

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2569
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 187 DP 16902, 19 The Outlook BILGOLA PLATEAU NSW 2107
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Gary Barber Cynthia Barber
Applicant:	Antony George Robb

Application Lodged:	06/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/01/2022 to 03/02/2022
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 880,000.00
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PROPOSED DEVELOPMENT IN DETAIL

Development application for alterations and additions to an existing dwelling house, including the construction of a swimming pool. The works comprise;

Lower Floor Level (RL105.84)

- Construction of new internal stair, lobby, and living area.
- Internal alterations, including a fit out of a bathroom.
- Construction of east facing deck.

Ground Floor Level (RL108.90)

- Internal alterations to existing floor plan.
- Construction of new bedroom.
- Construction of east facing deck, with a 1.7m privacy screen along the southern elevation.

First Floor Level (RL111.60)

- Construction of first floor addition, including bedroom, study, ensuite and WIR.
- Construction of two balconies to the east and west elevations.

External Works:

- Installation of swimming pool.
- Construction of 1.65m front fence.
- Associated landscaping works.

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 - 5.21 Flood planning

Pittwater 21 Development Control Plan - A4.3 Bilgola Locality

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D3.7 Side and rear building line

Pittwater 21 Development Control Plan - D3.9 Building envelope

Pittwater 21 Development Control Plan - D3.11 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D3.13 Fences - Flora and Fauna Conservation Areas

SITE DESCRIPTION

Property Description:	Lot 187 DP 16902 , 19 The Outlook BILGOLA PLATEAU NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of The Outlook, Bilgola Plateau.</p> <p>The site is irregular in shape with a frontage of 22.86m along The Outlook and an average depth of 54m. The site has a surveyed area of 977.2m².</p> <p>The site is located within the C4 Environmental Living zone and accommodates a single-storey detached dwelling.</p> <p>The site slopes approximately 9m from west to east across the majority of the site, then slopes steeply towards the east, approximately 14m.</p> <p>The site contains some significant vegetation across the majority of the site, and is heavily vegetated in the eastern-most quarter of the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low-density detached dwellings.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's

records has revealed the following relevant history:

DA2018/1251

Alterations and Additions to a dwelling house was approved on 28 November 2018 under staff delegation.

Mod2019/0219

Modification of Development Consent DA2018/1251 granted for alterations and additions to a dwelling house was approved on 10 July 2019 under staff delegation.

Mod2019/0640

Modification of Development Consent DA2018/1251 granted for alterations and additions to a dwelling house was approved on 20 March 2020 under staff delegation.

Mod2021/0070

Modification of Development Consent DA2018/1251 granted for alterations and additions to a dwelling house was withdrawn on 16 June 2021.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a</p>

Section 4.15 Matters for Consideration	Comments
	condition of consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 (prepared by Sydney Bushfire Consultants, dated 07 February 2022). The report stated that the bushfire attack level of the site is “Flame Zone” and the report recommended an alternative solution to comply with Planning for Bush Fire Protection.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/01/2022 to 03/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mountford Architects	2/235 Commonwealth Street SURRY HILLS NSW 2010
Mrs Amy Green Mr Shane Gordon Green	17 The Outlook BILGOLA PLATEAU NSW 2107
Doyle Consulting Group	3A Kendall Road CASTLE COVE NSW 2069

The following issues were raised in the submissions:

- **Privacy,**
- **Views,**
- **Built form non-compliances,**
- **Building bulk,**
- **Overshadowing,**
- **Insufficient information.**

The above issues are addressed as follows:

- **Privacy**

The submissions raised concerns that the proposal will result in unreasonable privacy impacts.

Comment:

Matters relating to privacy impacts have been discussed in further detail in part 'C1.5 Visual Privacy' of this report. In summary, the works as conditioned will not give rise to any adverse privacy impacts to adjoining dwellings.

- **Views**

The submissions raised concerns that the proposal will hinder the preservation of existing views, particularly any landscaping located between the western (front) building line and the kerb.

Comment:

The proposed development is acceptable in relation to view loss for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. In addition, no significant landscaping works are proposed within the frontage nor are any canopy trees conditioned to be included within the proposal. In this regard, matters relating to the height of any existing or future landscaping cannot not be addressed under this development application.

This matter does not warrant the refusal of this application.

- **Built form non-compliances**

The submissions raised concerns that the involves built form non-compliances that result in impacts to adjoining dwellings.

Comment:

It is acknowledged that the proposal includes built form non-compliances relating to the southern side building line, building envelope and landscaped area. As such, the merits of these non-compliances have been assessed against the outcomes of the individual controls. In summary, the works are found to be consistent with the outcomes of these controls, as the proposal has responded appropriately to the site constraints, while remaining compatible with the existing built form and not giving rise to any adverse amenity impacts.

This matter does not warrant the refusal of this application.

- **Building bulk**

The submissions raised concerns that proposed rear elevated decks result in unreasonable building bulk and suggested that the built form is further recessed from the southern boundary.

Comment:

The proposal achieves general compliance with the critical controls used to regulate building bulk being building height and side boundary envelope. It is acknowledged, that there is a minor encroachment within the southern side boundary envelope caused by the privacy screen on the ground floor deck, however, variation is permitted to this non-compliance given the sloping nature of the site and the structures lightweight design. Overall, the proposal has been sufficiently articulated to reduce building bulk and it will not result in any adverse amenity impacts to adjoining land.

This matter does not warrant the refusal of this application.

- **Overshadowing**

The submissions raised concerns that the proposal result in unreasonable overshadowing to the southern adjoining property, known as 21 The Outlook.

Comment:

The proposal complies with the requirements of the C1.4 Solar Access control and has been designed so that there are no unreasonable impacts on the adjoining or nearby properties.

This matter does not warrant the refusal of this application.

- **Insufficient information**

The submissions raised concerns that the submitted plans do not demonstrate how the proposal sits in comparison with the adjoining dwelling to the north, known as 17 The Outlook.

Comment:

The submitted plans include the necessary details required to complete a comprehensive assessment of the works.

This matter does not warrant the refusal of this application.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The application seeks approval for alterations and additions to an existing dwelling. The application also seeks to establish an Asset Protection Zone (APZ) over the entirety of the site in perpetuity. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) State Environmental Planning Policy (Coastal Management) 2018</p> <ul style="list-style-type: none"> Proximity to Littoral Rainforest <p>Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor <p>As an approved APZ (DA2018/1251) already exists over the entirety of the site, and the Statement of Environmental Effects provided with the application notes that no prescribed trees or vegetation shall be removed as a result of proposed works which is supported by the Architectural Plans; no objection is raised by Council's Biodiversity referral team.</p> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The rear of the property is partially flood affected. The proposed development is outside the flood affected area.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>
NSW Rural Fire Service – local branch (s4.14 EPAA)	<p>The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject</p>

External Referral Body	Comments
	to conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A397438_03 dated 07 December 2021).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

The site is classified as land in proximity to coastal wetlands or littoral rainforest under the State Environmental Planning Policy (Coastal Management) 2018. Accordingly, an assessment under the SEPP has been carried out as follows:

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

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

Comment:

The proposed additions are reasonably contained within the existing footprint and do not involve the removal of any significant vegetation. Imposed conditions protect nearby vegetation and limit any sediment run-off during construction. In addition, Council's Bushland and Biodiversity department has reviewed the proposal's impacts on the surrounding environment and raised no objections, subject to conditions.

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.0m	7.9m	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
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

Detailed Assessment

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment:

The development application was referred to Council's Natural Environment (Flood), who were supportive of the application. In this regard, Council is satisfied that the development is consistent with the objectives of this clause and the matters raised in points (a) - (e).

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) *the intended design and scale of buildings resulting from the development,*
- (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment:

Council has considered the above matters within the assessment of this application and are satisfied the proposal complies with the prescribed flood prone land development controls.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.5m (Swimming pool)	N/A	Yes
Rear building line	Maximum of 26.5m from the front boundary	26.5m from the boundary (Lower floor deck)	N/A	Yes
Side building line	2.5m - South	0.7m - 2.4m (Lower floor) 2.5m (Ground floor balcony) 5.6m (First floor)	4% - 72% N/A N/A	No Yes Yes
	1.0m - North	5.2m (Lower floor) 2.4m (Ground floor balcony) 6.3m (First floor)	N/A	Yes
Building envelope	3.5m - South	Outside envelope	22.9%	No
	3.5m - North	Within envelope	N/A	Yes
Landscaped area	60% (586.3sqm)	58.3% (569.7sqm)	2.8%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	No	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	Yes	Yes
D3.7 Side and rear building line	No	Yes
D3.9 Building envelope	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	No	Yes
D3.13 Fences - Flora and Fauna Conservation Areas	No	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.3 Bilgola Locality

The development is generally consistent with the Desired Character statement of the Bilgola Locality with exception of the third storey element of the dwelling.

Specifically, the locality statement provides that the "locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape".

However, the third storey element is consistent with the site's topography and the surrounding residential dwelling houses. Surrounding sites are seen to contain third storey elements. In addition, the proposal presents as two storey development when viewed from The Outlook, as the dwelling appropriately responds to the topography of the site, while minimising excavation.

In this regard, the built form will sit comfortably with surrounding two and three storey residential developments. Further, proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Bilgola locality.

C1.3 View Sharing

Merit consideration

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

- *A reasonable sharing of views amongst dwellings.*

Comment:

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

1. Nature of the views affected

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

Comment to Principle 1:

No. 24 The Outlook:

From ground floor living room - Enjoys water views and North Bilgola headland to the east. These views are reasonably obscured by existing residential development and vegetation.

From rear bedroom balconies - Enjoys water views to the east, including an area of breaking waves. These views are reasonably obscured by existing residential development and vegetation.

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

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

From the ground floor living room - The views are obtained mainly from standing positions, directly over the subject site's front boundary.

From the rear bedroom balconies - The views are obtained from both seated and standing positions, directly over the subject site's front boundary.

3. Extent of impact

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

Comment to Principle 3:

From the ground floor living room - The views loss is relatively indiscernible from this room as

existing residential development and vegetation screen views down into Bilgola Beach, while the the proposed ridge (RL115.48) is 1.62m below the concerned living room windows (SL 117.10). Minimal views will be lost from the the living/kitchen area. In this regard, the view loss is considered to be negligible.

From the rear bedroom balconies - The view loss from this area includes a relatively small portion of the total views enjoyed by No.24 The Outlook, including an area of breaking waves at certain angles. In addition, while these may be considered as highly valued views for the neighbours, views from highly used spaces such as living areas hold a greater significance under this principle. In this regard, the view loss is considered minor - moderate in the context of these principles

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The critical controls relating to view loss for this property are overall height, side boundary envelope and side setback of the proposed first floor addition.

The addition is compliant with the 8.0m height limit when measured from natural ground level and and this maximises the views from the ground floor of No. 24 The Outlook. Furthermore, the proposed first floor addition is contained within the building envelope control on both side boundaries, which maintains reasonable view corridors. In addition, the first floor element is a relatively minor addition (49.2sqm) with consideration of the host dwelling's ground floor footprint.

Overall, the proposal has made clear attempts within it's design to mitigate view loss impacts, through generous side setbacks and a compliant building height, which maintains reasonable sight lines of valued views from the concerned site's main living areas and outdoor entertaining spaces.

These factors minimise the view loss from No. 24 The Outlook and it is considered that there is not a more skilful design - as demonstrated within the previous approvals - that would achieve the same development potential while retaining more views. In this regard, it is considered that the proposal is the compromise solution, that it is a reasonable outcome for the site and will allow a reasonable sharing of views.

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

Comment:

Public views will not be impeded by this proposal.

- *Canopy trees take priority over views.*

Comment:

The proposed development does not unreasonably impact upon trees.

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

C1.5 Visual Privacy

Merit consideration

One objection relating to privacy concerns prompted by overlooking was received and is detailed as follows;

No 17. The Outlook (North of the subject site);

- First floor addition - Concern is raised that the eastern deck and Window 24 will provide readily accessible views into No. 17 The Outlook's highlight window, which is attached to the living room. In addition, concern is also raised with the western side of the development, as it is considered to overlook into the site's front yard.
- Ground floor deck - Concern is raised that northern side of the proposed deck does not include a privacy screen, which will give rise adverse amenity impacts.
- Lower terrace deck - Concern is raised with this deck as it is considered to provide views into No. 17 The Outlook's bathroom window.

The development is considered against the underlying objectives of the control as follows:

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

Comment:

First floor - The eastern (rear) side of the development includes a 'L' shaped balcony that is accessed via the new master bedroom, which is not considered to be a highly used part of the dwelling, which is consistent with the planning principal of *Meriton v Sydney City Council [2004] NSWLEC 313*, where overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time. The proposed first floor provides a generous northern side setback of 6.5m and is approximately 9.8m from the adjoining living room window at No.17 The Outlook. It must be noted that this adjoining window is relatively narrow being a highlight and is orientated to the south-east. In this regard, direct views into the adjoining window area not attainable given the alignment of the works, with only side views achievable if an individual was to stand flush at W24 or the northern balustrade of the eastern balcony. It is considered that because of the factors outlined above, including generous building separation, the direction of the views, and the low use rooms it is accessed from, this element of the proposal will not result in any unreasonable privacy impacts for adjoining building at No 17. The Outlook.

The western (front) side of the proposed first floor comprises a small balcony (6.8m x 1.1m), which is orientated to the street and accessed via the ensuite or study. As mentioned above, these areas are not considered to be highly used spaces of the dwelling. In addition, as the works are orientated to the street and they do not overlook any adjoining private open space. Notwithstanding, imposed conditions will ensure that the window attached to the bathroom is made translucent to preserve a reasonable sense of privacy for the occupants of the development and occupants of adjoining developments. Overall, the proposal as conditioned will not result in any unreasonable privacy impacts.

Ground floor deck - The proposed ground floor deck is compliant with the side and rear setback controls, which are critical in preserving reasonable privacy for the concerned site. In addition, the proposed deck is 1.5m behind the concerned dwelling's building line and the adjoining deck has an existing privacy screen. In this regard, a full length privacy screen along the northern elevation will add unnecessary building bulk, while providing no discernible benefit for the northern neighbours privacy.

Lower terrace deck - The lower terrace deck is set back 5.4m from the northern side boundary and orientated to the east (away from the concerned window). The concerned bathroom window is of a shutter design and located on the adjoining dwelling's eastern (rear) elevation. In addition, the works are approximately 7.5m from the concerned window, with only side views available if an individual was to stand flush at the northern balustrade and look back towards the north-west (away from district and water views). Therefore, given the reasonable building separation, design of concerned window and direction of views, it is considered that the lower ground floor deck will not result in any adverse privacy impacts.

The lower terrace deck includes a non-compliant southern side setback of 0.7m. Given that the proposed deck proximity to the boundary and elevated nature, close and direct views (within 9.0m) of No. 21 The Outlook's swimming pool are attainable. In this regard, imposed conditions will require a privacy screen along the deck's southern elevation to prevent any unreasonable overlooking into 21 The Outlook's private open space.

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

Comment:

Subject to the above conditions, it is assumed the sense of territory and safety will be provided for residents.

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, subject to conditions, in this particular circumstance.

D3.7 Side and rear building line

Description of non-compliance

The proposal includes encroachments to the southern side setback on the lower terrace level with a varied setback between 0.7m (Deck) - 2.4m (Living area).

The control requires a minimum setback of 2.5m to the southern side boundary.

Merit consideration

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

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

Comment:

The desired future character of the Bilgola locality seeks to remain primarily a low-density residential area with dwelling houses set a maximum of two storeys, which have a well integrated landscaped setting, between the landform and landscape. The development is generally consistent with the Desired Character statement of the Bilgola Locality with exception of the third storey element technically created by the proposed works. Notwithstanding, the proposal presents as two storey development when viewed from The Outlook, as the lower ground floor is effectively staggered downslope such that is not readily visible from the street. On balance, the proposal is considered consistent with the desired future character of the Bilgola locality.

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

Comment:

The proposal has been designed to reasonably maintain the natural landform, as the works respond appropriately to the site's undulating topography. In addition, the proposed deck includes a lightweight pole style design to further minimise site disturbance and visual impacts to surrounding site's. Furthermore, the proposal is relatively low-lying and contained within the prescribed building envelope, which regulates building bulk. In this regard, the proposal has sensitively responded to the site's topography and will not result in any unreasonable building bulk

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

Comment:

The proposal will not impact upon views.

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

Comment:

As above, the works will not impact upon views and will encourage view sharing.

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

Comment:

The proposed living room includes a highlight window on the southern elevation to ensure that a reasonable level of privacy is maintained between buildings. In addition, imposed conditions will require a privacy screen along the deck's southern elevation to prevent any unreasonable overlooking into 21 The Outlook's private open space. Further, the works will be

excavated within an existing undercroft area and will not create any unreasonable overshadowing impacts. Overall, the proposal has been designed appropriately to maintain neighbourhood amenity.

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

Comment:

As mentioned elsewhere within this report the proposal provides adequate landscaped areas, such that it complies with the outcomes of Clause D3.11 of P21DCP. Furthermore, the proposal does not involve the removal of any canopy trees or landscaping within the front setback.

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

Comment:

The position and orientation of the existing dwelling will not be altered by this proposal. In addition, the proposed encroachment from the deck, allows the continuation of existing external side access along the southern boundary.

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

Comment:

As above, sufficient landscaped area is retained under this development application such that visual impact of the built form is secondary to landscaping and vegetation.

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

Comment:

The subject site does not adjoin any commercial zones.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP2014/P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D3.9 Building envelope

Description of non-compliance

The control requires a building envelope to be projected 45 degrees from a height of 3.5m above ground level at the side boundaries to the maximum building height.

The proposed privacy screen located on the ground floor deck encroaches the southern side boundary envelope up to 0.8m for a length of 0.6m.

The extent of the non-compliance is shaded in red below within Figure 1.

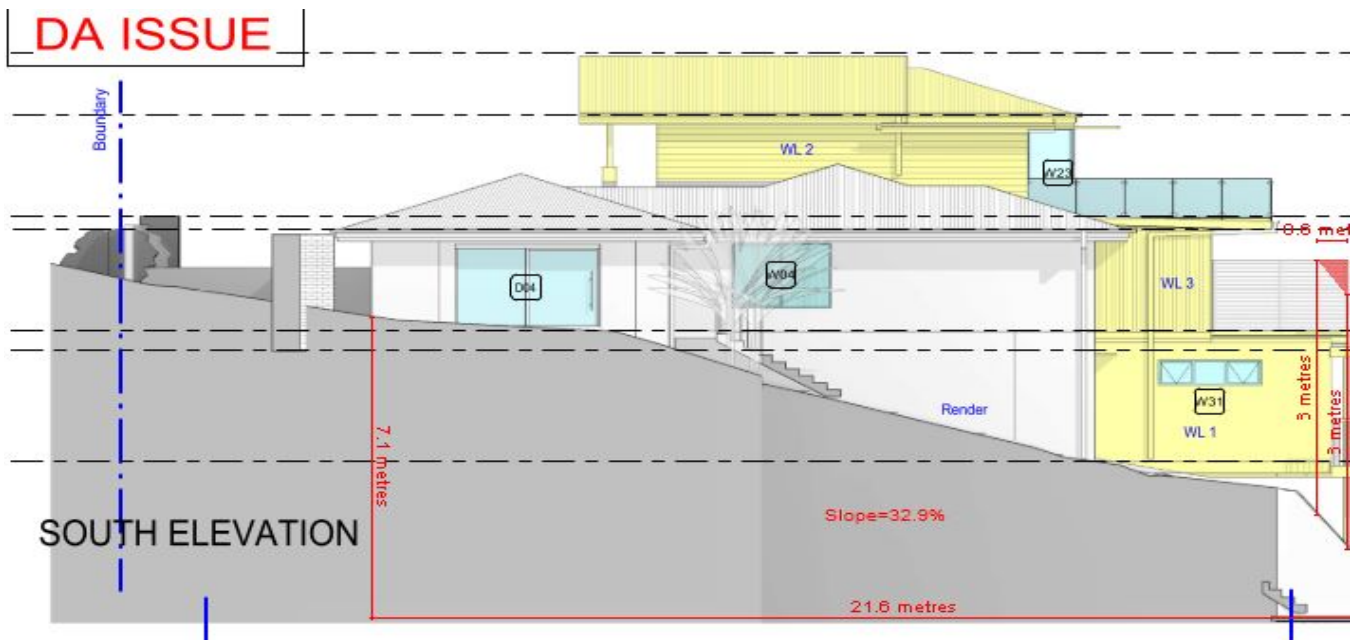


Figure 1.

In addition, variation to this control is permitted given that the proposed footprint is situated on a slope in excess of 30%.

Merit consideration

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

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

Comment:

The proposed development is consistent with the overall intention of the desired future character of the Bilgola locality as it maintains a low-density residential nature of the area.

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

Comment:

The encroachments are located towards the rear of the dwelling and provide a compliant building height that is generally consistent with surrounding canopy trees. In this regard, the proposal will not result in any overbearing elements upon the streetscape.

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

Comment:

No significant vegetation is required to be removed to facilitate the proposed works. It is considered the development responds to, reinforces and sensitively relates to the spatial characteristics of the existing natural environment.

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

Comment:

The encroaching elements are minimal and lightweight, and will therefore not result in any unreasonable building bulk.

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

Comment:

No views or vistas will be unreasonably hindered as a result of the proposed development.

- *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 ensures that adequate light, solar access and privacy is obtained between dwellings. The proposal complies with the requirements of the C1.4 Solar Access control and has been designed so that there are no unreasonable impacts on the adjoining or nearby properties. Adequate physical separation and screening devices between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.

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

Comment:

The proposed landscaping is able to effectively reduce the bulk and scale of the built form.

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.

D3.11 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The control requires a minimum of 60% (586.3sqm) of the site to be landscaped area.

The proposed development provides 58.3% (569.7sqm) of the total site area as landscaped area which represents a variation of 2.8%.

It is noted the variations provision of the Control allows for impervious pathways less than 1m in width to be included as part of the landscaped area, as well as up to 6% of the site area provided such is allocated to outdoor recreational purposes. Upon application of such provisions, the landscaped area would exceed the 60% requirement.

Merit consideration

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

objectives of the Control as follows:

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

Comment:

The proposed development is consistent with the desired future character of the Bilgola locality.

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

Comment:

The proposal is highly articulated and responds appropriately to the natural landform such that the dominance of the built form is broken down as a result. The proposal achieves reasonable compliance with the relevant DCP built form controls and is innovative in design such that site disturbance is minimised as a result. Further, the development as viewed from the street will appear consistent with surrounding dwellings, such that it will integrate appropriately within its context. In turn, the bulk and scale of the built form is considered to be reasonable and minimised.

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

Comment:

As discussed elsewhere in this report, the proposal will allow for sufficient provisions of privacy, amenity and solar access to be maintained throughout the subject site and adjoining properties.

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

Comment:

No significant vegetation is required to be removed to facilitate the proposed development. Existing surrounding vegetation will not be significantly impacted by this development. The built form will continue to be sufficiently screened and visually reduced as a result.

- *Conservation of natural vegetation and biodiversity.*

Comment:

As above, the proposal does not involve the removal of any significant vegetation. The conservation of natural vegetation and biodiversity will therefore be achieved.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment:

It is considered that the site will have adequate areas to assist with stormwater management, as soft surface is provided to the front, rear and side boundaries of the site.

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

Comment:

The bushland character of the area will be maintained as no significant vegetation is required to be removed as a result of the proposed development.

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

Comment:

Sufficient permeable surfacing is provided on-site which will enable the infiltration of water to the water table, whilst minimising run-off and assisting with stormwater management.

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, subject to conditions, in this particular circumstance.

D3.13 Fences - Flora and Fauna Conservation Areas

The proposal seeks consent for the construction of a 1.65m front fence. The design of the fence is consistent with the approved conditions of DA2018/1251, which reads as follows;

"13. Modification to Front Fence

The proposed front fence shall be modified as follows:

- (a) reduction in the height of the fence to a maximum of 1.2 metres when measured from existing ground level; or*
- (b) reduction in the height of the fence to a maximum of 1.65 metres when measured from existing ground level. The fence shall provide a maximum solid portion to a maximum height of 1.2 metres, with the remaining of the fence to provide a minimum of 50% transparency in design.*

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

Reason: In order to maintain a cohesive streetscape, to enable casual visual surveillance of public open spaces and consistency with the outcomes of Pittwater 21 Development Control Plan."

Given that the fence proposed under this application meets the criteria of point (b), it is considered that the works maintain a consistent streetscape and will not give rise to any adverse visual impacts.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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

A monetary contribution of \$8,800 is required for the provision of new and augmented public

infrastructure. The contribution is calculated as 1% of the total development cost of \$880,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/2569 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 187 DP 16902, 19 The Outlook, BILGOLA PLATEAU, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A002 - RevA: Site plan	11 December 2021	Willoughby Architects

A100 - RevA: Demolition plan	11 December 2021	Willoughby Architects
A101 - RevA: Ground floor plan	11 December 2021	Willoughby Architects
A102 - RevA: Lower terrace	11 December 2021	Willoughby Architects
A103 - RevA: First floor plan	11 December 2021	Willoughby Architects
A110 - RevA: Roof plan	11 December 2021	Willoughby Architects
A201 - RevA: North & east elevation	11 December 2021	Willoughby Architects
A202 - RevA: South & west elevation	11 December 2021	Willoughby Architects
A300 - RevA: Sections	11 December 2021	Willoughby Architects
A301 - RevA: Sections	11 December 2021	Willoughby Architects
A302 - RevA: Sections	11 December 2021	Willoughby Architects
A303 - RevA: Sections	11 December 2021	Willoughby Architects
A401 - RevA: Colour schedule	11 December 2021	Willoughby Architects

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Assessment Report	7 February 2022	Sydney Bushfire Consultants
Geotechnical Assessment	15 December 2021	Ascent Geotechnical Consulting

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	16 December 2021	Evolution Planning

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department,	EDMS Reference	Dated
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Authority or Service		
Ausgrid	Response Ausgrid Referral	09 February 2022
NSW Rural Fire Service	Response NSW RFS Referral	21 February 2022

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

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

3. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the

development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is

required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

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

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming

pools

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

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$8,800.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$880,000.00.

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

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

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

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

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

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 Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

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 Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation.

8. Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

9. **Amendments to the approved plans**

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

- The first floor ensuite window is to have obscured/frosted glazing.
- A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost southern edge of the lower terrace balcony as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Compliance with Standards**

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

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

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

12. **External Finishes to Roof**

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

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

13. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works

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

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **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.

15. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

16. **Survey Certificate**

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

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

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

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

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

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

approved plans.

17. Waste Management During Development

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

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

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

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

18. No Weeds Imported On To The Site

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

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

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

19. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

21. **Waste Management Confirmation**

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

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

22. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

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

23. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

24. **Maintenance of Asset Protection Zones**

Vegetation clearing for ongoing APZ maintenance must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Reason: To protect native vegetation and wildlife.

25. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife in accordance.

26. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

27. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dB(A) above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

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

Signed



Kye Miles, Planner

The application is determined on 07/04/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager