

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0900
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 53 DP 774017, 4 C Minkara Road BAYVIEW NSW 2104
Proposed Development:	Alterations and additions to a dual occupancy including two garages and a pool.
Zoning:	RU2 Rural Landscape
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Nina Claire Reynolds
Applicant:	The Trustee For Varley Family Trust

Application Lodged:	11/07/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/07/2023 to 02/08/2023
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 6.9%
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,801,097.94
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of alterations and additions to the existing dual occupancy including two garages and a pool.

Specifically, the works include alterations and additions to the ground floor of the southern dual occupancy to provide a new mudroom, laundry, open plan kitchen, living, dining, rumpus room, guest bedroom with ensuite, rear deck, extension of existing front verandah and new internal access stairs to existing first floor. At the first floor the works include alterations and additions to provide a new primary bedroom with walk in robe, ensuite, hall, bathroom, three bedrooms and a balcony.

Two new attached double garages are proposed along with a bike work shop and amendments to the driveway. A new swimming pool and pool shed is proposed in the rear yard.

The works to the northern dual occupancy consist of internal layout changes to provide a new formal entry and living area.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater 21 Development Control Plan - D6.3 Building colours and materials
Pittwater 21 Development Control Plan - D6.6 Side and rear building line
Pittwater 21 Development Control Plan - D6.8 Landscaped Area - Non Urban General

SITE DESCRIPTION

Property Description:	Lot 53 DP 774017 , 4 C Minkara Road BAYVIEW NSW 2104
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Minkara Road. The site is irregular in shape with a frontage of 62.155m along Minkara Road and a surveyed area of 7612.2m². The site is located within the RU2 Rural Landscape Zone under the PLEP 2014. The site is currently occupied by a two storey dual occupancy development and a swimming pool in the rear yard. A detached outbuilding exists on the site which currently has consent for the use as a veterinary clinic. The site slopes down towards the south.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density residential development of varying sizes and styles.

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:

- **DA0527/90** - Development Application for Dual Occupancy Attached. Approved 25 January 1991.
- **N0245/00** - Development Application for Additions to existing dual occupancy. Approved 27 June 2000.
- **N1104/00** - Development Application for On-site wastewater treatment system. Approved 18 April 2001.
- **N0072/14** - Development Application for Alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 5 February 2015.
- **N0072/14/s96/1** - Modification to consent N0072/14 for Alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 30 June 2015.
- **N0072/14/s96/2** - Modification to consent N0072/14 for alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 29 June 2017.
- **N0072/14/s96/3** - Modification to consent N0072/14 for alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 30 November 2017.

- **Mod2018/0372** - Modification of Development Consent N0072/14 granted for the alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 15 November 2018.
- **Mod2019/0582** - Modification of Development Consent N0072/14 granted for the alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Withdrawn on the 13 January 2020.
- **Mod2021/0373** - Modification of Development Consent N0072/14 granted for alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 19 July 2021.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to environmental health and development engineering. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home

Section 4.15 Matters for Consideration	Comments
	Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Andrew Muirhead, dated 21 June 2023) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent. The proposed development is considered to accord with Section 4.14 of the Act.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 19/07/2023 to 02/08/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
NSW Department of Planning and Environment - Crown Lands	PO Box 2185 DANGAR NSW 2309

A letter was received from the Department of Planning and Environment - Crown Lands noting the below:

- Crown Public Road

The above issues are addressed as follows:

- **Crown Public Road**

The submission offers no objections to the proposed development but notes that a small portion of Minkara Road adjoining the site is a Crown Public Road with the remaining road being owned by Council. The Department recommends the Council investigate to transfer Minkara Road (and any developed Crown roads in the vicinity) to the management and control of Northern Beaches Council.

Comment:

The proposal does not seek to change the access to the site and the entry and exit to the site will remain via the existing right of carriageway connecting to the Council owned section of Minkara Road. If the applicants intended to utilise this Crown Road for access then the road will be required to be transferred to Council and a separate development application would be required to be submitted.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Unsewered Lands)	General Comments Proposed Development The new works will provide for the construction of alterations and additions to an existing dual occupancy development and demolition of the existing swimming pool and construction of a new swimming pool. The works comprise the following: Southern Dual Occupancy

Internal Referral Body	Comments
	The proposed works comprise additions and alterations to the existing dual occupancy building, which will include the retention of substantial portions of the existing building and internal layout changes and refurbishment in accordance with the following changes: Ground Floor ➤ Alterations and additions to existing ground floor to provide for new mudroom, laundry, open plan kitchen, living, dining, rumpus room, guest bedroom with ensuite, rear deck, extension of existing front verandah and new internal access stairs to existing first floor. First Floor ➤ Alterations and additions to existing first floor level to provide for new primary bedroom with walk in robe, ensuite, hall, bathroom, three bedrooms, balcony. External Works ➤ New attached 2 x double garages shared with northern dual occupancy and driveway amendments for access to garage. ➤ New bike workshop ➤ New swimming pool and pool shed Northern Dual Occupancy The works comprise minor modifications to the northern dual occupancy to provide for an amended internal layout to include a formal entry and new living area to replace the previously constructed media room together with client ground floor changes through the inclusion of a detached double garage and workshop storage internal access to the existing ground floor. There are no other alterations to the ground floor level with no change to the first floor level. The external finishes of the new works to both dwellings will comprise a mix of timber cladding, stone facing and cement render. The roofing will be colourbond steel. Comment Councils records indicate the site is unsewered. The site appears to have 2 waste waste systems (one for right house and one for left house) based on service records. The proposal which includes additional habitable rooms may impact on the ability of the Waste Water system to cope. No details have been supplied nor mentioned in the SEE which is a potential environmental issue. Environmental Health does not support the proposal and requires: A Waste Water report by a suitably qualified person commenting on potential impacts from the proposed development, including reference to calculations for the number of occupants ,adequacy of treatment tank/s, land application area and disposal of swimming pool backwash. REVIEW 12.9.2023 A wastewater consultants report has now been submitted and proposes:

Internal Referral Body	Comments
	• It is proposed to conduct alterations and additions to the existing attached dual occupancy at 4c Minkara Road, Bayview NSW • The anticipated wastewater loading rates generated by the attached dual occupancy is calculated to be: - o Primary Residence = 1,500 L/day. - o Secondary Residence = 1,200 L/day (Pre-Development equal to Post-Development). • It is proposed to treat all wastewater generated by the attached dual occupancy to a Secondary standard with disinfection via the two existing Aerated Wastewater Treatment System (AWTS). The unit(s) must be capable of sustainably treating the design wastewater loading to the secondary treatment targets (per DLG 1998) detailed in Table 4.3.1. • Application of the Primary Residence effluent is proposed via 30m2 Raised Pressure Dosed Absorption Bed within the area(s) nominated in Appendix A. • Application of the Secondary Residence effluent is proposed via the Existing Surface-Fixed Irrigation Field within the area(s) nominated in Appendix A. • Site modifications are provided in Section 4.4 which must be followed. • The residences are to be fitted with standard-water reductive fixtures. Comment Only one WW system had an approval to operate WW1130/01 and that expired in 2020. This needs addressing. Effectively 2 sets of tanks remain; 1 LAA remains and 1 new LAA disposal area down slope from the Dwelling and well clear of the swimming pool. Swimming pool back wash for the new pool has not been specifically addressed however detail on the report indicates site land contours favourable to ensure effluent disposal is not impacted and adequate land available. Therefore Environmental Health supports the proposal with conditions.
Landscape Officer	Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause RU2 Rural Landscape zone, and the following Pittwater 21 DCP controls (but not limited to): • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D6 Ingleside Locality The site exists upon RU2 Rural Landscape zone land and the landscape objectives of the zone includes: maintain the rural

Internal Referral Body	Comments
	landscape character of the land; minimise conflict between land uses within this zone and land uses within adjoining zones. The existing landscape character of the property includes large areas of lawn grounds, rock outcrops, and existing trees and vegetation, that is synonymous with the landscape outcomes of the RU2 Rural Landscape zone principles. Landscape Plans and a Arboricultural Impact Assessment are submitted with the application, and upon review, no Landscape Referral concerns are raised, subject to imposed conditions.
NECC (Bushland and Biodiversity)	Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable controls: • Biodiversity Conservation Act 2016 (BC Act) • Biodiversity Conservation Regulation 2017 (BC Reg) • Pittwater LEP 2014 cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.18 Heathland/Woodland Vegetation The Development Application seeks consent for alterations and additions to a dual occupancy including two garages and a pool. The proposed works are largely located within the existing development footprint or within areas that have been previously disturbed. The Arborist Report (Hugh the Arborist 2023) has recommended the removal of three (3) trees including Tree 26 (Camellia Sasanqua), 27 (Citrus x sinensis) and 29 (Persea spp.) which are all exempt due to species or location. The removal of these trees will not cause a significant impact on biodiversity within the site and as such no objections are raised. The Landscape Plan (Serenescapes Landscape Designs 2023) submitted with the application provides sufficient tree replacements comprised entirely of locally native species, providing compliance with PDOP cl. B4.18. The Bushfire Assessment Report (Building Code & Bushfire Hazard Solutions Pty Ltd 2023) noted that at the time of inspection the APZs were existing and no tree removal is required to implement the proposed APZs. As such, the development is considered to be designed, sited and will be managed to avoid any significant adverse environmental impact. Council's Biodiversity Referrals team raise no objections, subject to conditions.
NECC (Development Engineering)	The proposed development in Region 1 involves an increase in impervious area of over 50m² and cannot drain to the street and is thus subject to Council's Low Level Property policy. In accordance with Councils <i>Water Management for Development Policy Version 2 26 February 2021</i> (WMfDP), the applicant is nominally required to undertake the following sequential process:

Internal Referral Body	Comments
	1. Obtain an easement from a downstream property to connect to the street or a watercourse. Use Appendix 2 of the WMfDP as proof of acceptance or rejection of easement request. 2. If an easement request is rejected, the applicant is required to investigate the feasibility of an absorption pit as per Appendix 3 of the WMfDP. This will require a geotechnical report and permeability testing. 3. If an absorption pit is not feasible, the applicant is required to construct an on site detention system and a level spreader as per the requirements of Appendix 4 of the WMfDP. The on site detention system will be required to restrict flows back to the state of nature (100 % pervious pre-development) 20% AEP event. Given the site characteristics of the site, a drainage easement and absorption pit design may not be feasible. Council will accept Option 3, being an onsite detention system and level spreader as per Appendix 4 of the <i>Water Management for Development Policy Version 2 26 February 2021</i>. Provide amended stormwater plans. Engineering Comments 24.08.23 After a second perusal of submitted plans it is apparent that there is no increase in impervious area. The consulting engineer was asked to amend the level spreader design in order to direct flows away from habitable land. This has been achieved. I have no further objections to the proposed development.
NECC (Flooding)	The proposal seeks consent for alterations and additions to an existing residential development and demolition of the existing swimming pool and construction of a new swimming pool. In a 1% AEP Flood event a shallow floodway is expected to flow north to south through a localised depression in the western third of the property. All works associated with the development are located outside of the identified Flood Planning Area (Medium Flood Risk Precinct). Therefore, the proposal is compliant with Section E11 - Flood Prone Land from the Pittwater 21 DCP.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Rural Fire Service - Local Branch - EP&A Act, s4.14	The application was referred to the NSW Rural Fire Service for concurrence who provided a response stating that the proposal is

External Referral Body	Comments
	acceptable subject to their recommendations. These recommendations are included in the conditions of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A489234 dated 5 July 2023).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.088m	6.9%	No

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.1B Minimum lot sizes for dual occupancies	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m

to justify the contravention of the development standard by demonstrating:

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

- The height breach occurs as a direct result of the fall within the site levels towards the south.
- The proposal involves replacing the existing roof tiles with colorbond roof sheeting. The existing building breaches the height standard and the proposed building remains the same height as existing.
- The portion of the building that encroaches the height control is minimal and does not change the existing built form.
- As the height of the existing dwelling is not altering, but rather the material of the roof is changing, the extent of overshadowing of neighbouring properties, including the property to the south will not change. The works will not present any unreasonable amenity impacts to neighbouring properties.

The applicant's written request is well-founded and generally agreed with. The height variation is existing and the height of the dwelling is not altered, only the roof material is changing. As such, the height variation does not result in any adverse privacy, amenity or solar access impacts to surrounding properties. It is also noted that the existing height breach arises due to the slope of the land down towards the east and there is only a minor portion of the dwelling which extends beyond the 8.5m height limit.

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

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

Therefore, Council is satisfied that the applicant's written request has adequately addressed the

matters required to be demonstrated by cl 4.6(3).

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the RU2 Rural Landscape zone. An assessment against these objectives is provided below.

Objectives of development standard

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

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

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

Comment:

The proposed development maintains the height of the existing dwelling and only involves a change in the roof material. The proposal retains the low-scale nature and form of the area and is consistent with the desired character of the locality.

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

Comment:

The proposal retains the height of the existing dwelling and does not increase the overall building height. The dwelling provides generous setbacks to the front side and rear boundaries ensuring the development is of an appropriate size and scale. As such, the building remains compatible with the height and scale of surrounding and nearby development.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposal does not increase the height of the existing building ensuring minimal overshadowing of neighbouring properties.

d) to allow for the reasonable sharing of views,

Comment:

The proposal does not impact on any views.

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

Comment:

The site falls towards the east which has resulted in the height variation. The portion of the dwelling that breaches the height is minor and the works are sited predominantly within the footprint of the existing building. As such, the development is designed to respond sensitively to natural topography.

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

Comment:

The proposed works largely retain the footprint of the existing building which is located towards the rear of the site. The extensive front setback ensures the development is not highly visible from the street and the visual impact on the natural environment is minimised.

Zone objectives

The underlying objectives of the RU2 Rural Landscape zone are:

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

Comment:

The proposal maintains the existing residential use of the site and does not impact on surrounding primary industry production or the natural resource base.

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

Comment:

The proposed works are largely sited within the footprint of the existing dwelling and appropriately maintain the rural landscape character of the land.

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

Comment:

The proposal maintains the existing residential use of the site which is permissible in the zone and therefore compatible.

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

Comment:

The proposed development does not unreasonably increase the demand for public services or public facilities.

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

Comment:

The proposal appropriately integrates with surrounding land uses.

Conclusion:

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

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

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

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	20m	66m	N/A	Yes
Rear building line	7.5m	Pool: 31.4m Dwelling: 45.5m	N/A N/A	Yes Yes
Side building line	North - 7.5m	13.8m	N/A	Yes
	South - 7.5m	Pool: 4.5m Dwelling: 10.9m	40% N/A	No Yes
Building envelope	North - 3.5m	Within Envelope	N/A	Yes
	South - 3.5m	Within Envelope	N/A	Yes
Landscaped area	96% of total site area minus 400m ² (6907.712m ²)	6449.13m ² (84.72%)	6.6%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.6 Ingleside Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.8 Dual Occupancy Specific Controls	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D6.1 Character as viewed from a public place	Yes	Yes
D6.3 Building colours and materials	No	Yes
D6.5 Front building line	Yes	Yes
D6.6 Side and rear building line	No	Yes
D6.7 Building envelope	Yes	Yes
D6.8 Landscaped Area - Non Urban General	No	Yes
D6.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

D6.3 Building colours and materials

The proposed colours and finishes comprise of dark roofing, dark doors and windows, sandstone walls, white walls and white trims. This control does not permit white and light coloured walls. Given the significant setbacks and ample spatial separation of the proposed development to adjoining properties, the development will not be highly visible. As such, the white walls are not considered to result in adverse visual or amenity impacts and are considered acceptable in this instance.

D6.6 Side and rear building line

Description of non-compliance

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

For swimming pools and spas a 1 metre minimum setback from the boundary to the pool coping may be permitted subject to the following:

- satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and
- Council is satisfied that the adjoining properties will not be adversely affected, and
- the pool or spa is not more than 1 metre above ground level (existing), and
- that the outcomes of this clause are achieved without strict adherence to the standards, and
- where the site constraints make strict adherence to the setback impractical, and
- where strict compliance with these requirements will adversely impact on the views of adjoining residential properties.

The proposed swimming pool is setback 4.5m from the coping to the southern side boundary and qualifies for the above variation.

Merit Consideration

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

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

Comment:

The proposed development maintains the low density residential nature of the area and achieves the desired future character of the Locality.

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

Comment:

The proposed development maintains compliant setbacks to the dual occupancy ensuring bulk and scale is minimised. The proposed swimming pool is sited close to ground level and does not create excessive bulk and scale.

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

Comment:

The proposal does not impact on 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 works are appropriately sited to maintain view sharing.

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

Comment:

The proposed development comprises generous side and rear setbacks providing ample spatial separation between adjoining properties. This ensures a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

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

Comment:

The proposal provides substantial landscaping across the site and retains several trees maintaining the mature tree canopy. The development is well screened from the street by existing dense vegetation and appropriately maintains an attractive streetscape.

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

Comment:

The proposed works are sited predominantly within the footprint of the existing buildings and retains the existing access to the site.

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

Comment:

The proposal does not require the removal of any significant vegetation with only three trees requiring removal which are all exempt. The proposal increases the quantum of landscaped area provided across the site to assist with visually reducing the built form.

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

Comment:

N/A, the site does not adjoin a commercial zone.

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

Comment:

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

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

Comment:

N/A, the site does not adjoin a commercial zone.

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

D6.8 Landscaped Area - Non Urban General

Description of non-compliance

This control requires a minimum landscaped area of 96% minus 400m² which for this site, equates to 6907.712m² for the site area of 7612.2m². The proposal provides 6449.13m² presenting a variation of 6.6% to the control.

It is noted that there is an existing non-compliance with this control as the site currently stands providing 6444.55m², whereby the proposal increases the overall quantum of landscaped area.

Merit Consideration

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

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

Comment:

The proposal maintains the low density rural residential form of the area and therefore achieves the desired future character of the Locality.

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

Comment:

The proposed development provides generous front, side and rear setbacks ensuring the development remains an appropriate size and scale. Notwithstanding the height variation, the building height remains unchanged from existing and is considered appropriate in the context of surrounding development. As such, the proposal does not impact on the existing streetscape and the development is of a scale and density that is compatible with the height of the natural environment.

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

Comment:

The proposed development provides ample spatial separation to neighbouring properties and provides a compliant level of solar access to neighbouring properties.

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

Comment:

The site contains substantial landscaping, trees and vegetation which will be largely retained. The dense vegetation and trees at the front of the site adequately visually reduce the built

form.

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

Comment:

Council's Bushland and Biodiversity Officer has reviewed the proposal and deemed it acceptable. The proposal does not require the removal of indigenous or significant vegetation and is considered to have minimal impact on Pittwater's biodiversity.

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

Comment:

The proposal maintains substantial landscaped area at the front and rear of the site which maintains the natural features and values of the site. The proposal is not considered to impact on biodiversity.

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

Comment:

The proposal has been reviewed by Council's Development Engineer with regards to stormwater deeming it acceptable subject to the 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:

The proposal maintains ample soft surface throughout the site which assists with stormwater management.

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

Comment:

The proposal maintains the rural and bushland character of the area by providing a low density residential dwelling surrounded by trees and vegetation.

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.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$18,011 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,801,098.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

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

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

2) The proposed development will be in the public interest because it is consistent with the objectives

of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

RECOMMENDATION

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

Accordingly Council as the consent authority grant Development Consent to DA2023/0900 for Alterations and additions to a dual occupancy including two garages and a pool. on land at Lot 53 DP 774017, 4 C Minkara Road, BAYVIEW, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA05	B	Site - Waste - Sediment Plan	Progressive Plans	1 September 2023
DA06	B	Existing Ground Floor Plan	Progressive Plans	1 September 2023
DA07	B	Proposed Ground Floor Plan	Progressive Plans	1 September 2023
DA08	B	Existing First Floor Plan	Progressive Plans	1 September 2023
DA09	B	Proposed First Floor Plan	Progressive Plans	1 September 2023

DA10	B	Existing Roof Plan	Progressive Plans	1 September 2023
DA11	B	Proposed Roof / Concept Stormwater Plan	Progressive Plans	1 September 2023
DA12	B	Existing Garage Floor Plan	Progressive Plans	1 September 2023
DA13	B	Proposed Garage Floor Plan	Progressive Plans	1 September 2023
DA14	B	Existing Garage Roof Plan	Progressive Plans	1 September 2023
DA15	B	Proposed Garage Roof Plan	Progressive Plans	1 September 2023
DA16	B	Elevations - North & South	Progressive Plans	1 September 2023
DA17	B	Elevations - East & West	Progressive Plans	1 September 2023
DA18	B	Sections - A & B	Progressive Plans	1 September 2023
DA19	B	Sections - C&D	Progressive Plans	1 September 2023
DA20	B	Pool Plans	Progressive Plans	1 September 2023
DA21	B	Pool Sections	Progressive Plans	1 September 2023
DA22	B	Finishes Board	Progressive Plans	1 September 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. A489234	-	Progressive Plans	5 July 2023
Arboricultural Impact Assessment Report	-	Hugh The Arborist	23 June 2023
Bushfire Assessment Report	2	Andrew Muirhead	21 June 2023
On-Site Wastewater Report	3059-WW-A-02	Broadcrest Consulting Pty Ltd	31 August 2023
Waste Management Plan	-	Subreena Sultana	6 June 2023

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

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated
NSW Rural Fire Service	RFS Referral Response	25 July 2023

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

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

3. **Prescribed Conditions**

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

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

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area

affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$18,010.98 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$1,801,097.94.

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

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the

Subdivision Certificate (whichever occurs first).

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

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

6. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. No Clearing of Vegetation

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

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

Reason: To protect native vegetation.

8. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to a level spreader in accordance with the Stormwater Management Plans prepared by KD Stormwater Pty Ltd Job No. DG2660 dated 21.08.23.

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

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

9. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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 ensure no substance other than rainwater enters the stormwater system and waterways.

10. Compliance with Standards

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

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

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

11. 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 Certifier prior to the issue of the Construction Certificate.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with

AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

a) section 9.4.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

DURING BUILDING WORK

13. Tree and Vegetation Protection

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

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

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,

- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 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 AS4373-2007 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 Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

14. **Wildlife Protection**

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

Reason: To protect native wildlife.

15. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

16. **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.

17. **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 Certifier, 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.

18. 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 Certifier when the external structure of the building is complete.

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

19. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

20. Property Boundary Levels

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

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

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

21. Wastewater system compliance prior to Occupation Certificate

1. All recommendations and required works as contained within the report by Broadcast Consulting dated August 2023 being implemented prior to an OC being issued.

2. Both (2) wastewater systems on the site require the separate lodging and approval by Council of "Approval to Operate an On-site Wastewater Management System " Section 68 of the Local Government Act 1993.

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

Reason: To ensure the wastewater disposal system is compliant and will not create a risk to public health.

22. Pool backwash

Pool backwash must be managed separately from the wastewater system and wastewater land application areas and not impact on native trees or neighbouring properties.

Reason: To ensure the swimming pool backwash system disposal area has been installed correctly to minimise the potential for harm to the environment.

23. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plans prepared by Serenescapes, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plans,
- c) all tree planting shall be a minimum pre-ordered planting size of 75 litres; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- d) mass planting shall be installed at minimum 1metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- e) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

24. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection

25. No Weeds Imported On To The Site

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

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

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

26. Stormwater Disposal

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

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

27. Waste Management Confirmation

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

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

28. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for the level spreader as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

29. Swimming Pool Requirements

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

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

relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 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

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

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

30. **Landscape Maintenance**

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

The approved landscape planted areas shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

31. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

32. Swimming Pool/Spa Motor Noise

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

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

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

Signed



Olivia Ramage, Planner

The application is determined on 15/09/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments