

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0955
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 10 DP 38757, 37 Daly Street BILGOLA PLATEAU NSW 2107
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Renee Louise McAneney
Applicant:	Sean Mcaneney

Application Lodged:	06/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	06/10/2021 to 20/10/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 761,739.00
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PROPOSED DEVELOPMENT IN DETAIL

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

Lower Ground Floor Plan

- Excavation works to extend lower floor level;
- New front entry and internal staircase adjacent to existing driveway;
- Storage space below new staircase;
- Rumpus room adjacent to new entry way, opening onto existing pool terrace/deck;
- New bathroom and cellar accessible from rumpus room; and
- New media/guest bedroom accessed from rumpus room;

Ground Floor Plan

- Addition to ground floor and reconfiguration of internal floorplan to provide new open plan kitchen/dining/living space; and
- New external staircase on northern elevation.

First Floor Plan

- Reconfiguration and extension of exiting first floor plan to include 4 bedrooms ; 2 bathrooms and a new rear deck and extension of front balcony.

External

- Excavation and retaining walls;
- Access stairs and footpath;
- New internal driveway;
- New hardstand parking area;
- Landscaping works;
- New rear terrace area; and
- Fencing.

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 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - A4.3 Bilgola Locality
Pittwater 21 Development Control Plan - B5.13 Development on Waterfront Land
Pittwater 21 Development Control Plan - B6.2 Internal Driveways
Pittwater 21 Development Control Plan - B8.3 Construction and Demolition - Waste Minimisation
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.13 Pollution Control
Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures
Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways
Pittwater 21 Development Control Plan - C1.23 Eaves
Pittwater 21 Development Control Plan - D3.6 Front building line
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

SITE DESCRIPTION

Property Description:	Lot 10 DP 38757 , 37 Daly Street BILGOLA PLATEAU NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Daly Street.</p> <p>The site is irregular in shape with a frontage of 14.06m along Daly Street and a maximum depth of 61.855m. The site has a surveyed area of 1,220m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a split level, three storey dwelling, detached garage and swimming pool located towards the rear of the site.</p> <p>The site has a crossfall of approximately 10.3m from the west (rear) to the east (street frontage).</p> <p>The site contains one significant tree located centrally on site and a mixture of small to mediums sized vegetation dispersed throughout the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one, two and three storey dwellings of varying architectural styles within landscaped settings upon on sloping sites.</p> <p>Site Inspection</p> <p>An inspection of the site was conducted on 10 September 2021.</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:

- **N0735/07** - Development Application for alterations and additions to the existing dwelling - Approved 16 October 2008

APPLICATION HISTORY

15 September 2021

Council wrote to the applicant, raising concerns in relation to:

- Height of building non-compliance.
- Insufficient Clause 4.6 Statement.
- Impacts of height on views.

30 September 2021

Amended plans and additional information were submitted to address Council's concerns.

1 October 2021

Amended plans were re-notified to the original list of residents and those who made a submission.

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 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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	<u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 06/10/2021 to 20/10/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Janette Elizabeth Stokes	175 Plateau Road BILGOLA PLATEAU NSW 2107

The matters raised within the submissions are addressed as follows:

- **View Loss**

Comment

The proposed development is acceptable in relation to view loss for the reasons detailed in the section of this report relating to Section C1.3 *View Sharing* of the P21 DCP. The requirements of this clause and the view sharing principles of *Tenacity Consulting vs Warringah Council [2004] NSWLEC 140* have been addressed and the issues raised within the residents submissions in relation to view loss do not warrant further amendment or refusal of the application.

The key concern raised by the objector was the maintenance of views to Newport Reef. As discussed in Section C1.3 *View Sharing* of this report, during this assessment amended plans were received which deleted the proposed "pop up roof window" element, reduced the height of the south-eastern portion of the roof to under 8.5m by changing the roof design and "stepped" the first floor master bedroom (and roof) an additional 2.15m from the front boundary in order to open up views of Newport Reef.

- **Height of Roof**

Comment

Concern was raised with the increased height of the western portion of the roof following the submission of amended plans.

During the assessment of this application, amended plans were received which changed the form of the roof to be a low pitched skillion roof from a flat roof. Given the slope of the land, this amended design results in the overall height of the building being below the required 8.5m height requirement and facilitated an increase in view corridors to Newport Reef, whilst enhancing the amenity for the subject site. The rear (western) portion of roof would be well below the required 8.5m height requirement and within the stipulated building envelope. It is considered that skillion roof designs are not uncommon for the locality and given the compliance with building height and that the proposal would not result in unreasonable view loss, this roof design is considered acceptable in this instance.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>General Comments</p> <p>Environmental Health has been requested to consider this proposal in regards to the installation of a fire pit.</p> <p>Generally back yard burning is prohibited as it pollutes the air.</p> <p>No description of the type of fire pit/solid fuel heater appliance, if that is what it proposed, in the documentation.</p> <p>To properly assess the proposal, details such as make, model and specifications of the appliance intended to be installed is required to ensure compliance with Australian Standards. Accordingly, the application is not supported at this time</p> <p>In order to assess the potential environmental health impacts of a</p>

Internal Referral Body	Comments
	<p>solid fuel heater, Council's Environmental Health Team require the following information as a minimum:</p> <ul style="list-style-type: none"> • Make and model of the heater along with detailed specifications that prove compliance with AS/NZS 2918:2001 and the Building Code of Australia. • Evidence that the flue pipe will extend a minimum of 4.6m above the top of the floor protector. • If the flue is 3m or less in horizontal distance from the highest point of the roof, evidence must be provided that the top of the flue will be at least 600mm above the highest point of the roof. • If the flue is over 3m metres in horizontal distance from the highest point of the roof, evidence that the height of the flue will be at least 1000mm above the roof penetration. • Evidence that the topography of the site, likely weather patterns and configuration of nearby dwelling/s, do not indicate a potential to cause a smoke nuisance (Include on site plan). • Evidence that there are no significant trees or other environmental or structural factors in the immediate vicinity that may cause a smoke down draught (Include on site plan). • Site, floor and elevation plans drawn to a scale of 1:100 or 1:200, which clearly depict the location of the proposed heater and flue in relation to the roof line of the dwelling and the closest neighbouring dwelling/building. • Evidence that the heater will meet the emission control requirements of AS 4013.1999 and AS 4013.2015. • Evidence that the installation of the heater will meet the requirements of AS/NZS 2918.2001 <p>Recommendation</p> <p>REFUSAL</p> <p><u>Planning Comments</u></p> <p>Amended plans were received which deleted the proposed fire pit from the drawings. There is a bench now in its location. Notwithstanding, conditions are to be imposed ensuring that no approval is granted for a solid fuel heater within this consent.</p>
Landscape Officer	<p>The application seeks consent for alterations and additions to an exiting dwelling and associated landscape works.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environment Plan (E4 Zone) , and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> • I B4.22 Preservation of Trees and Bushland Vegetation. • I C1.1 Landscaping. • I D3.11 Landscaped Area - Environmentally Sensitive Land.

Internal Referral Body	Comments
	<p>The Landscape Plan submitted with the application is noted. Several small/exempt trees are indicate for removal with retention of larger trees on site. The landscape plan provides additional tree, shrub and groundcover planting.</p> <p>No objections are raised to the proposed works with regard to landscape issues, subject to conditions.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for the construction of alterations and additions to an existing dwelling, including:</p> <ul style="list-style-type: none"> • New landscaping to front and rear of the site. • Additional car parking spaces approx. halfway along driveway. • Boardwalk style walkway with staggered steps from streetscape to main entry on lower ground floor. • New fencing to side and rear elevations, being 1.8m in height. • Two external staircases on both northern and southern (side) elevations to access rear terrace from driveway and front pool area. <p>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) 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"> • B4.6 Wildlife Corridors <p>The application seeks to remove several exempt, or small non-significant trees to be replaced in accordance with the submitted landscape plan (The Garden Social 2021). The provision of these replacement plantings ensures consistency with B4.6 of the Pittwater DCP.</p> <p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	No objections to approval subject to conditions as recommended.
Road Reserve	<p>The proposed works do not impact existing road infrastructure.</p> <p>The plans indicate the presence of landscaping on the public road</p>

Internal Referral Body	Comments
	<p>reserve. Whilst there is no objection to renovating the existing landscaping, the extent of the area shall not be increased or encroach any further into the public road reserve. No new structures will be permitted without first obtaining Council approval for works in the road reserve.</p> <p>The proposed blade walls shown in the landscaping plans are to be contained within the property boundaries as defined by a surveyor and shall not be permitted to encroach on the public road reserve.</p> <p><u>Planning Comment</u> The plans indicate that the blade wall works are contained within the property boundary and not within the road reserve. Notwithstanding, a condition is imposed which requires a Minor Encroachments Application to be submitted to Council for approval for any associated works within the road reserve.</p>

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

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.A414366_04 dated 01

October 2021).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes

Clause	Compliance with Requirements
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

7.2 Earthworks

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

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

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

Comment

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

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

Comment

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

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

Comment

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

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

Comment

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

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

Comment

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

of an suitable quality.

(f) the likelihood of disturbing relics

Comment

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

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

Comment

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

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

Comment

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

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

Comment:

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

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

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment,

disturb, or diminish the biodiversity structure, function, or composition of the land.

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

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

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

(a) site layout, including access,

(b) the development's design and construction methods,

(c) the amount of cut and fill that will be required for the development,

(d) waste water management, stormwater and drainage across the land,

(e) the geotechnical constraints of the site,

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

Comment:

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

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

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

Comment:

The proposed development is supported by a Geotechnical Risk Assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitably managed on

site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

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

Comment:

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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	1.3m (stairs)	80%	No
Rear building line	6.5m	6.0m (First floor)	7.7%	No
Side building line	2.5m (S)	6.2m	N/A	Yes
	1m (N)	0.4m (Stairs)	60% (Max)	No
Building envelope	3.5m (S)	Within envelope	N/A	Yes
	3.5m (N)	Outside envelope	N/A	No
Landscaped area	60% (732sqm)	40% (485.3sqm)	33.7%	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
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
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	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	No	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.2 Scenic protection - General	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	No	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
D3.12 Fences - General	Yes	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.3 Bilgola Locality

The proposed development includes three storeys, where the locality calls for two storey development. However, the existing development includes three storeys, being ground and first floors, and a basement.

The proposed development involves minimal environmental impact, is set below the general tree canopy height, is below the 8.5m height requirement, includes building modulation to minimise bulk, and provides an appropriate balance between respecting the landform and encouraging development.

Further, given the substantial front setback of the dwelling from the street (approximately 40m) and proposed screen planting, the dwelling would not be readily visible from Daly Street.

Additionally, given the slope of the site, the proposed dwelling presents as two storeys from the rear.

As such, the proposed development achieves the intention of the desired character of the area and is acceptable in this regard.

B5.13 Development on Waterfront Land

It is noted that private drainage easement runs through the property.

The proposed works include a new stairway located over this drainage easement. The applicant has advised that the proposed stairs is shown to be supported either side of the easement by two concrete walls and therefore the footings will run outside of the easement.

Due to the minimal depth required for the treads themselves, the stairs will cause no impact on the easement provisions and allow the pipe to run below. The existing system is proposed to be improved within this area by lowering the existing stormwater pit that currently sits higher than the surrounding ground level, inhibiting the collection of run off water.

Council's Development Engineers have reviewed the proposal and have raised no objection subject to recommended conditions.

B6.2 Internal Driveways

Council's Development Engineers have reviewed the proposal and are satisfied that appropriate access can be facilitated for the site subject to imposed conditions to ensure the driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility.

B8.3 Construction and Demolition - Waste Minimisation

A waste management plan has not been provided with this application. As such, a condition of consent will be imposed by Council to ensure that any waste generated as a result of the proposed development is appropriately disposed of, or reused on site.

C1.3 View Sharing

One (1) submissions was received from the following property which included concerns regarding view loss from a private property:

- 175 Plateau Road

Figure 1 below shows the origin of the submissions relative to the subject site, and the view angles of the sites over the subject site (outlined in blue).



Figure 1: View angles over the subject site

Note: During the assessment, amended plans were received in order to reduce impacts on views. These amendments deleted the proposed “pop up roof window” element, reduced the height of the south-eastern portion of the roof to under 8.5m by changing the roof design and “stepped” the first floor master bedroom and roof an additional 2.15m from the front boundary in order to open up views of Newport Reef. This assessment will be based on these amended plans.

The proposed development is considered against the outcomes of the control as follows:

- **A reasonable sharing of views amongst dwellings.**

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

1. Nature of the views affected

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

Comment to Principle 1

The views from 175 Plateau Road that are the concern are to the south and south-east of the property and include views of the ocean, Newport Reef and Newport Headland. The view is partially obstructed by existing dwellings and vegetation. This is demonstrated in photo 1 below.



Photo 1: Existing views from 175 Plateau Road to the south-east (upper terrace adjoining dining room - Standing).

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”.

Views are primarily obtained from the first floor rooms and first floor terrace balcony orientated towards the rear (east) of the dwelling. The view of the ocean and Newport Reef which is of concern is obtained from both a sitting and standing position and are over the eastern rear boundary. The expansive ocean views to the east and north-east unaffected by the proposal.

The views of key concern are obtained from the upper floor living room, kitchen, dining room and terrace/balcony and are orientated to the east. This is demonstrated in photos below.

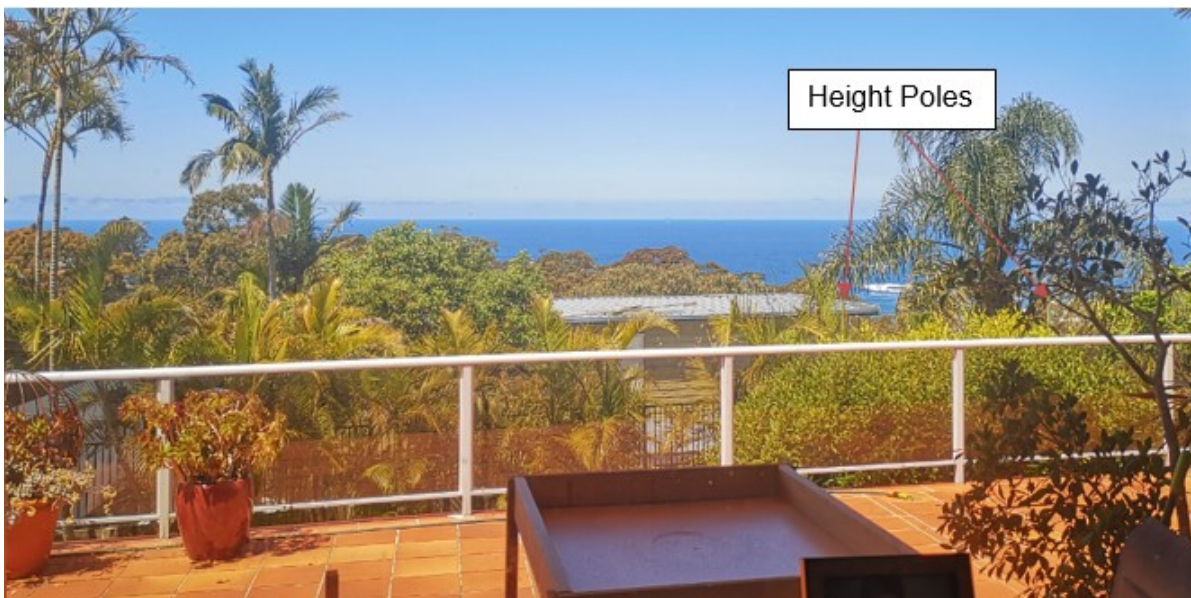


Photo 2: Existing views from 175 Plateau Road to the south-east (Kitchen - Standing).



Photo 3: Existing views from 175 Plateau Road to the south-east (Dining Room - Standing).



Photo 4: Existing views from 175 Plateau Road to the south-east (Living Room - Standing).



Figure 2: Photo montage depicting view loss from upper terrace adjoining the dining room. Red indicates existing built form; blue indicates initial proposal; green indicates amended design.

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”.

As viewed from No.175 Plateau Road, the proposed additions would result in the following view loss:

- Partial loss of ocean and reef views from the kitchen. These views would be filtered through existing vegetation. The majority of the view to Newport reef is expected to be retained. Expansive views of the ocean is expected to be retained over the dwelling.
- Partial loss of ocean and reef views from the dining room. The majority of the view to Newport reef is expected to be retained over the dwelling. Expansive views of the ocean is expected to be retained over the dwelling.
- Partial loss of ocean views from the living room. The majority of the view to Newport reef is expected to be retained to the south of the dwelling. Expansive views of the ocean is expected to be retained over and the the south the dwelling.
- Partial loss of ocean, reef and headland views from the terrace. It is noted that the terrace runs the entire length of the dwelling, and the view is wholly retained toward the southern end. The majority of the view to Newport reef and expansive views of the ocean is expected to be retained over and the the south the dwelling.

These views are already partially obstructed by the existing dwelling.

Given the design and layout of No.175 Plateau Road, expansive ocean, headland and reef views are obtained from the majority of the internal and external principle living areas over the rear (eastern) boundary over the roof form and through the corridor to the south east. In considering the entirety of the views obtained by No.175, and the fact that the expansive views of the ocean and headland from the principle living areas are largely unaffected by the proposal and that the valued view to Newport Reef is expected to be largely retained (although partially lost), the extent of the impact is considered minor to moderate.

The extent of the impact is considered to be Minor to Moderate.

4. Reasonableness of the proposal that is causing the impact

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

As discussed previously, and as demonstrated in figure 2 above, during the assessment, amended plans were received in order to reduce impacts on views. These amendments deleted the proposed "pop up roof window" element, reduced the height of the south-eastern portion of the roof to under 8.5m by changing the roof design and "stepped" the first floor master bedroom (and roof) an additional 2.15m from the front boundary in order to open up views of Newport Reef.

Given these amendments, the portion of the proposed additions that would cause the greatest view loss impacts to No.175 Plateau Road (that being the south and southeastern portion of the proposed dwelling) would meet the stipulated 8.5m height requirement as well as the building envelope and side setback requirement. It is recognised that a portion of the upper level additions would not meet the required rear setback or northern building envelope control, however, it is considered that these non-compliances would not result in any significant view loss.

Given that the impact is considered minor to moderate and that the view loss does not arise as a result of non-compliance, the view sharing outcome is assessed as reasonable.

The proposal is not considered to result in an unreasonable view loss for the neighbouring dwelling at No.175 Plateau Road and will satisfy the provisions of this clause.

No.173 Plateau Rd, Bilgola Plateau

No submission has been received from this neighbour in relation to view loss. The proposed addition and change in roof form is not anticipated to result in unreasonable view loss. Any view loss would be over two side boundaries and is not expected to arise from any major non-compliance.

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

Comment

The proposed development will not impact upon views and vistas from roads and public places.

- ***Canopy trees take priority over views.***

Comment:

The proposed development does not unreasonably impact upon trees.

Overall, Council is satisfied that the proposed development achieves consistency with the outcomes of Clause 1.3 View Sharing of P21 DCP and the Land and Environment Court's Planning Principle for view sharing *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.

C1.5 Visual Privacy

Description of Non-compliance

Clause C1.5 of the P21DCP stipulates that private open space areas and windows of adjoining properties are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation. The proposed development contains elevated balconies and windows that are within 9.0m from northern, southern and western neighbours.

Merit Assessment

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

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

Comment:

No.175 & 177 Plateau Road (west)

Deck - First Floor

A first floor deck is proposed on the western (rear) elevation which is 6.0m from the western (rear) boundary. This deck would be within 9m of No.175 & 177 Plateau Road private open space. To prevent overlooking within 9m of neighbouring properties, and to achieve consistency with this development control, a condition of consent is recommended to require privacy screen measuring 1.65m in height on the western elevation of the proposed front deck adjoining Bedroom 4.

Private Open Space

The proposed landscape plan provide adequate screen planting along the western boundary of the rear garden in order to mitigate privacy impacts

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

No. 39 Daly Street (North)

Deck - First Floor

A first floor deck is proposed on the eastern (front) elevation which is 3.0m from the northern (side) boundary. This deck would be within 9m of No. 39 Daly Street's private open space. To prevent overlooking within 9m of neighbouring properties, and to achieve consistency with this development control, a condition of consent is recommended to require privacy screen measuring 1.65m in height on the northern elevation of the proposed front deck adjoining Bedroom 3.

Side Facing Windows

In plan, window W23 on the northern elevation of the first floor (adjoining Bedroom 4) is 3m of the side boundary adjoining neighbour to the north (No. 39 Daly Street). In order to minimise privacy impacts and mitigating direct overlooking into the private open space and windows of this neighbour, it is recommended that a condition be imposed for this window to install a fixed privacy screen of horizontal louvre style construction (with a maximum spacing of 20mm), or be either high sill (i.e. containing a sill height of 1.65m from the FFL) or obscure glazed.

All other side facing windows are either existing or incorporate appropriate privacy measures.

Stairs

The proposal includes the addition of an external staircase located adjacent to and with a setback of 400mm - 1m from the site's northern side boundary. This staircase provides access from the existing pool area to the "ground floor deck" and the rear "ground floor terrace area". Given the steep slope of the site, it is considered reasonable to provide an external staircase to the dwelling to provide access between levels. Existing fencing and proposed landscaping along the northern side boundary will assist in maintaining privacy. A 1.8m privacy screen is also proposed in conjunction with the existing boundary fence which will assist in providing an added level of privacy. As the function of staircases is to provide between levels and are not typically used for long periods of standing, the setback is considered to be reasonable in this circumstance.

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

No. 35 Daly Street (South)

Deck - First Floor

A first floor deck is proposed on the eastern (front) elevation which is 6.0m from the southern (side) boundary. This deck would be within 9m of No. 35 Daly Street's private open space. To prevent overlooking within 9m of neighbouring properties, and to achieve consistency with this development control, a condition of consent is recommended to require privacy screen measuring 1.65m in height on the southern elevation of the proposed front deck adjoining the Master Bedroom.

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

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

Comment:

The proposed development is considered capable of providing a sense of territory and safety for residents on the subject site and adjoining properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

C1.13 Pollution Control

A condition of consent has been included to ensure that no solid fuel heaters are approved under this consent. Subject to compliance with this condition the proposal is considered to meet the requirements of this control

C1.14 Separately Accessible Structures

In order to achieve compliance with this control, the development will be conditioned over the life of the development so to ensure the lower ground floor will not be used for the purposes of separate habitation including a secondary dwelling or dual occupancy.

C1.19 Incline Passenger Lifts and Stairways

Description of non-compliance

The proposal includes the addition of a external staircase located adjacent to and with a setback of 400mm - 1m from the site's northern side boundary. This stair case provides access from the existing pool area to the "ground floor deck" and the rear "ground floor terrace area"

The location of this staircase results in non-compliance with the control as it is not set back 2 meters from the 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:

- ***Incline passenger lifts and stairways that cause minimal visual and acoustic disturbance to the environment and neighbours***

Comment

Given the steep slope of the site, it is considered reasonable to provide an external staircase to the dwelling to provide access between levels. Existing fencing and proposed landscaping along the northern side boundary will assist in maintaining privacy. A 1.8m privacy screen is also proposed in conjunction with the existing boundary fence which will assist in providing an added level of privacy. As the function of staircases is to provide between levels and are not typically used for long periods of standing, the setback is considered to be reasonable in this circumstance.

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

C1.23 Eaves

Description of non-compliance

Clause C1.23 of the Pittwater 21 DCP requires dwellings to incorporate 450mm wide eaves on all elevations. The proposed dwelling does not incorporate 450mm wide eaves on all elevations, which fails to meet this requirement.

The modified skillion roof does not incorporate eaves of 450mm minimum width on all elevations. Despite this non-compliance, consideration has been given that the roof form will continue to reflect the coastal character of the locality. The BASIX information submitted also demonstrates that appropriate solar access and shading will be achieved.

Furthermore, the proposed development allows for compliant solar access to the subject site and adjacent properties, whilst also providing covered outdoor private open space to ensure appropriate shading.

Having regard to the above assessment, it is concluded that the outcomes of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

D3.6 Front building line

Description of non-compliance

Clause D3.6 of the P21DCP requires development (other than driveways, fences or retaining walls) to be setback at least 6.5m from the front boundary or the established building line, whichever is greater.

The proposed access stairs would have a 1.3m setback from the front boundary representing a 80% variation to the 6.5 metre requirement.

All other elements of the proposal would comply with the setback requirement.

Merit consideration

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

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

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.3 Bilgola Locality of the Pittwater 21 DCP.

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

Comment:

The proposed access stairs would not result in view impacts to adjoining properties.

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

Comment:

The subject site adjoins a local road, therefore this outcome is not applicable.

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

Comment:

No significant vegetation is proposed for removal as part of this application. Existing and proposed landscaping treatments on site are sufficient and ensure the site is not dominated by the built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting.

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

Comment:

Council's Development Engineer has assessed the proposal with respect to vehicular access and raised no objections, subject to conditions. Therefore, the proposal is considered acceptable in this regard.

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

Comment:

The proposed access stairs would be a low lying structure which would not dominate the frontage. The frontage would remain primarily landscaped and open.

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

Comment:

As above, the proposed access stairs would be a low lying structure which would not dominate the frontage. The frontage would remain primarily landscaped and open. Overall, the proposal will have minimal 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 western side of Daly Street accommodates examples of structures located forward of the front building line. In this regard, the location of the structures will not be out of context with the established streetscape character. Existing and proposed vegetation and landscaping will further alleviate the visual impacts when viewed from the street and surrounding properties. Based on the above, it is concluded that the development responds to the spatial characteristics of the existing built and natural environment.

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.

D3.7 Side and rear building line

Description of non-compliance

Clause D3.7 of the Pittwater 21 DCP requires development be setback at least 6.5m from the rear boundary, 1.0m from the northern side boundary and 2.5m from the southern side boundary.

The development proposes the following non-compliance:

- **Rear setback** - 6.0m (First floor deck); 6.1m (First floor bedroom).
- **Southern side setback**- Complies.
- **Northern side setback**- 0.4m (External Stairs).

The control provides a variation which allows for the retention and intensification of existing setbacks, subject to consistency with the outcomes of the control.

Merit Consideration

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

Comment

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the

desired future character of the locality.

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

Comment

The proposed development is of a bulk and scale that is consistent with existing dwelling and surrounding locality. The proposal complies with the height requirement and predominantly complies with side boundary envelope controls, and the building bulk is sufficiently separated from neighbours. The proposal would retain suitable landscaping along the rear boundary to minimise the visual impact of the development. The side boundary non-compliance would relate to a small section of external staircase which would not result in excessive building bulk.

- ***Equitable preservation of views and vistas to and/or from public/private places. To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.***

Comment

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. The side and rear boundary breach on is not considered to result in unreasonable view loss to adjoining neighbours.

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

Comment

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development (subject to recommended conditions).

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

Comment

The proposal does not require any significant vegetation to be removed as part of the application. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions. Adequate landscaped areas are provided along the front, side and rear setback to enable the facilitation of screen planting along boundaries. The non-compliant elements, will not be readily visible from the street.

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

Comment

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

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

Comment

As above, the proposal does not require any significant vegetation to be removed as part of the

application. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions. Adequate landscaped areas are provided along the front, side and rear setback to enable the facilitation of screen planting to visually reduce the built form.

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

Comment

N/A the subject site does not adjoin a commercial zoned area.

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

D3.9 Building envelope

Description of Non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries.

The proposed first floor additions has a minor encroachment into the prescribed building envelope along the northern elevation. This variation is represented in figure 1 below.

This building envelope non-compliance is largely attributed to the slope of the site and the existing built form which currently has an building envelope breach on this elevation.

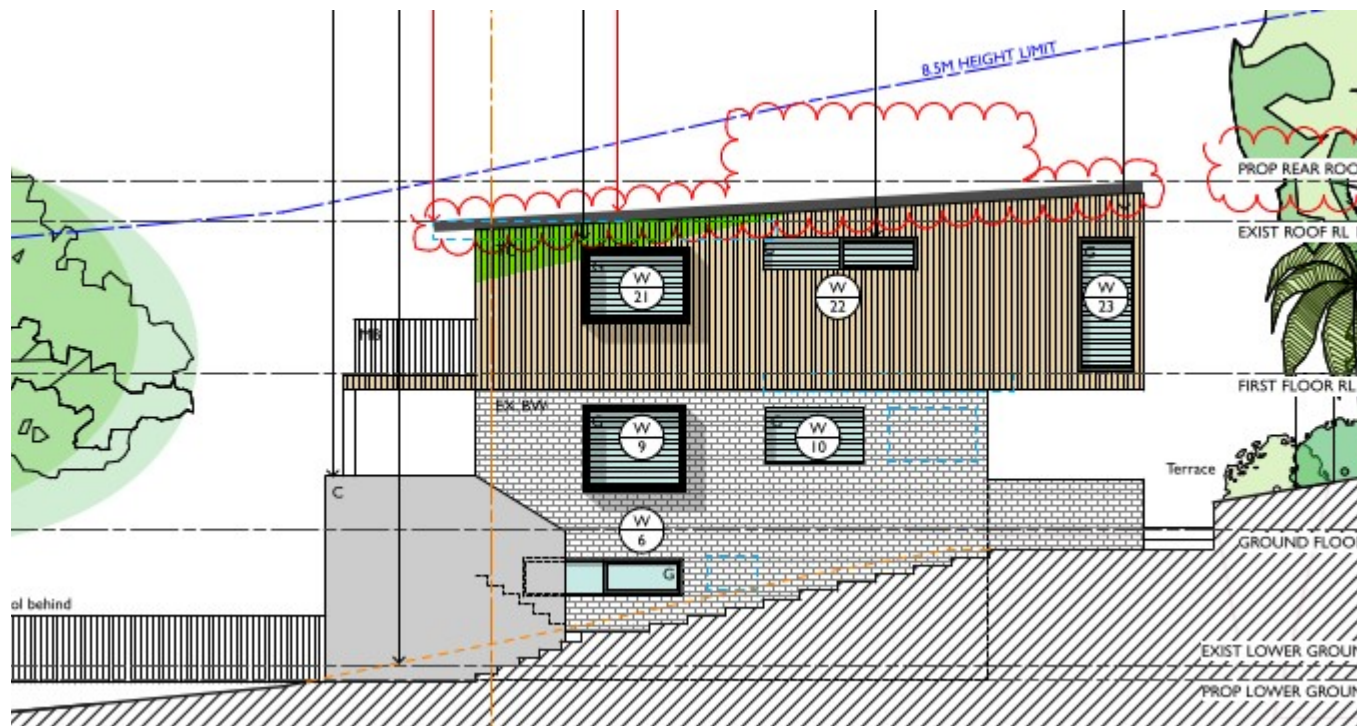


Figure 1 - Proposed building envelope non-compliance on the northern elevation (highlighted in green).

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 considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.3 Bilgola Locality of the Pittwater 21 DCP.

- ***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 proposed dwelling additions would be generally consistent with the form of the existing dwelling when viewed from Daly Street. Given the substantial front setback of the dwelling from the street (approximately 40m) and the facilitation of screen planting, the dwelling would not be readily visible from Daly Street. The proposed development is generally set below the height of the trees adjoining the site and in the locality. It is considered that the bulk and scale of the proposal would not be out of character with the existing site, streetscape and wider locale.

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

Comment:

The dwelling additions are primarily situated within the footprint of the existing building. Further, no significant vegetation removal is required to facilitate the works, therefore the development is considered to respond to, reinforce and sensitively relate to the spatial characteristics of the existing built and natural environment.

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

Comment:

The proposal involves compliance with the development standard for building height and is well set back from front, side and rear boundaries. The proposal would incorporate open balconies with variable setbacks, a low pitched skillion roof, landscaping along boundaries and changes in materials. This provides a situation in which presentation of bulk and scale is adequately minimised. Further, the building envelope non-compliance would only be a minor increase from the existing built form. Given the substantial front setback of the dwelling from the street (approximately 40m) and the facilitation of screen planting, the dwelling would not be readily visible from Daly Street.

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

Comment:

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. The envelope breach on the northern elevation is not considered to result in

unreasonable view loss to adjoining neighbours.

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

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development (subject to recommended conditions). Furthermore, the proposal would retain suitable landscaping along the side and rear boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

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

Comment:

The application is supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

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.

D3.11 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance

The control requires a minimum of 60% (732sqm) of the site area to be landscaped. The site area is 1220sqm

The application proposes a total landscaped area of 40% (485.3sqm), representing a variation of 33.7%.

Provided the outcomes of this control are achieved, impervious areas less than 1.0m in width and impervious areas used for outdoor recreational purposes (only up to 6% of site area) can be included in the landscaped area calculation. The inclusion of this variation to the landscaped area increases the calculation to 558.5sqm or 46% of site area.

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 considered to be consistent with the desired future character of the Bilgola locality. The proposal contains a sufficient portion of landscaped area and vegetation within the subject site which assists in screening the built form. Therefore, the proposal is considered to achieve the desired future character of the locality.

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

Comment

The proposal involves compliance with the development standard for building height and is well set back from front, side and rear boundaries. The proposal would incorporate open balconies with variable setbacks, a low pitched skillion roof, landscaping along boundaries and changes in materials. This provides a situation in which presentation of bulk and scale is adequately minimised. Given the substantial front setback of the dwelling from the street (approximately 40m) and the facilitation of screen planting, the dwelling would not be readily visible from Daly Street.

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

Comment

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development (subject to recommended conditions). Furthermore, the proposal would retain suitable landscaping along the front, side and rear boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

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

Comment

The proposal does not require any significant vegetation to be removed as part of the application. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions. The development is sited well below the established tree canopy and will be separated from the street and adjoining properties by landscaping. Given the substantial front setback of the dwelling from the street (approximately 40m) and the facilitation of screen planting, the dwelling would not be readily visible from Daly Street.

- ***Conservation of natural vegetation and biodiversity.***

Comment

No native vegetation or wildlife species will adversely be affected by the proposed works. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions.

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

Comment

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

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

Comment

The bushland character of the area will be maintained as no significant vegetation is required to be removed as a result of the proposed development. Existing vegetation and canopy trees will assist in maintaining the bushland character as viewed from surrounding properties and the streetscape. The application has been reviewed by Council's Bushland and Biodiversity Officer who have raised no objection to the proposal subject to recommended conditions.

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

Comment

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

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, subject to conditions, 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

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 \$7,617 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$761,739.

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 DA2021/0955 for Alterations and additions to a dwelling house on land at Lot 10 DP 38757, 37 Daly Street, 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
DA10 Rev.C - SITE/ROOF PLAN	28/09/2021	Natalie Matthews
DA11 Rev.B - LOWER GROUND FLOOR PLAN	15/08/2021	Natalie Matthews
DA12 Rev.B - GROUND FLOOR PLAN	15/08/2021	Natalie Matthews
DA13 Rev.B - FIRST FLOOR PLAN	28/09/2021	Natalie Matthews
DA20 Rev.B - EAST ELEVATION	28/09/2021	Natalie Matthews

DA21 Rev.B - WEST ELEVATION	28/09/2021	Natalie Matthews
DA22 Rev.B - SOUTH ELEVATION	28/09/2021	Natalie Matthews
DA23 Rev.B - NORTH ELEVATION	28/09/2021	Natalie Matthews
DA30 Rev.B - SECTIONS X	28/09/2021	Natalie Matthews
DA31 Rev.B - SECTIONS Y	28/09/2021	Natalie Matthews
DA40 Rev.A - FINISHES BOARD	28/09/2021	Natalie Matthews

Engineering Plans		
Drawing No.	Dated	Prepared By
H-DA-01 Rev.A - Lower GF & Ground Floor Stormwater	24/06/2021	itmdesign
H-DA-02 Rev.A - First Floor & Roof/Site Stormwater	24/06/2021	itmdesign
H-DA-00 Rev.A - Sediment Control Plan	24/06/2021	itmdesign

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (A414366_04)	01/10/2021	MCK Architects
Geotechnical Report (J3312)	09/06/2021	White Geotechnical Group

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-01 Rev.A - Landscape Plan	20/04/2021	The Garden Social

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling."

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the

above definition will require the submission to Council of a new development application.

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

3. No Works on adjoining land

No Approval is granted under this consent for any works on adjoining private land or on property boundaries. All fencing works are to be wholly within the subject site.

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

4. Installation of solid/fuel burning heaters

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

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

5. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of

the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

6. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety

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

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

FEES / CHARGES / CONTRIBUTIONS

7. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$7,617.39 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 \$761,739.00.

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

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

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

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

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

8. **Security Bond**

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

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

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

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

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

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

9. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 9/6/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. Amendments to the approved plans

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

- 1. First Floor Deck (rear)** - A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outer-most western edge of the "first floor", west facing deck located off the "Bed 4" 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.

2. **First Floor Deck (front)** - A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outer-most northern and outer-most southern edge of the "first floor", east facing deck located off "Bed 3" and "Master Bed" as shown on the approved plans. The privacy screens 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.
3. **First Floor Window (W23)** - A fixed privacy screen is to be installed on the "first floor" northern window (labelled W23) adjoining the "Bed 4" as shown on the approved plans. The privacy screens shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development. Alternatively, this window shall be fitted with obscured glazing or have a minimum sill height of 1.65m above the Finished Floor Level.

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.

12. **Boundary Identification Survey**

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

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

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

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

13. **Vehicle Driveway and Parking Facility Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Parking facility gradients and dimension are to be in accordance with AS2890.1.

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

Reason: To ensure suitable vehicular access to private property.

14. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural

Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

15. Compliance with Standards

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

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

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

16. External 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)

17. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

18. 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.

19. **Encroachment Application**

The applicant is to submit a Minor Encroachments/ Constructions Within Road Reserve Application for approval. The applicant is to enter into any appropriate agreements with Council. All costs related to the above application are to be borne by the applicant.

A letter from Council indicating this condition has been satisfied to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Identify the responsibility of the structures on Council road reserve

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **Protection of Rock and Sites of Significance**

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

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

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

Reason: Preservation of significant environmental features.

22. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,

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

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

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.

24. **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.

25. **Demolition Works - Asbestos**

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

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

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

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

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

26. **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.

27. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all

perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

28. Installation and Maintenance of Sediment Control

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

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

29. Stockpiling of Topsoil

During works, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: environmental amenity.

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

30. Landscape Completion

Tree planting is to be implemented in accordance with the approved Landscape Plan.

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the tree planting works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

31. Stormwater Disposal

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

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

32. Protection of Habitat Features

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

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

Reason: To protect wildlife habitat.

33. Certification of Landscape Plan

Landscaping is to be implemented in accordance with the approved Landscape Plans (The Garden Social 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

34. No Weeds Imported On To The Site

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

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

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

35. Retaining wall

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

Reason: Public and Private Safety

36. 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.

37. House / Building Number

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

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

Reason: Proper identification of buildings.

38. 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.

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

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

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

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

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

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

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

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

Reason: To protect human life. (DACPLF10)

40. **Road Reserve Encroachment**

The applicant is to submit the Minor Encroachments/ Constructions With Road Reserve agreement with Council to the Certifying Authority prior to the issue of the Occupation Certificate

Reason: Identify the responsibility of the structures on Council road reserve

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

41. **Replacement of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

42. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

43. **Use of "Lower ground floor level"**

The proposed "Lower ground floor level" is not to be used for the purpose of separate habitation (including a secondary dwelling or dual occupancy) and is not to contain any cooking facilities.

Reason: To ensure that the lower ground floor remains ancillary to the dwelling house.

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

Signed



Gareth David, Planner

The application is determined on 28/10/2021, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager