

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0173
----------------------------	-------------

Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 1 DP 170202, 1126 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Glenn Robert Wood Carol Diane Wood
Applicant:	Stephen Grech

Application Lodged:	27/02/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/03/2023 to 17/03/2023
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 9%
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 745,800.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for alterations and additions to a residential dwelling, pursuant to the *Warringah Local Environmental Plan 2011*, comprising the following:

Internal Ground Floor

- Lift
- Laundry

First Floor

- Refurbish existing kitchen
- Storage
- Powder room
- Gas fireplace in existing living room

External

- Plunge pool and deck with pergola over
- Extension of roof to cover existing first floor level balcony

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 Local Environmental Plan 2011 - 6.5 Coastline hazards
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C9 Waste Management
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 1 DP 170202 , 1126 Pittwater Road COLLAROY NSW 2097
Detailed Site Description:	The subject site consists of one (1) allotment located on the

north-eastern corner of Pittwater Road and Ramsay Street.

The site is an irregularly shaped corner allotment, with a primary frontage of 10.4m along Pittwater Road and a secondary frontage of 40.8m along Ramsay Street. The site has a surveyed area of 403.0m².

The site is located within the R2 Low Density Residential zone within the *Warringah Local Environmental Plan 2011*, comprising a two (2) storey residential dwelling with vehicular and pedestrian access obtained from Ramsay Street. The rear of the subject site, to the east, is Collaroy Beach which is subject to a current sea wall development application.

The site has a westerly orientation toward Pittwater Road, and an easterly orientation toward Collaroy Beach. The site is generally flat, with no notable slope.

The site is not known to have any threatened species.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential development to the north, south and west, with Collaroy Beach sited to the east.

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:

- **EPA2016/0125.** An emergency order from a storm even was logged with Council.
- **DA2017/0591.** This Development Application sought consent for the construction of coastal protection works. This application was approved as a deferred commencement on 5 September 2018. The deferred commencement conditions were satisfied and the Applicant was notified of this on 20 July 2022.
- **Mod2022/0136.** This modification application sought consent to modify DA2017/0591. This application was withdrawn on the NSW Planning Portal on 11 May 2022.
- **CC2022/0574 and NOC2022/0526.** The construction certificate and notice of commencement was submitted to Council, for DA2017/0591, on 8 June 2022.

APPLICATION HISTORY

The Applicant provided amended plans which amended the location of the proposed swimming pool and deck to ensure its location did not impact upon the proposed easements relating to the coastal protection works under DA2017/0591. In accordance with Council's Community Participation Plan (CPP), the amended application did not require renotification.

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 (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>Clause 29</u> of the EP&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. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. However, the Applicant provided amended plans which amended the location of the proposed swimming pool and deck to

Section 4.15 Matters for Consideration	Comments
	ensure its location did not impact upon the proposed easements relating to the coastal protection works under DA2017/0591. In accordance with Council's Community Participation Plan (CPP), the amended application did not require renotification. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <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 clause is not relevant to this application. <u>Clause 69</u> of the EP&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. <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 Warringah 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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 03/03/2023 to 17/03/2023 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:
Gail Lynnette Minns	1128 Pittwater Road COLLAROY NSW 2097

The following issues were raised in the submissions:

- **View loss**
- **Boundary fence**
- **Overshadowing**
- **Family matters**

The above issues are addressed as follows:

- **View loss**

The submissions raised concerns that the proposed pergola will obstruct views towards Collaroy and Long Reef Headland.

Comment:

A view loss assessment in accordance with *Tenacity v Warringah Council* has been undertaken within this assessment report under section **D7 Views**. The assessment has found that the proposed development can achieve a reasonable sharing of views.

This issue does **not** warrant reason for refusal of this application.

- **Boundary Fence**

The submissions raised concerns that the architectural plans show a boundary fence that is higher than what is anticipated after the sea wall is completed.

Comment:

The proposed development does not seek consent for the construction of a boundary fence. If any reconstruction of a boundary fence is required, this should be discussed between property owners as this is a civil issue.

This issue does **not** warrant reason for refusal of this application.

- **Overshadowing**

The submissions raised concerns that the proposed pergola to the first floor level will create overshadowing to 1128 Pittwater Road, Collaroy.

Comment:

While shadow diagrams have not been provided, the proposed works will not create overshadowing to 1128 Pittwater Road as the subject site is located to the south of 1128 Pittwater Road. The sun's movement in the sky moves in a northerly direction from the east, then sets in the west and does not move to the south.

This issue does **not** warrant reason for refusal of this application.

- **Family Matters**

The submission noted family matters between the owners of the subject site and 1128 Pittwater Road.

Comment:

Family matters are not a planning consideration under the Environmental Planning and Assessment Act 1979.

This issue does **not** warrant reason for refusal of this application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	The LEP identifies the site as being mostly Class 4 Acid Sulphate soil with just the eastern most section being Class 5 soil. The SEE Prepared by Stephen Grech and Associates, architects states : The proposed works to the house are mostly internal with only a small increase to the building footprint to the northern side of the existing building. The proposed swimming pool is raised slightly relative to the existing ground floor deck which already sits above natural ground level. All the proposed works is in the area categorized as Class 4 and do NOT involve works to a depth of 2m below the natural ground surface. Environmental Health supports the proposal, subject to conditions.
Landscape Officer	The application seeks consent for alterations and additions to a dwelling house including a swimming pool. The plans and SEE indicate that no significant landscape features are affected by the proposed works.

Internal Referral Body	Comments
	No objections are raised with regard to landscape issues subject to conditions.
NECC (Bushland and Biodiversity)	The proposal seeks approval for alterations and additions to a dwelling including a swimming pool. The comments on this referral relate to the following applicable controls and provisions: - SEPP (Resilience and Hazards) 2021 - Chapter 2.10 Development within the coastal environment - Warringah DCP 2011 - Clause E2 Prescribed Vegetation - Warringah DCP 2011 - Clause E4 Wildlife Corridors - Warringah DCP 2011 - Clause E6 Retaining unique environmental features The proposed works would take place in a previously disturbed part of the site and are unlikely to impact native flora and fauna. No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.
NECC (Coast and Catchments)	General Comments The proposed alterations and additions are located landward of recently constructed coastal protection works completed under DA2017/0591. At the time of completing this referral the Occupation Certificate for DA2017/0591 had not been granted. The works proposed under this application are not to commence until the Occupation Certificate for DA2017/0591 has been granted. This application was assessed in consideration of: - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021 and - Relevant LEP and DCP clauses Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to this DA. The proposed development is considered to be consistent with the objects, as set out under Part 1 Section 3 of the Coastal Management Act 2016. State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP). Hence, Clauses

Internal Referral Body	Comments
	2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA. On internal assessment the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021. Warringah LEP 2011 and Warringah DCP 2011 The proposal is considered to comply with clause 6.5 of Warringah LEP 2011 and E9 of Warringah DCP 2011.
NECC (Development Engineering)	The proposed alterations and additions in Region 2 do not require on site detention. Vehicle crossing construction is not proposed. I have no objections to the proposed works subject to the suggested engineering conditions.
Parks, reserves, beaches, foreshore	The plans indicate that no works are proposed on the adjoining Council foreshore. No objections are raised subject to conditions.

External Referral Body	Comments
Aboriginal Heritage Office	No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A488742_05, dated 21 February 2023).

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The subject site is located within the Coastal Environment Area. As such, Council's Coast and Catchments Officer has reviewed the proposed development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

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

Comment:

The subject site is located within the Coastal Environment Area. As such, Council's Coast and Catchments Officer has reviewed the proposed development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse
 - ii) impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The subject site is located within the Coastal Use Area. As such, Council's Coast and Catchments Officer has reviewed the proposed development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

This Clause applies to the subject site. As such, Council's Coast and Catchments Officer has reviewed the proposed development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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	9.27m	9%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.5 Coastline hazards	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.25m
Proposed:	9.27m
Percentage variation to requirement:	9%

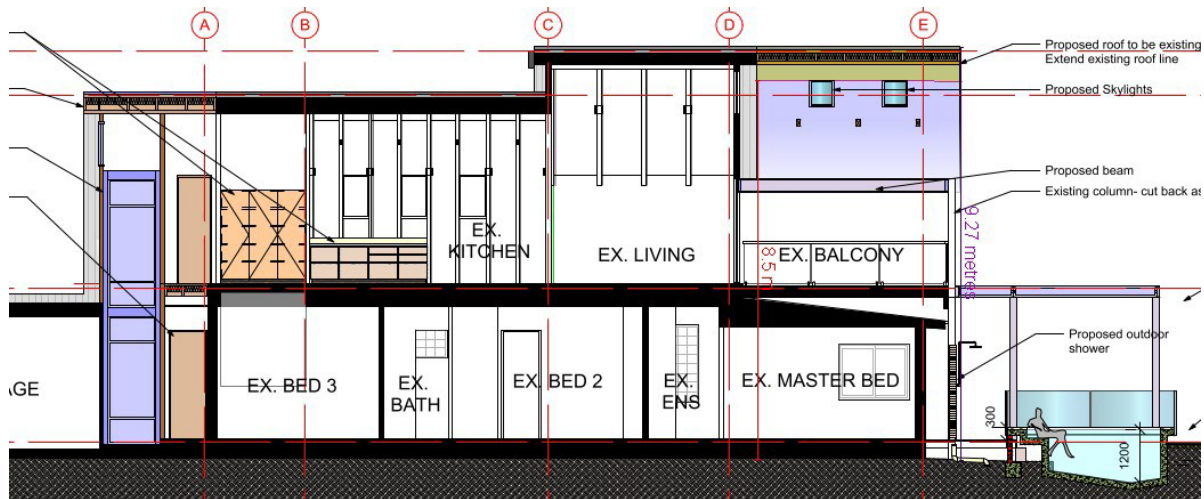


Figure 1. Maximum building height encroachment indicated in yellow.

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:

- *'The proposal simply extends and maintains the existing roof height which is marginally lower than the immediate neighbour to the north side. Further north is a 3 storey building which is higher again than the proposal. To the south side is an 8 storey apartment building which is significantly higher than the allowable 8.5m height limit. The proposal therefore compatible with the height and scale of the surrounding and nearby development.*
- *The proposal seeks to extend an existing roof line to provide cover over an existing terrace. The terrace is in the same line as the existing terrace to the northern neighbour thus the proposal does not impact any existing views. The roof structure does not impact privacy and as it is located to the south of the only adjoining neighbour will not cause any additional overshadowing.*
- *The proposed roof extension will sit in the same line as the existing roof and will therefore not have any visual impact from the coastal environment.*
- *The proposal is not visible from the main road and as the proposal is above an existing structure the impact when viewed from Ramsay Street is minimal.*
- *The proposal involves extending an existing roof which is numerically close to complaint. Significantly, although the proposal represents a height non-compliance it is still lower than the immediate neighbour and significantly lower than the large apartment buildings to the south.*
- *A compliant roof would create avoidable and unnecessary difficulties in construction and flashing to the existing roof for no benefit. Accordingly, the proposal is considered worthy of Council's support and approval'.*

It is considered the Applicant's written request to vary Clause 4.3 Height of Buildings of the *Warringah Local Environmental Plan 2011* (WLEP 2011) is acceptable given the proposed resultant built form will be commensurate with surrounding and nearby residential developments, and that the existing dwelling creates a constraint when maintaining the existing ridge line for the proposed new roof over the existing first floor level deck. The scope of non-compliance occurs for a length of 4.56 metres. However, due to the pitch of the roof, only the centre of the roof extends beyond the maximum building height, nothing that the side elevations are below the maximum building height, as indicated in the Figure below.

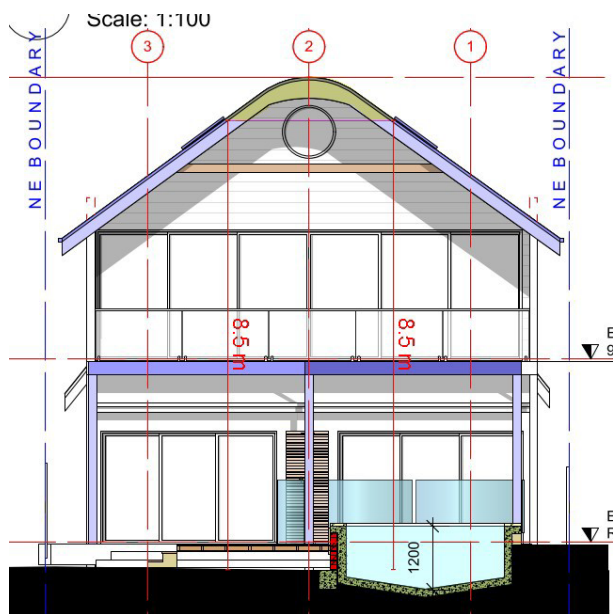


Figure 2. Proposed building height encroachment indicated in yellow.

The extent of non-compliance is unlikely to be discernible from the Ramsay Street frontage and from Collaroy Beach, and due to the siting of the dwelling it is unlikely to create unreasonable overshadowing upon adjoining public and private properties. Notwithstanding the non-compliance to this Clause, the resultant building mass will achieve compatibility and consistency with the building bulk of adjoining properties along the eastern side of Pittwater Road. In this instance, the overall building height will not adversely or unreasonably impact upon the existing character of the streetscape and beachscape.

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

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 subject site is surrounded by residential development, ranging from single two (2) dwellings to residential flat buildings. The dwelling to the north has a ridge line higher than the dwelling house on the subject site, and the residential flat building to the south has a significantly higher building height than the dwelling on the subject site. Furthermore, the encroachment of the maximum building height is sited at the rear of the dwelling and is unlikely to be easily discernible when viewed from the Pittwater Road and Ramsay Street frontage, as well as from Collaroy Beach. In this instance, the proposed dwelling will be commensurate with the height and scale of the surrounding and nearby residential development.

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

Comment:

As detailed above, the encroachment is sited at the rear of the dwelling and is central to the existing built form, therefore it is unlikely to be easily discernible from surrounding properties. A view sharing assessment has been undertaken within this assessment and the proposed roof does not give rise to unreasonable view sharing opportunities. As the subject site is a corner allotment with Ramsay Street to the south, there is no unreasonable overshadowing to adjoining private properties. Furthermore, the proposed roof will be sited over the existing first floor level deck, therefore there is no material increase to loss of privacy. In this instance, the proposed development will result in a reasonable level of amenity between properties.

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

Comment:

The proposed roof will continue the same ridge line, roof pitch and design of the existing dwelling. In this instance, there is minimal adverse impacts upon the scenic quality of Warringah's coastal environment.

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

Comment:

When viewed from the street frontages and Collaroy Beach, the extent of encroachment is unlikely to be easily discernible as it will continue the ridgeline of the existing dwelling. Therefore the visual impact has been appropriately managed so as to integrate into the existing dwelling.

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:

The proposed development will continue to provide for the housing needs of the community in a low density residential environment.

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

Comment:

There are a variety of different land uses that are permissible within the R2 zone. However, the proposed development seeks to retain the low density residential nature of the site.

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

Comment:

The proposed development will retain the landscaped settings on the site, thus ensuring that the subject site will continue to be characterised by landscaped settings.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential 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 issued by the NSW Department of Planning & Infrastructure, 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%.

6.5 Coastline hazards

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) *will not significantly adversely affect coastal hazards, and*

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not significantly adversely affect coastal hazards.

(b) will not result in significant detrimental increases in coastal risks to other development or properties, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not result in significant detrimental increases in coastal risks to other development or properties.

(c) will not significantly alter coastal hazards to the detriment of the environment, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not significantly alter coastal hazards to the detriment of the environment.

(d) incorporates appropriate measures to manage risk to life from coastal risks, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development incorporates appropriate measures to manage risk to life from coastal risks.

(e) avoids or minimises exposure to coastal hazards, and

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development avoids or minimises exposure to coastal hazards.

(f) makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks.

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development makes provision for relocation, modification or removal of the development to adapt to coastal hazards and NSW sea level rise planning benchmarks.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the foundations of the development have been designed to be constructed having regard to coastal risk.

Comment: The development has been assessed by Council's Coastal Officer. The Coastal Officer raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the foundations of the development have been designed to be constructed having regard to coastal risk.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	Northern elevation 2.91m	N/A	Yes
B3 Side Boundary Envelope	Northern	No encroachment	N/A	Yes

	elevation 4m			
	Southern elevation 4m	No encroachment	N/A	Yes
B5 Side Boundary Setbacks	Northern boundary 0.9m	<i>Ground Floor</i> 0.9m	N/A	Yes
		<i>First Floor</i> 1.98m	N/A	Yes
		<i>Swimming pool</i> 0.9m	N/A	Yes
	Eastern boundary	<i>First Floor</i> 12.68m - 15.61	N/A	Yes
		<i>Swimming pool & Deck</i> 7.4m - 9.58m	N/A	Yes
B7 Front Boundary Setbacks	Primary Frontage Pittwater Road 6.5m	<i>Ground Floor</i> 8.03m	N/A	Yes
		<i>First Floor</i> 6.02m - 7.58m	7.38% max.	No & Yes
	Secondary Frontage Ramsay Street 3.5m	<i>First Floor</i> 2.04m	N/A	Yes
		<i>Swimming pool</i> 5.24m	N/A	Yes
		<i>Deck</i> 1.95m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (161.2m ²)	22.7% (91.6m ²)	43.25%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	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	No	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E9 Coastline Hazard	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

This control requires development to be setback 6.5 metres from the front boundary line. In the instance of a corner allotment, or double street frontage, this control permits a reduced front setback to 3.5 metres to the secondary street frontage. The assessment of a secondary street frontage must consider the character of the secondary street, as well as the predominant setbacks that exist to that street.

The subject site will result in the following primary and secondary street frontage setbacks:

- Primary street frontage: Pittwater Road (6.5 metre requirement)

- Ground floor: 8.03 metres
- First floor: 6.02 metres - 7.58 metres

- Secondary street frontage: Ramsay Street (3.5 metres)

- First floor: 2.04 metres
- Swimming pool: 5.24 metres
- Deck: 1.95 metres

The proposed development generally achieves compliance with these requirements, notwithstanding

the minor encroachment of the proposed first floor additions as a result of the angled nature of the front boundary line.

Regardless, a detailed merit consideration of the variation to the primary street frontage against the underlying outcomes of this control is conducted 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 create a sense of openness.*

Comment:

A small portion of the south-western area of the first floor addition encroaches into the front setback area. This portion of the dwelling is minor and does not give rise to an unreasonable built form. In this instance, the non-compliance does not enclose the front setback area and a sense of openness is established.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposed first floor addition along the western elevation will achieve the same design as the existing dwelling, which comprises a unique curved roof pitch and design. In this instance, the visual continuity and pattern of buildings will not be adversely disrupted. The existing landscape elements on the site will not be disturbed as a result of the front setback area encroachment.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

As detailed above, the visual continuity and quality of the streetscape will remain visually unchanged as the proposed design will retain the existing unique curved roof pitch and design. In this instance, there is no adverse impact upon the visual quality of the Pittwater Road streetscape and nearby public spaces.

- *To achieve reasonable view sharing.*

Comment:

The extent of non-compliance is unlikely to impact upon reasonable view sharing between public and private spaces.

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

A Waste Management Plan has not been provided with this application. As such, a condition will be recommended to ensure a waste management plan be prepared and adhered to pre, during, and post construction.

As conditioned, the proposal can meet the requirements and objectives of this control.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

This control requires development to result in a landscaped area of at least 40% of the total site area. In this instance, the proposal is required to provide 161.2m² of landscaped area. The site, as existing, has a landscaped area of 88.4m², being 21.9%. The proposed development provides a landscaped area of 91.6m² (or 22.7%). While this is less than the minimum requirement, it is an improvement to what is existing.

Regardless of the improvement, a merit consideration of the proposal against the underlying objectives of this control is conducted 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 enable planting to maintain and enhance the streetscape.*

Comment:

Due to the siting of the dwelling on the site, the primary and secondary front setback areas comprise built form and paved areas. The primary landscaped area is within the eastern portion of the subject site adjacent to Collaroy Beach. The proposed development, as detailed elsewhere in this report, will retain the same building design (including the unique pitch and design of the existing roof). Therefore, the existing streetscape will remain, notwithstanding the lack of landscape treatments within the front setback area.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

Council's Aboriginal Heritage Officer has reviewed the proposed development and no concerns have been raised regarding potential indigenous vegetation or artefacts on the site. The proposed development does not include the removal of any significant topographical features. The proposed landscaping within the rear yard will provide habitat for wildlife.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The numerical non-compliance to the landscaped area does not give rise to any unreasonable impacts upon the site's ability to facilitate low lying shrubs, medium high shrubs and canopy trees.

- *To enhance privacy between buildings.*

Comment:

The non-compliance does not give rise to any unreasonable or adverse privacy impacts. As such, the proposed development will maintain and enhance an acceptable degree of privacy between dwellings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The proposed development will provide open space areas that will accommodate outdoor recreational opportunities that will meet the needs of the occupants of the dwelling.

- *To provide space for service functions, including clothes drying.*

Comment:

There are sufficient areas throughout the site that can accommodate space for service functions, such as clothes drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Appropriate conditions have been recommended within this report to ensure that stormwater management measures are put in place, allowing for the facilitation of water management and the infiltration of stormwater. An on-site detention is not required, in this instance, as the proposed development does not seek to increase the hardstand areas of the site by 50.0m².

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.

D7 Views

Merit consideration

A submission has raised concern that the proposed development will result in unreasonable impacts upon views obtained from the property to the north, being 1128 Pittwater Road, Collaroy. A view loss assessment has been undertaken below.

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:

1128 Pittwater Road enjoys full water and land/water interface views to the north-east, east and marginally obscured water and land/water interface views to the south-east. Part of the obscured view to the south-east includes Long Reef Headland, however it is noted that the furthest point of Long Reef Headland is not obscured by existing vegetation and/or surrounding buildings (as shown in Figure 3 below).



Figure 3. First floor deck, facing south-east in a standing position, across a side boundary.

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 area of view loss concern is obtained over the side boundary in a south-easterly direction from various points (both internal and external) in the dwelling at 1128 Pittwater Road - see Figures below.



Figure 4. Standing in the ground floor living room, facing south-east across the side boundary.



Figure 5. Sitting in the ground floor living room, facing south-east over the side boundary.



Figure 6. Standing on the ground floor deck, facing south-east across the side boundary.



Figure 7. Sitting on the ground floor deck, facing south-east over the side boundary.



Figure 8. Standing on the first floor deck, facing south-east over the side boundary.



Figure 9. Sitting on the first floor deck, facing south-east over the side boundary.



Figure 10. Sitting on the first floor deck, facing east over the rear boundary.



Figure 11. Sitting on the first floor deck, facing north-east over the side boundary.



Figure 12. Sitting in the first floor dining room, facing south-east over the side boundary.



Figure 13. Standing in the dining room on the first floor level, facing south-east over the side boundary.



Figure 14. Sitting in the living room on the first floor level, facing south-east over the side boundary.



Figure 15. Standing in the living room on the first floor level, facing south-east over the side boundary.



Figure 16. Standing in the living room on the first floor level, facing east over the rear boundary.



Figure 17. Standing in the kitchen on the first floor level, facing south-east over the side boundary.

3. Extent of impact

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

Comment to Principle 3:

With consideration of the whole of the property, the views shown in Figures 10, 11, 16 and 17 shows that 1128 Pittwater Road currently enjoys unobstructed water and land/water interface

views to the east and north-east. As the subject site to which this development application applies is sited directly to the south of 1128 Pittwater road, the views to the east and north-east will be retained in their entirety from both the ground floor and first floor levels over the rear and northern boundaries.

The proposal includes a new roof over the existing first floor level deck, and no privacy screen is proposed along the northern or southern elevations of the existing deck. The level of the existing deck sits slightly higher than the first floor level deck at 1128 Pittwater Road. In this instance, the roof structure on the first floor level will not obscure the views of Long Reef Headland, the water and land/water interface that 1128 Pittwater Road currently enjoys. Furthermore, the pergola proposed on the ground floor level will be an open structure and views obtained from the ground floor level will be maintained, save for the view to the south-east (which includes Long Reef Headland) when seated at the outdoor table on the ground level deck (which is currently obscured by the existing boundary fence [as indicated in Figure 7]).

The assessment has found that the extent of view loss, when considering the *whole* of the property, is considered minor and the proposed development will provide a reasonable sharing of views.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The works proposed to the rear of the dwelling achieve compliance with the relevant built form controls. The proposed additions to the rear, particularly the first floor level roof extension, has been designed to match the existing roof pitch and design so as to minimise adverse or unreasonable amenity impacts upon adjoining and nearby public and private properties. Notwithstanding, the proposal extends beyond the maximum building height as prescribed under Clause 4.3 of the *Warringah Local Environmental Plan 2011* (WLEP 2011). However, as detailed above, the new roof over the existing deck will not cause unreasonable view loss from 1128 Pittwater Road. Notwithstanding the numerical non-compliance to Clause 4.3, the extent of view loss, which is considered minor when assessing the views obtained from the *whole* of the property, is acceptable, in this instance.

As the proposal is generally compliant with the built form controls within the Warringah Development Control Plan (WDCP), a more skilful design is unlikely to result in the same development potential and amenity. Furthermore, as detailed under Principle 3, the extent of view loss is minor and a reasonable sharing of views is achieved.

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

Comment:

The proposed development will result in a built form that is commensurate with the surrounding

single residential dwellings, as well as maintain the design and roof pitch of the existing dwelling. In this instance, the proposed development will use appropriate design solutions that positively contributes to the urban environment.

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

Comment:

The subject site does not have any canopy trees.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

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 \$7,458 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$745,800.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 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

DEFERRED COMMENCEMENT APPROVAL

A. Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 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.

Accordingly Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Clause 76 of the Environmental Planning and Assessment Regulation 2021 to DA2023/0173 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 1 DP 170202, 1126 Pittwater Road, COLLAROY, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to

the time frames detailed within Part A of this recommendation.

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.

DEFERRED COMMENCEMENT CONDITIONS

1. Final Occupation Certificate for DA2017/0591

Under DA2017/0591, coastal protection works have commenced construction seaward of the proposed alterations and additions. These works are not yet completed.

A final Occupation Certificate is to be obtained for DA2017/0591 prior to consent DA2023/0713 becoming operational.

Reason: To ensure appropriate protection from coastal hazards.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Clause 76 of the Environmental Planning and Assessment Regulation 2021. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

GENERAL CONDITIONS

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
464/ 001 Issue B Proposed Roof Plan	05.04.2023	Stephen Grech and Associates, Architects
464/ 002 Issue B Proposed Ground Floor Plan	05.04.2023	Stephen Grech and Associates, Architects
464/ 003 Issue B Proposed First Floor Plan	05.04.2023	Stephen Grech and Associates, Architects
464/ 101 Issue B Proposed North & East	05.04.2023	Stephen Grech and

Elevations		Associates, Architects
464/ 102 Issue B Proposed South & West Elevations	05.04.2023	Stephen Grech and Associates, Architects
464/ 103 Issue B Proposed Sections A & B	05.04.2023	Stephen Grech and Associates, Architects

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate A488742_05	21 February 2023	Grech Architects

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

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

3. 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	Not dated

(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.

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

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

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$7,458.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$745,800.00.

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).

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Stormwater shall be conveyed from the site to the kerb on Ramsay Street. Details by an appropriately qualified and practicing Civil or Hydraulic Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with Council's policy 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. **Boundary Identification Survey**

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

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

this consent.

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

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

10. **Easements for support and maintenance of coastal protection works**

Confirmation that the proposed works are located out of the easements for support and maintenance required under condition 3 of DA2017/0591 is required prior to issue of construction certificate. Evidence demonstrating compliance must be provided to the Certifying Authority for approval.

Reason: To ensure suitable easements for support and maintenance required under condition 3 of DA2017/0591 are maintained.

11. **Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

12. **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.

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

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

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

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

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

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

14. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in

accordance with the Development Control Plan.

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Works on Land Owned or Managed By Council

No works are to be carried out on land owned or managed by Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.) and landscaping works on land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

DURING BUILDING WORK

16. Requirement to notify about new Acid Sulfate Soils evidence

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifier and a report be obtained from a suitably qualified person. Any recommendations provided by the report are to be complied with during works.

Reason: To protect the environment.

17. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the 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 Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

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

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

Reason: Tree and vegetation protection.

18. **Wildlife Protection**

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

Reason: To protect native wildlife.

19. **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.

20. **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:

- i Work Health and Safety Act;
- i Work Health and Safety Regulation;
- i Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- i Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- i Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- i 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.

21. **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.

22. **Survey Certificate**

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

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

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

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

23. Installation and Maintenance of Sediment Control

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

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

24. 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.

25. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

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. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

28. **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.

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. **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



Megan Surtees, Planner

The application is determined on 05/07/2023, under the delegated authority of:



Jordan Davies, Acting Development Assessment Manager