

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2025/0394
<b>Responsible Officer:</b>	Ryan Fehon
<b>Land to be developed (Address):</b>	Lot B DP 367133, 2 Orara Road ALLAMBIE HEIGHTS NSW 2100
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Applicant:</b>	Nigel White
<b>Application Lodged:</b>	01/05/2025
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	08/05/2025 to 22/05/2025
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 8.235%
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 516,811.00

### PROPOSED DEVELOPMENT IN DETAIL

The application is for alterations and additions to an existing dwelling at 2 Orara Road, Allambie Heights.

The alterations and additions include the following elements:

- The construction of an upper level addition. The upper level addition will include a master bedroom and ensuite, three other additional bedrooms, a living area, a dining area, a wet bar, a bathroom, a storeroom and internal access stairs.

- The lower floor will be subject to alterations to accommodate the new upper floor addition. This will include the demolition and alteration of internal walls to accommodate for the access required to the upper floor.

## APPLICATION HISTORY:

Additional information was requested from the applicant on the 10th June 2025, in which it was expressed that Council was unsatisfied with the first floor addition in its original state. Council was unsatisfied with the following elements:

- Side building envelope non-compliance on the northern and southern side

Revised plans were provided on the 8th July 2025 by the applicant, with the envelope non-compliances being reduced on both sides. The following amendments were made:

- Ensuite - Southern side envelope non-compliance.
- Reduced living room size - Northern side envelope non-compliance.

The ensuite towards the southern boundary of the site was causing the entirety of the non-compliance on the southern side of the addition. The setback to the ensuite was increased by a maximum of 1.8m, causing the non-compliance to be minimized.

The living room to the northern side of the dwelling was reduced in size by 500mm to the northern boundary, creating a new setback of 1.6m for a length of 6.24m. This leaves a large non-compliance of 42.5% remaining on the northern boundary. While this non-compliance is large, Council believes that site-specific constraints make compliance unreasonable. This has been expanded upon in a detailed assessment under the **B3 Side Boundary Envelope** section of this report.

Objectors towards the proposal in its original state were given a chance to respond to the amended plans provided in an informal renotification process. No further objections were raised by the previous objectors after review of the amended plans. Conditions of consent have been implemented as a result of the initial objections submitted, and concerns outlined in these objections have been addressed throughout this report.

## 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

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
Warringah Development Control Plan - B1 Wall Heights  
Warringah Development Control Plan - B3 Side Boundary Envelope  
Warringah Development Control Plan - C9 Waste Management  
Warringah Development Control Plan - D7 Views  
Warringah Development Control Plan - D8 Privacy  
Warringah Development Control Plan - D10 Building Colours and Materials  
Warringah Development Control Plan - E10 Landslip Risk

## SITE DESCRIPTION

<b>Property Description:</b>	Lot B DP 367133 , 2 Orara Road ALLAMBIE HEIGHTS NSW 2100
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<p><b>Detailed Site Description:</b></p>	<p>The subject site consists of one (1) allotment located on the western side of Orara Road, Allambie Heights.</p> <p>The site is irregular in shape with a frontage of 15.47m along Orara Road and a depth of between 58.82m (North) and 61.5m (South). The site has a surveyed area of 665.9m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential Zone and accommodates an existing single-storey building and attached garage with small outbuildings and a swimming pool inside the rear setback.</p> <p>The site has a slope of between 5 and 25 degrees moving from the rear to the street. The application is accompanied by a Geotechnical Report which outlines risk controls and recommendations regarding the subject site.</p> <p>The site contains some trees, shrubbery and hedging which will not be impacted by this application.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by other detached one or two-storey dwellings. Adjacent to the South boundary sits E1 Local Centre Zoning where there is a selection of shopping and service facilities.</p>
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Map:



## SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

## 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	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&amp;A Regulation 2021)</p>	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to envelope non-compliances. See the B3 Side Boundary Envelope section of this report.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>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>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>



Section 4.15 Matters for Consideration	Comments
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 application has been publicly exhibited from 08/05/2025 to 22/05/2025 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 2 submission/s from:

Name:	Address:
Lindsey Dey Planning	4 Edwin Street CAMMERAY NSW 2062
Mr Oliver Anthony Keaveney	4 / 101 Darley Street MONA VALE NSW 2103

The following issues were raised in the submissions:

- B3 Side Building Envelope non-compliance.
- Exceeding of the Height of Buildings principal development standard.
- Exceeding of the B1 Wall Height development standard.
- Inadequate clause 4.6 submission.
- View loss from the property at 4 Orara Road, Allambie Heights
- Privacy concerns relating to proposed windows, setbacks, and balcony screening.
- Inadequate information provided on the plans.
- A pre and post construction dilapidation report is required to protect 4 Orara Road.
- A condition of consent is required for a suitable construction fence, and a further permanent boundary fence between No. 2 and No.4 Orara Road.

The above issues are addressed as follows:

- **B3 Side Building Envelope non-compliance.**

The submissions raised concerns that the envelope non-compliance to the northern boundary will induce impacts regarding amenity, overshadowing and loss of sunlight due to the bulk and scale of the neighbouring development.

Comment:

The side building envelope non-compliance was significantly reduced as part of the applicant response to the Request for Additional Information which was sent out by Council on 10th June 2025. There was a reduction of 500mm on the northern boundary living room and a reduction of up 1.8m on the southern side due to the ensuite change.

It is considered that as per the shadow diagram provided with the original proposal, no shadow impacts on the northern boundary are found due to the sun being positioned northerly of the subject site. A minimum of three hours of sunlight are maintained for properties to the south, with this being provided as part of the proposal in its original form. The further significant reductions to the south have allowed for the added shadowing to be reduced in extent despite the compliance with D6 Access to Sunlight control of the *Warringah Development Control Plan 2011*.

Regarding amenity, the proposal is sufficient in retaining the local character of the area on the site without unreasonably or significantly affecting neighbouring amenity. It is considered that the side boundary envelope non-compliance is a direct result of the site-specific constraints, including the slim width and irregular shape. The dwelling is fully compliant with wall heights, height of buildings and side boundary setbacks to the northern and southern sides, indicating that a major non-compliance of 42.5% is caused by site-specific factors that limit further compliance. Regarding the bulk and scale of the development, it is considered that when viewed from the street, the first floor addition would appear compliant due to all non-compliances resulting from previous excavation and site-specific constraints.

- **Exceeding of the Height of Buildings principal development standard.**

The submissions raised concerns that the building exceeds Clause 4.3 Height of Buildings of the *Warringah Local Environmental Plan 2011* to an unacceptable extent.

Comment:

As per discussion in the Clause 4.3 Height of Buildings section of this report, due to a previously excavated garage which faces the eastern boundary of the site, the numerical height non-compliance is exacerbated. Compliance is deemed unnecessary in this circumstance due to this excavated subfloor, as when measured from extrapolated natural ground levels, the dwelling would be compliant with the height control.

- **Exceeding of the B1 Wall Height control.**

The submissions raised concerns that the proposed 18.05% variation to the B1 Wall Height control was unacceptable.

Comment:



As per the discussion in the B1 Wall Height section of this report, the non-compliance is visible from the eastern boundary, however only lasts for an extent of 1.41m across the facade. It is considered that this non-compliance is driven from the previous excavation that was undertaken for the garage on the site, meaning that when measured from extrapolated ground levels, the wall heights are compliant. It is noted that there would be no impact on properties to the north or south as a result of a 1.41m distance across the previously excavated garage subfloor, in which is only clearly visible from the east.

- **Inadequate clause 4.6 submission.**

The submissions raised concerns that the Clause 4.6 submission that was included to accompany the height non-compliance was inadequate due to no justification of the height breach and its effects on visual amenity, spatial separation, loss of views, loss of light into living and bedroom windows and loss of privacy.

Comment:

Council agrees with the claims of that applicant that the height breach relates to a small 1.41m section of the front facade on the eastern boundary. The height breach does not directly impact properties to the north or south of the subject site due to the dwelling being compliant with height along these side boundaries. It must be noted that the only sector of the dwelling that is noncompliant with the height control is where the top of the proposed first floor roof is in line with the previously excavated garage subfloor.

- **View loss from the property at 4 Orara Road, Allambie Heights**

The submissions raised concerns that

Comment:

As per the discussion in the D7 Views section of this report, views seen by Council from 4 Orara Road (neighbouring property) were considered to be negligible to minor district views. It was considered that due to the view loss occurring over a side boundary and the site maintaining full unobstructed district views to the east, that view sharing was achieved as part of this development.

- **Privacy concerns relating to proposed windows, setbacks, and balcony screening.**

The submissions raised concerns that Comment:

Conditions have been implemented into this report that require raised sill heights and/or translucent glazing for windows that may intrude on the privacy of neighbouring properties. A privacy screen will not be added to the balcony due to the positioning in relation to 4 Orara Road. It is considered that the balcony area is not a contributor of privacy concerns to the north as it will be set further forward that the building line of 4 Orara Road, with angling further to the southeast which will make privacy concerns minimal. Further, a privacy screen may obscure any remaining Southern district views through the gaps in the balcony structure.

- **Inadequate information provided on the plans.**

The submissions raised concerns that there was inadequate information provided with the application. This information includes an existing floor plan, demolition plan, engineering plans, site analysis, schedule of finishes and materials, and failure to indicate No.4 Orara Road in relative positioning to No. 2 Orara Road.

Comment:

An existing floor plan is believed to be unnecessary due to the minimal ground floor works involved. The proposed ground floor plan provided outlines the addition of a stairway for access purposes to the first floor, which is the only amendment inside the ground floor plan of the dwelling.

It is considered that a demolition plan is not required for this development, as the conditions of this consent can adequately address measures that shall be undertaken to ensure safe demolition of existing structures takes place on the site.

It is considered that engineering plans are not required, as conditions of this consent are deemed to be sufficient in addressing structural integrity of the first floor.

The ground floor plan and survey plan provided are sufficient in acting as site analysis plans.

A condition has been added to this consent to ensure the building materials of the first floor are constructed to compliment or follow the existing colour scheme of the ground floor.

It is believed that the structure of No. 4 Orara Road is readily visible throughout the documentation provided. The survey plan, ground floor plan, and shadow diagrams all indicate potential effects of this development of neighbouring sites.

- **A dilapidation report is required to protect 4 Orara Road.**

The submissions raised concerns that

Comment:

A condition for a pre and post construction dilapidation report will not be included in this consent. It is considered that with all works occurring within the existing building footprint, that the neighbouring property at 4 Orara Road will be unaffected. A condition of this consent has required a temporary construction fence to be installed to the northern boundary where there is no permanent boundary fence, which will be a sufficient measure of protecting the property of 4 Orara Road.

- **A condition of consent is required for a suitable construction fence, and a further permanent boundary fence between No. 2 and No.4 Orara Road.**

The submissions raised concerns that there was no suitable construction fence proposed, and a further permanent boundary fence was required on the site.

Comment:

A permanent fence on the boundary between 2 and 4 Orara Road, Allambie Heights is to be constructed as a result of civil negotiation between property owners as per the *Dividing Fences Act 1991*. This development application consent will not give consent for a boundary fence.

A construction fencing condition has been imposed on this development to ensure that where there is no permanent boundary fence, that a temporary construction fence be installed.

## REFERRALS

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.

## 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1790706 dated 7th April 2025).

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.

## **Warringah Local Environmental Plan 2011**

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	9.2m	8.235%	No - see discussion

### **Compliance Assessment**

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes

6.4 Development on sloping land	Yes
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#### Detailed Assessment

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

##### Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.2m
Percentage variation to requirement:	8.235%

##### Assessment of request to vary a development standard:

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

##### Clause 4.6 Exceptions to development standards:

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

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

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

##### Comment:

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

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

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

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

(a) *the consent authority is satisfied that:*

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

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*  
 (b) *the concurrence of the Secretary has been obtained.*

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

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

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

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

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

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

Comment:

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

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

**1.3 Objects of Act(cf previous s 5)**

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*



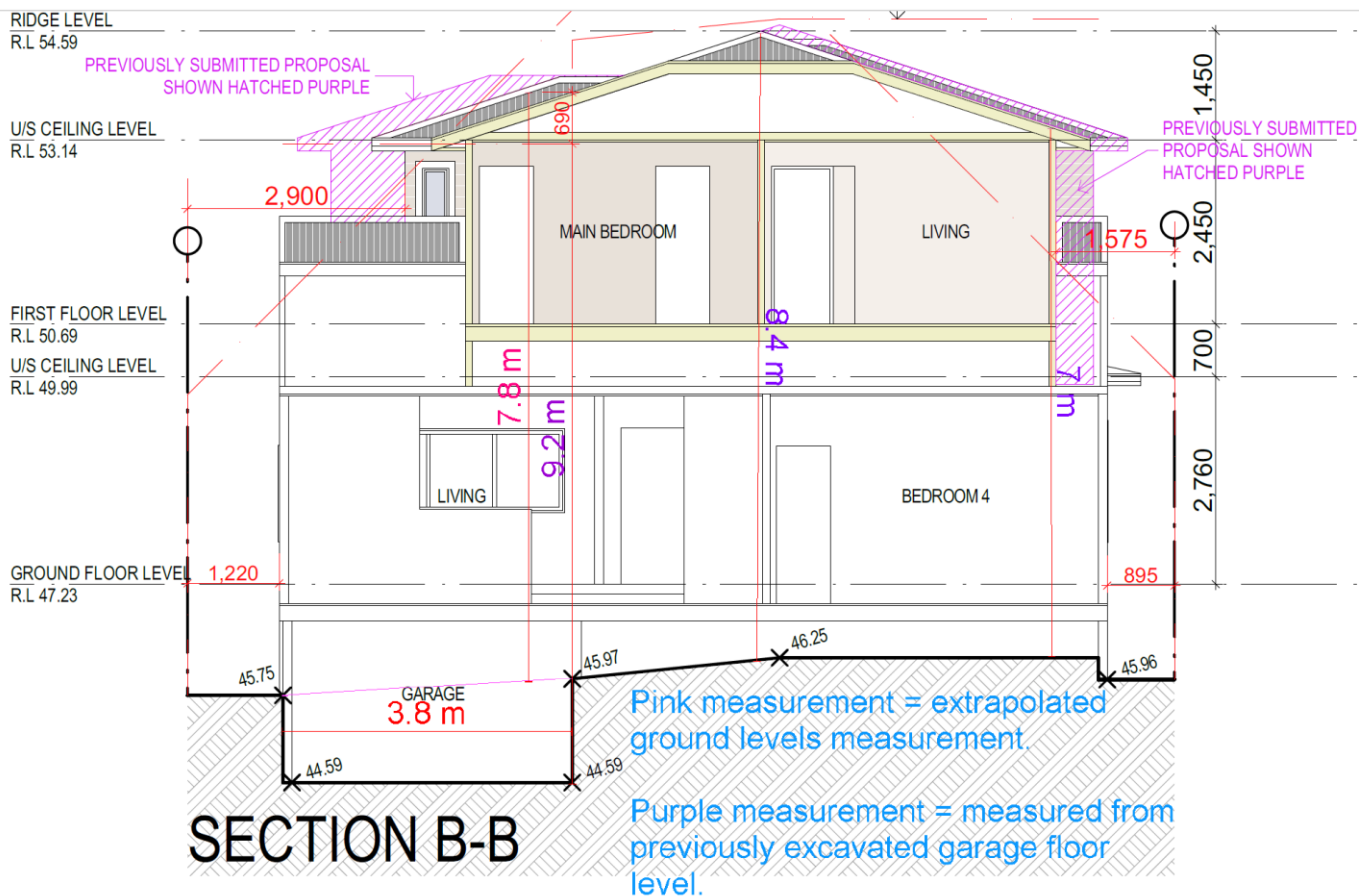
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- That the development is consistent with the desired and existed residential character of the surrounding area.
- The previously excavated garage exaggerates the numerical non-compliance. The dwelling would be compliant as any other two-storey dwelling when measured from extrapolated ground levels.
- The development is consistent with the objectives of Clause 4.3.
- Good design cannot be achieved by fully complying with the development standard.

This stance from the applicant is considered satisfactory after an in-depth assessment by Council. The noncompliance of 8.235% is considered to be directly as a result of the historical excavation of the existing garage. The extent of this non-compliance is minimal, as it covers only the extent of the 3.8m wide existing garage. When measured from extrapolated ground levels, the height of the building would be fully compliant with the development standard. It is noted that the impact of this non-compliance is minimal due to appearing as a compliant two-storey dwelling when viewed from the street, not posing any impacts on neighbouring properties as a direct result of the non-compliance.

The 9.2m maximum height measurement would measure as 7.8m when undertaken on extrapolated ground levels as per the diagram below.



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

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

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

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

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

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

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

## Objectives of development standard

### CLAUSE 4.3 - HEIGHT OF BUILDINGS

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

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

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

Comment:

The development is consistent with the height and scale of surrounding and nearby development. The dwelling is directly adjacent to E1 Local Centre land use zoning to southern boundary where there are multiple retail, food and apartment premises. Further, the directly adjacent neighbouring property at 4 Orara Road was approved with a 5.88% variation of the 8.5m Height of Buildings standard. It is considered that due to the site constraints and character of directly adjacent development, the proposed first floor addition is consistent with this objective.

*b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment:

A view loss site inspection and subsequent detailed assessment was undertaken. See the discussion in the D7 View section of this report, in which the first floor addition was considered satisfactory. Privacy was addressed through conditions of this report, which detail amendments that need to be made surrounding windows and areas with overlooking opportunity, such as translucent glazing and raised sill heights. This proposed height non-compliance will not directly impact on solar access issues in neighbouring properties due to being located to the eastern boundary facade.

*c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,*

Comment:

It is not considered that this development will have an adverse impact on the scenic quality of Warringah's coastal and bush environments. Due to the dwelling appearing as a compliant two-storey detached residence when viewed from the street, it is not considered to be an unacceptable development.

*d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,*

Comment:

The height non-compliance will not cause visual impacts on parks or reserves, roads or community facilities. Due to the eastern facade containing this non-compliance, the local centre zoning to the south which is frequented by various local community members will not be effected. Similarly, no local open space or green space such as parks are located to the eastern facade.

## Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

This development is consistent with providing the housing needs for the community while also maintaining a low density environment.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The site will retain its existing landscaped setting, which is compliant with relevant planning controls and sits at approximately 47% of the site.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

## Exception to Development Standards conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development is considered appropriate that flexibility in the application of the development standard *Clause 4.3 Height of Buildings* be applied. In this context the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.5m	18.05%	No - see discussion
B3 Side Boundary Envelope	4m (North)	Outside envelope	42.5%	No - see discussion
	4m (South)	Outside envelope	2.5%	No - see discussion
B5 Side Boundary Setbacks	0.9m (North)	1m - 1.6m (Proposed first floor addition) 900mm (Existing ground floor)	N/A	Yes
	0.9m (South)	2.2m - 3.2m (Ensuite of first floor addition) 1.53m (Existing ground floor)	N/A	Yes
B7 Front Boundary Setbacks	6.5m	9.3m to works	N/A	Yes
B9 Rear Boundary Setbacks	6m	35m to works	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	No changes to LOS or Bushland Setting are proposed as part of this application. The existing LOS is approximately 47%.	Yes	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
Clause	Compliance with Requirements	Consistency Aims/Objectives
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes

C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

### **B1 Wall Heights**

#### Description of non-compliance

There is a proposed non-compliance of 18.05% to the 7.2m wall height control. The maximum wall height measurement of the proposed development is 8.5m. The non-compliance is visible from the eastern boundary, however only lasts for an extent of 1.41m across the facade. It is considered that this noncompliance is driven from the previous excavation that was undertaken for the garage on the site, meaning that when measured from extrapolated ground levels, the wall heights are compliant.

Council believes that while the requirements of the control have not been met, the objectives of the control have been satisfied.



A detailed assessment outlining compliance with each of the objectives has been undertaken below.

Merit consideration:

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

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

Council believes visual impacts are not caused by the wall height non-compliance to the eastern boundary. The non-compliance will last for 1.41m across the eastern facade, where there will be minimal impact when viewing from the streetscape. The dwelling will appear as a compliant twostorey dwelling from the street due to the non-compliance directly resulting from previous excavation of the garage which has exacerbated wall height measurements.

- *To ensure development is generally beneath the existing tree canopy level.*

Comment:

The proposed development will remain entirely beneath the existing tree canopy, which is primarily the large existing tree inside the front boundary area.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

No views will be affected as a direct result of this wall-height non-compliance. See the **D7 Views** section of this report for additional information on the view assessment that was undertaken.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

Impacts on amenity to neighbouring properties are minimal as a result of this non-compliance. Due to the wall-height non-compliance being visible for a small extent of 1.41m across the eastern facade, it is considered that properties to the north and east will not be affected. Properties to the east across the opposite side of Orara Road will also not be affected, as the dwelling will appear as a compliant first floor addition from the street.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The development has made a significant effort to respond to the site topography. No additional excavation is proposed, and the proposed development is compliant in all parts that are not subject to exacerbated structure heights due to previous excavation.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The roof design is satisfactory.

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

### **B3 Side Boundary Envelope**

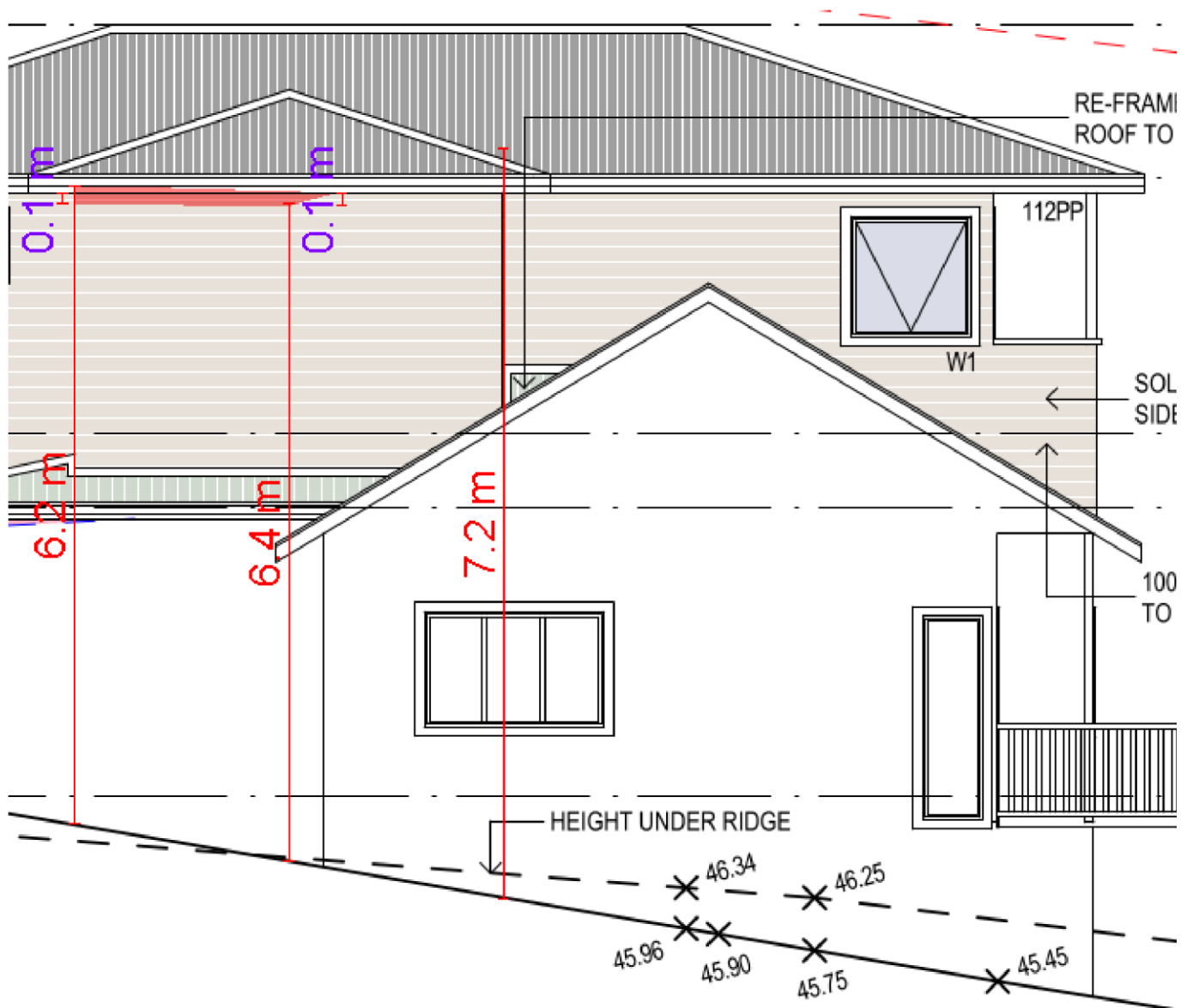
Description of non-compliance

There are proposed non-compliances to the B3 Side Boundary Envelope control of the *Warringah Development Control Plan*. There is a proposed non-compliance at an extent of 0.1m (2.5%) to the southern boundary, and a maximum of 1.7m (42.5%) on the northern boundary. The original proposal was considered unacceptable, however amended plans received have been able to reduce the noncompliances on the south by between 1m-1.8m and on the north by 500mm.

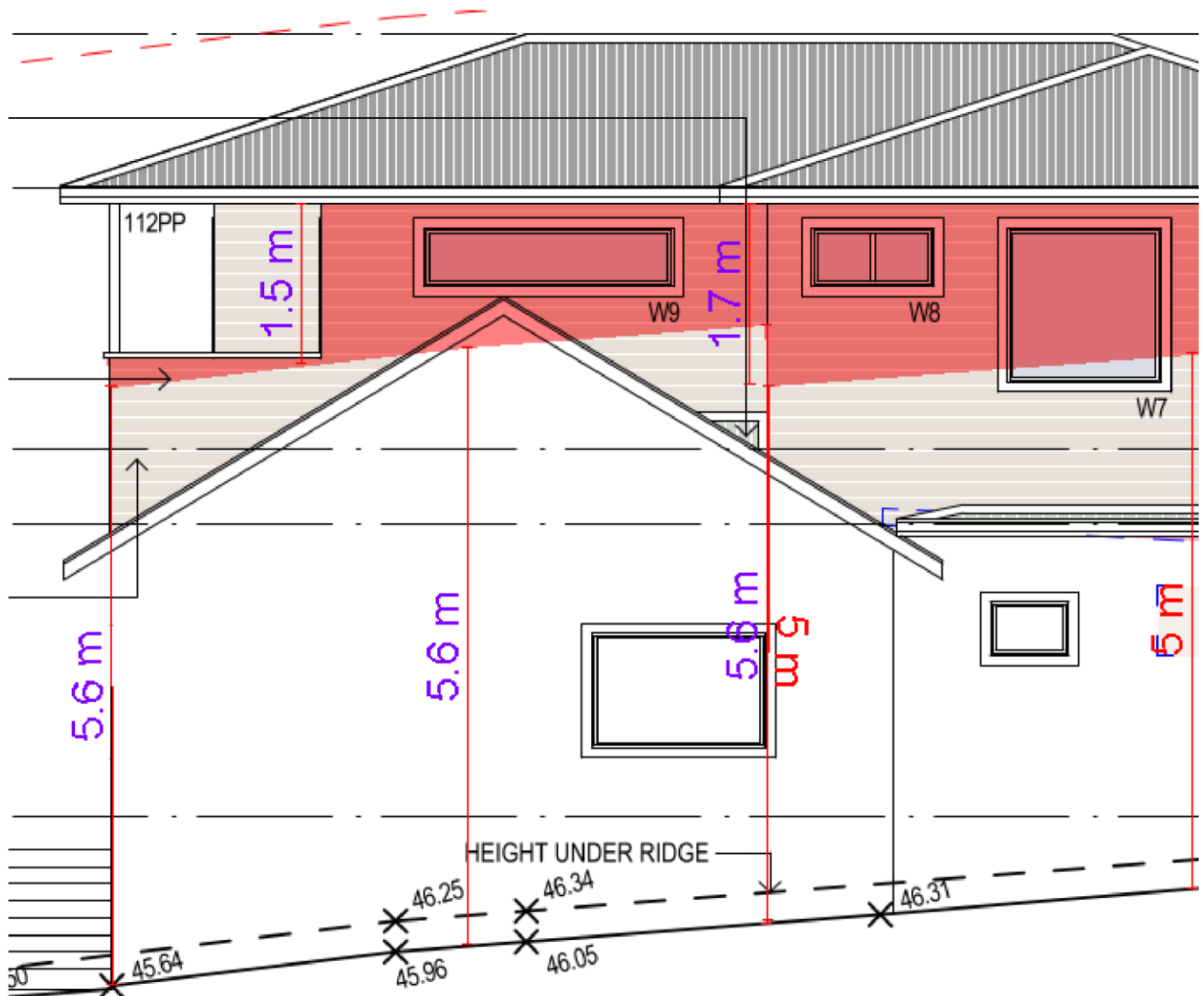
Council believes these changes are satisfactory due to site constraints. The width of the site where the existing front facade of the ground floor starts is 13.54m, and the width of the site where the existing furthestmost rear wall is located is approximately 11.63m. It is considered that with the site being a narrow and irregular shape, full compliance is unreasonable for this site and achieving good design outcome.

While the requirements of the control are not met, Council believes the first floor addition still complies with the objectives of the control. Compliance with each objective has been outlined in a detailed assessment below.

**Southern Boundary:**



**Northern Boundary:**



#### Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

#### Comment:

The development will not possess height and bulk that is inconsistent with other first floor additions in the area. The adjacent property at 4 Orara Road was approved for building envelope non-compliances at an extent of 13% (North) and 6% (South) under DA2010/0147, against what was a 5m requirement at the time of assessment. Council believes that the noncompliances of the envelope are a result of achieving good design adjacent to the control. It is considered that the non-compliances are not a result of an unreasonably bulky structure, and rather a low-impact structure on a constrained site.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

Adequate separation will be maintained between dwellings to the north and south. The reduction of the ensuite to the south significantly reduces shadowing impacts on residents to the south, with properties to the north being unaffected by shadowing due to the northerly positioning of the sun in relation to the subject site.

- *To ensure that development responds to the topography of the site.*

Comment:

The development maintains a good response to the topography of the site, with it being compliant in height for the majority of the development. The height non-compliance occurs outside of the envelope non-compliance. It is considered that due to the development being compliant with height, setbacks and wall height on the side boundaries, that the response to the topography of the site is satisfactory. Non-compliance is considered to be directly as a result of a constrained site.

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

## **C9 Waste Management**

Waste management will be undertaken in accordance with the Waste Management Plan which was provided for this development.

This Waste Management Plan will be included as part of a Condition of this consent.

## **D7 Views**

### Merit consideration

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

- *To allow for the reasonable sharing of views.*

Comment:

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

### **1. Nature of the views affected**

*“The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly*

*than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".*

Comment to Principle 1:

The affected views are considered to be of negligible to minor significance to the site of 4 Orara Road, which is the sole property subject to a view loss assessment. The views are deemed to be primarily district views over the suburbs of North Manly, Freshwater, Queenscliff, Manly Vale and down to Manly is the far distance. The views are primarily from the Eastern boundary of the site, which will be largely unobstructed as a result of the first floor addition at 2 Orara Road. The views lost will be to the Southern boundary of the site, which are considered unrealistic to maintain.

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

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

Comment to Principle 2:

The views lost will be located over the southern side boundary of the site at 4 Orara Road, Allambie Heights. It is considered that it is unrealistic for the negligible to minor views over the side boundary to be maintained, when the complete view to the front eastern boundary of the site is maintained. The eastern boundary of the site contains views that are considered to be of the same extent and importance as the side boundary views, meaning the sharing of views has been achieved by the application.

Views over the side boundary (Southern direction) are seen below:





### 3. Extent of impact

*"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed*

*quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

Comment to Principle 3:

The views are considered as negligible to minor as per the assessment above. The view maintained on the eastern boundary from the upstairs living room can be seen in a photo below.



#### **4. Reasonableness of the proposal that is causing the impact**

*"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more*

*skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.” Comment to Principle 4:*

It is considered that due to site constraints, the proposal at 2 Orara Road is compliant where reasonable and presents a good design outcome to minimise non compliances. The view loss is not directly related to the envelope non-compliance, which is the only non-compliance located on the northern side of the proposed development and visible to the residents of 4 Orara Road. It is considered that due to the proposal being a first floor addition, a compliant envelope would likely still maintain a complete loss of views to the southern boundary for the residents of 4 Orara Road. The non-compliance of the envelope was considered acceptable by council due to site constraints, including a slim and irregularly shaped site. The development is consistent with side setbacks, height of buildings and wall height along the northern boundary, meaning the first floor addition will be of minimal impact due to the envelope non-compliance. The first floor will appear as a compliant addition from the street, as the bulk and scale of the proposed addition is consistent with other numerically non-compliant first floors in the area, such as the neighbouring property at 4 Orara Road and other examples such as 26 Smith Avenue, Allambie Heights.

The relationship between 4 Orara Road (left) and 2 Orara Road (right) is seen in an image below:





- *To encourage innovative design solutions to improve the urban environment.*

Comment:

It is considered that innovative design solutions and significant reductions on the original design have been undertaken by the applicant, with Council being satisfied with the amended proposal. The extent of the view loss will be largely unrealistic to maintain due to a location on the side boundary of the two sites in question. It is considered that the design in its current state is reasonable, and steps towards a good design outcome have been taken.

- *To ensure existing canopy trees have priority over views.*

Comment:

No additional trees are proposed nor existing trees considered for removal. The existing canopy of the large tree in the front yard of 2 Orara Road is maintained.

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

### **D8 Privacy**

Windows along the northern and eastern boundaries on the proposed first floor addition will be conditioned to be implemented with raised sill heights and/or translucent glazing to prevent overlooking to neighbouring sites. See the conditions of this consent.

### **D10 Building Colours and Materials**

The first floor addition follows the existing colours and materials of the dwelling.

### **E10 Landslip Risk**

A Geotechnical Assessment Report has been provided with this development.

The report was prepared by AscentGeo dated 22nd April 2025. Recommendations in this report will be included as part of a Condition of this consent.

### **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 2024**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$5,168 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$516,811.

### **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;
- Warringah Local Environment Plan; Warringah
- 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**

Accordingly Council as the consent authority grant Development Consent to DA2025/0394 for Alterations and additions to a dwelling house on land at Lot B DP 367133, 2 Orara Road, ALLAMBIE HEIGHTS, 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.

<b>Approved Plans</b>				
<b>Plan Number</b>	<b>Revision Number</b>	<b>Plan Title</b>	<b>Drawn By</b>	<b>Date of Plan</b>
4392 DA 1	D	Plans, Elevations and Sections	Add-Style Home Additions	01/07/2025

<b>Approved Reports and Documentation</b>			
<b>Document Title</b>	<b>Version Number</b>	<b>Prepared By</b>	<b>Date of Document</b>
Waste Management Plan	-	-	-
Plans – Erosion and Sediment	A (Dwg No. 4392 DA 1)	Add-Style Home Additions	09/04/2025
BASIX Certificate	Certificate No. A1790706	Add-Style Home Additions	07/04/2025
Preliminary Geotechnical Assessment	Ref: AG 25170	AscentGeo Geotechnical Consulting	22/04/2025

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

In the event of any inconsistency between 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.

- Compliance with Other Department, Authority or Service Requirements** The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	Undated

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

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

### 3. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

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

### 4. **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.

## 5. 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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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.
- (e) 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.

- (f) 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.
- (g) 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.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) 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.
- (l) 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.

- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) 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

### 6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$5,168.11 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 \$516,811.00.

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

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

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

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

## 7. **Security Bond**

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

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

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

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

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

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

### 8. **Amendments to the approved plans**

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

- Window W7 on the northern elevation and window W1 on the southern elevation are to have a 1.6m high sill heights or be fitted with translucent glazing to prevent privacy impacts on the adjoining properties.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

### 9. **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.

10. **Colour of Building Materials**

The colour of building materials of the first floor addition are to match or complement the ground floor colour scheme.

Reason: To ensure a suitable integration of new works with the existing building.

11. **Construction Fencing**

It is to be ensured that where there is no permanent boundary fence on the northern boundary, that a temporary construction fence is installed during the duration of the works.

Reason: To ensure the conservation of amenity and privacy during construction.

### DURING BUILDING WORK

12. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **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.

14. **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.

### BEFORE ISSUE OF OCCUPATION CERTIFICATE

15. **Waste Disposal Verification Statement**

On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and

- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

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

16. **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.

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

**Signed**



**Ryan Fehon, Planner**

The application is determined on 25/07/2025, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**