGE COMMENTS	Discussion of reason for referral	This application has been referred as the site is part of an archaeological site, being <b><i>It "Ruins of Powder Works", 2 and 10 Manor Road, Ingleside</i></b> , listed in Schedule 5 of 2014.	Details of heritage items affected	<p>Details of the heritage item, as contained within the Heritage Inventory, are: <b><i>Item 2270133 - "Ruins of Powder Works", 2 and 10 Manor Road, Ingleside</i></b> <u>Statement of Significance</u> The Ruins of Powderworks are significant as their fabric expresses an unusual (rare) industrial activity and are important through their association with Carl Von Bieren and manufacturing venture, a significant event in the locality with the area being subsequ 'Ingleside' after his house. The listing does not include the houses (fronting Manor Road) located within the curtil: Powderworks. <u>Physical Description</u></p>
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Internal Referral Body	Comments		
	<p>Cobblestone road associated with former Powderworks. Other stone structures as well as ruins. The place is located in a small gully at the junction of two creeklines about 200m from the former Ingleside house. The place consists of the ruins of sandstone block building walls that were built in the mid 1880s for the purposes of gunpowder manufacture. The place is divided into two areas. One area on the southern side of the creekline has the remains of two structures, of each structure is standing. The other area is on the northern side of the creekline with remains standing on the top of a small cliff. Numerous sandstone blocks are strewn throughout the site. Erosion of a small creekline threatens the stability of the structures on the southern side (Tropman 1993).</p>		
	<p>Other relevant heritage listings</p>		
	SEPP (Biodiversity and Conservation) 2021	No	Comment if applicable
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	<p>Consideration of Application</p>		
	<p><b>Amended application</b></p>		
	<p>This application is for construction of a secondary dwelling located adjacent to Manor Hill the existing main dwelling. The original plans included a driveway and carport, but these have been deleted from the amended plans.</p>		
	<p>As the site is listed as an archaeological site, Clause 5.10(7) of Pittwater LEP 2014 applies and requires referral to Heritage NSW and consideration of any response received. The application was referred however Heritage NSW could not comment until an <i>Archaeological Assessment: Archaeological Research Design and Excavation Methodology</i> was submitted.</p>		
	<p>This amended application, accompanied by a <i>Baseline Heritage and Archaeological Research and Planning</i> (18 October 2023), was referred again to Heritage NSW for comment under Clause 5.10(7) of Pittwater LEP 2014. The response from Heritage NSW, dated 17 November 2023, acknowledges that the site of the proposed secondary dwelling is on disturbed land which has been identified as an area of low archaeological potential. The <i>Archaeological Report</i> could be undertaken using an excavation permit exemption under section 139(4) of the Heritage Act 2013. Heritage NSW advised that use of this exemption provision is self-assessed and not dependent on a permit. On this basis, Heritage NSW have not raised any objection to the proposal, subject to the condition to cover the event that relics are discovered during works.</p>		
	<p><b>Based on this response from Heritage NSW, no objections are raised on heritage grounds to the imposition of the condition required by Heritage NSW (<i>Notify discovery of archaeological relics</i>) has been added to this referral.</b></p>		
	<p>NOTE: the advice from Heritage NSW also addresses Aboriginal cultural heritage and the applicant is to refer it to AHO for their comment.</p>		
	<p><u>Consider against the provisions of CL5.10 of PLEP 2014:</u></p>		

Internal Referral Body	Comments
	Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<b>Supported, subject to conditions</b>  The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<b>Supported, subject to conditions</b>  Reference is made to the proposed development at the above area and Aboriginal heritage.  No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.  Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.  Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\***

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

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

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

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

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

A BASIX certificate has been submitted with the application (see Certificate No. 1372440S, dated 9 February 2023).

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

<b>Commitment</b>	<b>Required Target</b>	<b>Proposed</b>
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	50	50

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

## **SEPP (Transport and Infrastructure) 2021**

### Ausgrid

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

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

### Comment:

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

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

### Chapter 4 – Remediation of Land

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

## **Pittwater Local Environmental Plan 2014**

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

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	5.5m*	7.2m	30.9%	No
Floor Space of Secondary Dwellings	25% of the total floor area of the principal dwelling (92sqm)	92sqm	-	Yes

\*PLEP 2014 Clause 4.3 (2FA) stipulates that the maximum height for a secondary dwelling or a rural worker's dwelling in Zone C4 Environmental Living or Zone RU2 Rural Landscape is 5.5 metres if the secondary dwelling or rural worker's dwelling is separate from the principal dwelling.

#### 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
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

#### Detailed Assessment

#### **4.6 Exceptions to development standards**

#### **Description of Non-compliance**

Development standard:	Height of buildings
Requirement:	5.5m
Proposed:	7.2m
Percentage variation to requirement:	30.9%

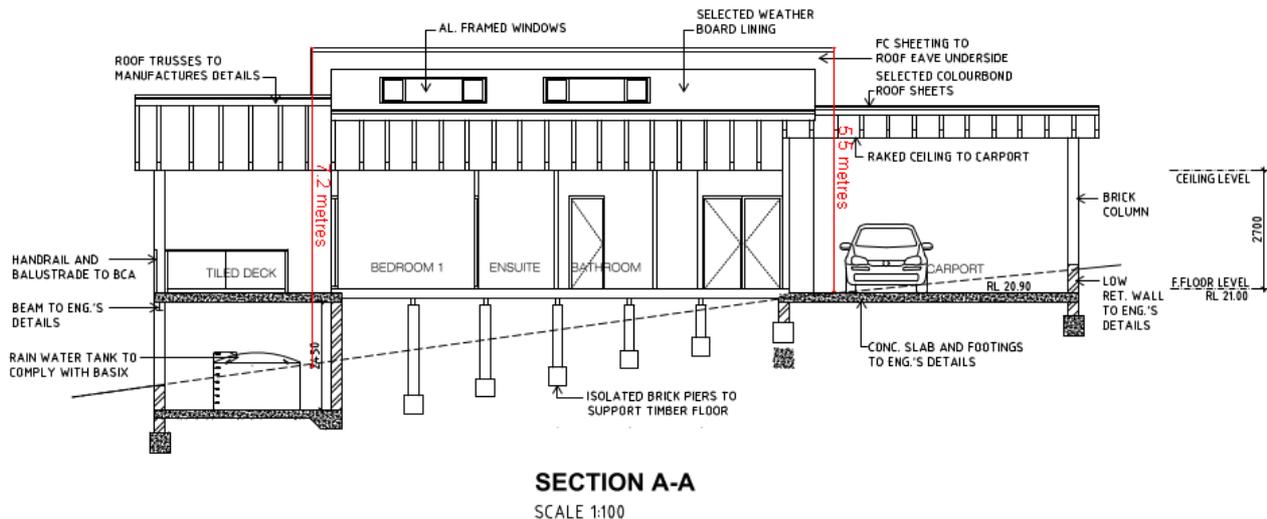


Figure 1 - Extract of Section A-A (Drawing No. 2-2 1008 22, Issue 3, dated 6 February 2024) depicting building height.

### **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 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:

- *That the proposed development meets the objectives of PLEP 2014 Clause 4.3 Height of buildings.*
- *That the proposed development meets the objectives of PLEP 2014 RU2 Rural Landscape zone.*
- *That the location of the secondary dwelling is favorable due to the spot having been partially cleared and disturbed during the course of the land holding, which is of note as other parts of the site have heritage and archaeological considerations. Furthermore, the provision of access to the secondary dwelling would be constrained on other parts of the site.*
- *The slope beneath the chosen location is steep, and the 5.5m height control for secondary dwellings does not provide much tolerance when working with steep sites or steep grades.*
- *If the roofline and floor to ceiling height were reduced or redesigned, these changes would offer poor amenity for the occupiers and bad architecture that is not the objective of planning guidelines.*
- *The variation will allow for orderly and economic use and development of land with no adverse privacy concerns or loss of solar access constraints for the adjoining property.*

The arguments provided by the applicant are generally concurred with. The subject site is constrained by heritage / archaeological concerns, as well as topography, stormwater watercourses, access considerations and the irregular site shape. These constraints limit the locations where a secondary dwelling may be accommodated.

The chosen spot is already a disturbed portion of the site, and the proposal is supported at this location by Heritage NSW and Council's Heritage team. The spot chosen allows for access to be provided to the secondary dwelling from Manor Road. This location however is sloped, and the 5.5m height of buildings standard that specifically applies to detached secondary dwellings on rural land does not provide much tolerance for working with sloped topography. Given the floor space restrictions on secondary dwellings, and preference for single-storey secondary dwellings outline the P21DCP, it would not be reasonable to require a two-storey stepped secondary dwelling to accommodate for slope. Excavation would also be unfavorable.

It is finally noted that if the proposal was not for a detached seconded dwelling, it would be subject to an 8.5m height of buildings limit, a height limit that the proposal is well below.

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 RU2 Rural Landscape 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 proposal is considered to be of a height and scale that is consistent with desired character of the locality. The proposed development is commensurate with surrounding development and the area is characterised by detached dwellings / structures on large lots within a rural and bushland area.

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

#### Comment:

The proposed secondary dwelling is considered to be smaller than surrounding development. The applicable lower 5.5m height limit only applies to detached secondary dwellings, with other structures in the area permitted up to 8.5m. As such, the proposal is compatible with the height and scale of surrounding and nearby development.

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

#### Comment:

The proposed development will not cause unreasonable overshadowing of the subject site,

surrounding sites, or public areas.

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

Comment:

It is not anticipated that the proposal will unreasonably impact on view.

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

Comment:

The location chosen at the subject site is sloped, and the 5.5m height of buildings standard that specifically applies to detached secondary dwelling on rural land does not provide much tolerance for working with sloped topography. Given the floor space restrictions on secondary dwellings, and preference for single-storey secondary dwellings outline the P21DCP, it would not be reasonable to require a two-storey stepped secondary dwelling to accommodate for slope. Excavation would also be unfavorable. As such, the proposed development is considered to respond sensitively to the natural topography.

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

Comment:

The subject site is constrained by heritage / archaeological concerns. These constraints limit the locations where a secondary dwelling may be accommodated. The chosen spot is already a disturbed portion of the site, and the proposal is supported at this location by Heritage NSW and Council's Heritage team. Regarding the natural environment, the proposal has been reviewed and supported by Council's Bushland and Biodiversity team, Riparian Lands and Creeks team, and Landscape team, subject to conditions from each of these teams. The proposed development is considered to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

## **Zone Objectives**

The underlying objectives of the RU2 Rural Landscape zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*

Comment:

The proposed development is for residential accommodation within a rural zone. The proposed development will not impact on primary industry or the natural resource base.

- *To maintain the rural landscape character of the land.*

Comment:

The area is characterised by detached dwellings / structures on large lots within a rural and bushland area. The proposed development is considered to maintain this rural character and the rural landscaped character of the land.

- *To provide for a range of compatible land uses, including extensive agriculture.*

Comment:

The proposed development is for residential accommodation within a rural zone, specifically a secondary dwelling. This is a permissible use within the zone, and is compatible with other rural land uses, including agriculture.

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

Comment:

The proposed development is for residential accommodation within a rural zone, specifically a secondary dwelling. This is a permissible use within the zone, and is not considered to unreasonably increase the demand for public services or public facilities.

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

Comment:

The proposed development is for residential accommodation within a rural zone, specifically a secondary dwelling. This is a permissible use within the zone, and is compatible with other rural land uses. In this regard, the use is not expected to conflict with other land uses within this zone or adjoining zones.

## **Conclusion on Objectives**

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the height of buildings development standard and the RU2 Rural Landscape zone.

It is considered on balance, that having regard to the particular circumstances, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

## **Exception to Development Standards Conclusion**

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

## **Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment**

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

Planning Circular PS20-002 dated 5 May 2020, 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).

## 5.4 Controls relating to miscellaneous permissible uses

The proposed secondary dwelling has a GFA of 92sqm.

Clause 5.4(9)(a) stipulates that a secondary dwelling may have a total floor area up to 25% of the total floor area of the principal dwelling. The principle dwelling has a floor area of 368sqm, of which 25% is 92sqm.

Therefore, the proposed secondary dwelling has a complaint GFA.

## 5.10 Heritage conservation

The site is part of an archaeological heritage item, being **Item 2270133 - "Ruins of Powder Works", 2 and 10 Manor Road, Ingleside**, listed in Schedule 5 of the PLEP 2014. As the site is listed as an archaeological site, Clause 5.10(7) of the PLEP 2014 applies, which requires referral to Heritage NSW and consideration of any response received.

The application was referred to Heritage NSW, who responded initially stating that they could not deal with the request until such time as an 'Archaeological Assessment Report' or an 'Archaeological Research Design and Excavation Methodology' was submitted. This issue was raised within a Request for Further Information letter put to the applicant, following which additional information was submitted. This amended application, accompanied by a Baseline Heritage and Archaeological Report prepared by Romic Planning (18 October 2023), was referred again to Heritage NSW for comment, as required by Clause 5.10(7) of the PLEP 2014.

The response from Heritage NSW, dated 17 November 2023, acknowledges that the site of the proposed secondary dwelling is on disturbed land which has been identified as an area of low archaeological potential. The Archaeological Report concluded that the works could be undertaken using an excavation permit exemption under section 139(4) of the Heritage Act, 1977. Heritage NSW advised that use of this exemption provision is self-assessed and not determined by them.

On this basis, Heritage NSW have not raised any objection to the proposal, subject to the imposition of a condition to cover the event that relics are discovered during works.

Furthermore, the proposal has been reviewed by Council's internal Heritage team, who are supportive of the proposal, subject to conditions.

## 5.21 Flood planning

Portions of the property are mapped on the NBC Flood Hazard Map as low, medium and high risk precincts. However, these areas are all located on parts of the subject site away from the area occupied by the proposed development. The proposed development is not located on a section of the subject site identified as flood prone.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	20m	5.5m (to carport) 11.3m (to secondary)	72.5% 43.5%	No No

		dwelling		
Rear building line	7.5m	>7.5m	-	Yes
Side building line	North-West 7.5m	3.5m	53.3%	<b>No</b>
	East 7.5m	>7.5m	-	Yes
Building envelope	North-West 3.5m	Within envelope	-	Yes
	East 3.5m	Within envelope	-	Yes
Landscaped area	96% of the total site area minus 400sqm (18,137.6sqm). Therefore, 1,172.4sqm of non-landscaped area permitted.	1,168.9sqm of non-landscaped area.	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.6 Ingleside Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.13 Freshwater Wetlands (non Endangered Ecological Communities)	Yes	Yes
B4.14 Development in the Vicinity of Wetlands	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	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
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	No	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D6.1 Character as viewed from a public place	No	Yes
D6.3 Building colours and materials	Yes	Yes
D6.5 Front building line	No	Yes
D6.6 Side and rear building line	No	Yes
D6.7 Building envelope	Yes	Yes
D6.8 Landscaped Area - Non Urban General	Yes	Yes
D6.11 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D6.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

### Detailed Assessment

#### **C1.11 Secondary Dwellings and Rural Worker's Dwellings**

##### **Description of non-compliance**

The proposed secondary dwelling does not comply with the specific control that requires "a secondary dwelling or rural worker's dwelling contains not more than two (2) bedrooms and not more than one (1) bathroom." The secondary dwelling contains two (2) bedrooms, two (2) bathrooms, laundry, kitchen and dining / living room. There is one (1) more bathroom than permitted by this control.

##### **Merit assessment**

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

- Limitation of the visual bulk and scale of development.

##### Comment:

Whilst the proposal exhibits a non-compliance with the height of buildings development standard of 5.5m under the PLEP 2014, this variation is supported on merit. Refer to the section of this report on PLEP 2014 Clause 4.6 Exceptions to development standards for further details. The secondary dwelling presents to the street as a single-storey dwelling and is

only elevated at the rear.

The secondary dwelling is compliant with the floor area allowed by PLEP 2014 Clause 5.4(9) (a), which stipulates that a secondary dwelling may have a total floor area up to 25% of the total floor area of the principal dwelling. As such, the addition of the extra bathroom has not resulted in a floor area non-compliance, nor does this bathroom contribute to the height breach.

Overall, it is considered that the bulk and scale of the proposal will not cause unreasonable impacts to adjacent properties or the streetscape.

- *Provision of design flexibility for second storey development.*

Comment:

Not applicable. The development does not propose a two-storey secondary dwelling, a point of compliance with this control.

- *Restriction of the footprint of development site.*

Comment:

As outlined above, it is considered that the overall bulk and scale of the proposal will not cause unreasonable impacts to adjacent properties or the streetscape. The secondary dwelling is compliant with the floor area allowed by PLEP 2014 Clause 5.4(9)(a), which stipulates that a secondary dwelling may have a total floor area up to 25% of the total floor area of the principal dwelling. Furthermore, the proposal is compliant with the provisions of P21DCP Clause D6.8 Landscaped Area - Non Urban General, which stipulates controls relating to site coverage and landscaped area. For these reasons, the footprint of the secondary dwelling and residential development at the subject site is not considered to be excessive.

- *Retention of natural vegetation and facilitation planting of additional landscaping.*

Comment:

The proposal is compliant with the provisions of P21DCP Clause D6.8 Landscaped Area - Non Urban General, which stipulates controls relating to site coverage and landscaped area. The proposal has been reviewed by Council's Landscape team, who support the proposal, subject to conditions, including conditions stipulating required additional planting and protection of existing vegetation / trees.

- *Provision of rental accommodation.*

Comment:

The proposed secondary dwelling has the potential to be utilised as rental accommodation.

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

### **D6.1 Character as viewed from a public place**

The proposed carport is located in front of the proposed secondary dwelling and forward of the 20m

front building line, inconsistent with the requirement of this control for parking structures to be located behind the front building line.

Nonetheless, the proposed carport is an open-style structure that is to be integrated with the design of the proposed secondary dwelling. The width of the carport is less than 50% of the frontage of the site as required by this control. Furthermore, the existing primary dwelling has an existing front carport which is located closer to the front boundary, making this not an unusual feature to the streetscape.

The proposal is considered to be consistent with the outcomes of this control, notwithstanding the variation to the front building line, that is found to be supported on merit within section of this report on P21DCP Clause D6.5 Front building line.

### **D6.3 Building colours and materials**

A schedule of external colours and finishes has not been submitted with the proposal. As such, a suitable condition requiring consistency with this control has been included in the recommendations of this report.

### **D6.5 Front building line**

#### **Description of non-compliance**

The control requires a 20.0m front setback to Manor Road.

The proposed carport, which is located in-front of the proposed secondary dwelling, has a front setback of 5.5m, representing a variation of 72.5%. Furthermore, the proposed secondary dwelling itself has a front setback of 11.3m, representing a 43.5% variation to the control.

It is noted that the existing dwelling house has a carport attached to its front, setback 4.8m from the front boundary. The dwelling house itself is setback 10.4m from the front boundary. Therefore, the proposed secondary dwelling and carport will be located behind these existing front setback encroachments.

It is also noted that the placement of the secondary dwelling has been constrained by heritage / archaeological concerns, as well as topography, stormwater watercourses, flood mapping, access considerations and the irregular site shape.

#### **Merit consideration**

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

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

#### **Comment:**

The proposed development is considered to be consistent with the Ingleside locality, by maintaining a building height below the tree canopy in harmony with the natural environment, remaining consistent with the low-density, rural residential environment, and involving minimal site disturbance.

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

Comment:

It is not anticipated that the proposal will unreasonably impact on views.

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

Comment:

The proposed development does not adjoin a main road.

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

Comment:

The proposal is designed, sited and conditioned to maintain ample landscaped areas around the development that will assist in visually reducing the built form.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment:

Vehicles will not have sufficient room to facilitate entering and exiting the new driveway to the proposed carport in a forward direction. This is considered acceptable due to the existing nature of the site. Additionally, the low trafficked nature of the road is not considered to impact on the safety and functionality of the vehicles entering and exiting the site. The proposal has been reviewed by Council's Development Engineer who has raised no objection, subject to conditions.

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

Comment:

The proposed development is consistent with the character of surrounding development, which comprises of varied setbacks and low density residential development within a rural / bushland setting. As such, the proposal preserves the rural and bushland character of the locality.

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

Comment:

The proposed development is of a smaller scale to the existing dwelling and other dwellings in the streetscape, as it is a secondary dwelling. The existing low density of the site is retained.

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

Comment:

The proposed development presents a detached secondary dwelling, consistent with the existing streetscape, from which dwellings within a rural landscape are visible. The proposed development does not present an unreasonable impact on pedestrian amenity.

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

Comment:

The works maintain the established front building line and will not give rise to any adverse streetscape impacts. In this regard, it is considered that the proposed development achieves consistency with spatial characteristics of the existing urban environment in Ingleside.

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

## **D6.6 Side and rear building line**

### **Description of non-compliance**

This control requires development to be setback 7.5m from side and rear boundaries.

The proposal exhibits a greater than 7.5m rear setback, complaint with this control.

The proposal exhibits a greater than 7.5m setback to the east side boundary, complaint with this control.

The proposal exhibits a 3.5m setback to the north-west side boundary, the side boundary adjacent and closest to the proposed secondary dwelling. This represents a 53.3% variation to the control.

It is noted that the placement of the secondary dwelling has been constrained by heritage / archaeological concerns, as well as topography, stormwater watercourses, flood mapping, access considerations and the irregular site shape.

### **Merit consideration**

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

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

#### Comment:

The proposed development is considered to be consistent with the Ingleside locality, by maintaining a building height below the tree canopy in harmony with the natural environment, remaining consistent with the low-density, rural residential environment, and involving minimal site disturbance.

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

#### Comment:

The development is generally of a low scale. It is considered to be a modestly sized secondary dwelling and within the character of the area, that being low-density, detached dwellings within a rural / bushland landscape. The proposed works are considered to be generally consistent with the desired character statement. Conditioned landscaping will act to soften the built form.

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

#### Comment:

It is not anticipated that the proposal will unreasonably impact on views.

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

Comment:

As above, it is not anticipated that the proposal will unreasonably impact on views.

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

Comment:

The proposal will not have any unreasonable amenity impacts on adjoining neighbours. The proposed secondary dwelling is approximately 30m from the closest neighbouring dwelling to the north-west, a distance which negates any privacy, amenity or solar access issues. Furthermore, conditioned landscaping along the boundary will soften and visually shield the build form. The side setback non-compliance will not cause unreasonable impacts in this regard.

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

Comment:

The proposal is designed, sited and conditioned to maintain ample landscaped areas around the development that will assist in visually reducing the built form. A mature tree canopy and an attractive streetscape will be maintained.

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

Comment:

The proposal allows for flexibility in the siting of development, without resulting in any unreasonable impacts to the subject site or adjoining sites. The proposal is considered to be an appropriate development of the site, considering existing site conditions and constraints.

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

Comment:

The proposal is designed, sited and conditioned to maintain ample landscaped areas around the development that will assist in visually reducing the built form.

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

Comment:

Not applicable. The site does not adjoin a commercial zone.

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

Comment:

The proposed development is consistent with the character of surrounding development which comprises of varied setbacks and low density residential development within a rural / bushland setting. As such, the proposal preserves the rural and bushland character of the locality.

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

Comment:

Not applicable. The site does not adjoin a commercial zone.

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

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

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

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

A monetary contribution of \$ 900 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 180,000.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, 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.

## **PLANNING CONCLUSION**

This proposal, for alterations and additions to a dwelling house including a carport and secondary dwelling has been referred to the Development Determination Panel (DDP) due to a proposed variation to the height of buildings development standard of greater than 10%.

Following public exhibition of the application, no submissions have been received.

Critical assessment issues included the assessment of the proposed variation to the height of buildings development standard, as well as proposed variations to the front and side building line stipulated by the Pittwater 21 Development Control Plan, and archeological / heritage concerns.

The Clause 4.6 variation for height of buildings under PLEP 2014 is considered to be well founded and is supported.

The variations to the other built form controls under P21DCP are also satisfactory and supported.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal has therefore been recommended for approval.

## **REASON FOR DETERMINATION**

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

## **RECOMMENDATION**

That Northern Beaches Council as the consent authority permits a contravention of clause 4.3 Height of Building development standard pursuant to clause 4.6 of the 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 DA2023/0707 for Alterations and additions to a dwelling house including a carport and secondary dwelling on land at Lot 81 DP 866452, 2 Manor Road, INGLESIDE, subject to the conditions printed below:

### Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
1-2 1008 22	3	Site Plan	High Design	6 February 2024
2-2 1008 22	3	Elevations, Sections and Floor Plans	High Design	6 February 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	1372440S	Sustainability-Z Pty Ltd	9 February 2023
On-Site Wastewater Report	2839-WW-A-01	Broadcrest Consulting Pty Ltd	9 May 2023
Bushfire Report	-	Bushfire Planning Services	2 March 2023
Arboricultural Impact Appraisal and Method Statement	-	Ezigrow	7 May 2023
Geotechnical Report	J5188	White Geotechnical Group	24 October 2023
Waste Management Plan - 2 Manor Road, Ingleside	-	-	-

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

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

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

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

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

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	Undated (dated 14/06/2023 on EDMS)
Department of Planning and Environment - Heritage NSW	DPE - Heritage Referral Response - delegated response letter	17 November 2023 (dated 20/11/2023 on EDMS)

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

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

**3. Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

#### 4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the 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 \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$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 (as amended).

The monetary contribution is based on a development cost of \$180,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

## 6. **Security Bond**

A bond (determined from cost of works) of \$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 Certifier prior to the issue of the Construction Certificate.

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

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

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### 7. **No Clearing of Vegetation**

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

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

Reason: To protect native vegetation.

### 8. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to adjacent water course through a transpiration bed or minimum 6 metre long level spreader.

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 24.10.2023 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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**10. Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing a maximum of 4.0 metres wide in accordance with Northern Beaches Council Standard Drawing A4 3330/5 EL in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

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

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

**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 Principal Certifier for approval prior to the issue of the Construction Certificate.

Reason: To protect the receiving environment.

12. **Water Quality Management**

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 Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

13. **Approval to Install an On-site Sewage Management System**

Prior to the release of the Construction Certificate the applicant must receive an 'Approval to Install an On-Site Sewage Management System' from Council for the new 2nd Waste Water system (AWTS) on the site

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

Reason: To fulfil the requirements under Section 68 of the Local Government Act 1993

14. **Compliance with Standards**

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

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

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

15. **External Finishes to Roof**

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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

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

16. **External Colours and Finishes**

The external colours and finishes shall have a medium to dark range. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

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

**17. Sydney Water "Tap In"**

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

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

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

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

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

## DURING BUILDING WORK

**18. Wastewater disposal areas**

Proposed works shall not impact on any wastewater disposal (Land Application Areas) building materials and equipment shall not be stored within the wastewater disposal areas on site.

Reason: To protect land and infrastructure in the wastewater disposal area from damage and failure.

**19. Protection of Landscape Features and Sites of Significance**

a) 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 and detailed on approved plans.

b) should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

**20. Protection of Existing Street Trees**

a) all existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

b) all street trees within the road verge 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. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

**21. Tree and Vegetation Protection**

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

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

b) tree protection shall be undertaken as follows:

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

c) the Principal Certifier must ensure that:

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

Reason: Tree and vegetation protection.

22. **Condition of Trees**

a) during the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

b) any mitigating measures and recommendations required by the Arborist/Project Arborist are to be implemented.

c) the owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

23. **Wildlife Protection**

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

Reason: To protect native wildlife.

24. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

25. **Clearing for Asset Protection Zones**

Clearing of vegetation during works for APZ establishment must only occur within the marked APZ boundaries as established within the supplied bushfire report #4272 (Bushfire Planning and Design, March 2023) in Map 3.

No clearing is to be undertaken outside of the APZ boundaries.

Written certification of compliance is to be submitted to the Principal Certifier.

Reason: To protect native vegetation and wildlife.

26. **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.

27. **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: To protect the receiving environment.

28. **Removing, Handling and Disposing of Asbestos**  
Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:
- Work Health and Safety Act;
  - Work Health and Safety Regulation;
  - Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
  - Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
  - Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
  - The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

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

29. **Geotechnical Requirements**  
All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

30. **Survey Certificate**  
A survey certificate prepared by a Registered Surveyor at the following stages of construction:
- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
  - (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
  - (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

**31. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

**32. Property Boundary Levels**

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

**33. Traffic Control During Road Works**

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

Reason: Public Safety.

**34. Notify discovery of a relic**

If any archaeological deposits or relics are discovered during works, works must cease, and the Heritage Council of NSW must be notified. To address this discovery, a s146 notification to the Heritage Council of NSW must be lodged. Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: Archaeological relics are protected under s.139 of the Heritage Act 1977. Notification of the unexpected discovery of known or suspected relics is a statutory requirement under s.146 of the Heritage Act 1977.

**35. 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 Planning and Environment.

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 Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

## BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

### 36. **Required Tree Planting**

- a) one locally native tree shall be planted within the property boundary to achieve at least 8 metres height at maturity, and shall be selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide, and in accordance with the following:
- i) tree planting shall be a minimum pre-ordered planting size of 75 litres; meet the requirements of Natspec - Specifying Trees and Planning for Bushfire Protection 2019; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
  - ii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,
- b) Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

### 37. **Required Screen Planting**

- Screen planting along the northern boundary shall be installed in accordance with the following:
- a) for the entire east-west extent of the secondary dwelling and associated deck,
  - b) the selected planting is to comprise of species capable of attaining a height of 3.5 metres at maturity,
  - c) plants are to be installed as a visual buffer in accordance with the bushfire requirements; be of a minimum container size so plant height is 1.5 metres at installation; and installed in a garden bed prepared with a suitable free draining soil mix,
  - d) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

Reason: To maintain environmental amenity.

### 38. **No Weeds Imported On To The Site**

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

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

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

### 39. **Stormwater Disposal**

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

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

40. **Waste Management Confirmation**

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

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

41. **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 Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

42. **Wastewater Systems -Approval to Operate**

Prior to the issuing of an Occupation Certificate, a copy of a s68 (Local Government Act 1993) approval to operate a wastewater system, and the wastewater system must be activated and effectively operating to the satisfaction of the Principal Certifier.

Note: This applies to the two(2) systems 1. The second dwelling new AWTS and also 2. The main original dwelling with septic tank with trenches.

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

Reason: To ensure the premises are maintained in an appropriate manner and do not present a risk to public health

43. **House / Building Number**

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

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

Reason: Proper identification of buildings.

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

44. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees and shrubs required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree or shrub required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with any conditions of consent.

Reason: To maintain local environmental amenity.

45. **Maintenance of Stormwater Treatment Measures**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate

maintenance of the device at the cost of the property owner.

Reason: To protect the receiving environment.

46. **Geotechnical Recommendations**

Any ongoing recommendations (if any) 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.