

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0534
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 23 DP 6195, 14 Bassett Street MONA VALE NSW 2103
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Vaughan Patrick Milligan

Application Lodged:	08/05/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/08/2024 to 04/09/2024
Advertised:	Not Advertised
Submissions Received:	14
Clause 4.6 Variation:	4.3 Height of buildings: 16.1%
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 800,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to a dwelling house.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as more than 10 unique submissions, by way of objection to the proposal, were received during the assessment of the application.

The DA was notified twice in accordance with the Northern Beaches Community Participation Plan. A total of 13 submissions were received in objection to the proposed development. Amended plans and documentation were provided and the application was subsequently re-notified, during which time no additional submissions were received.

Concerns raised in the objections predominantly relate to the proposed maximum building height,

amenity impacts upon adjoining development created by the proposed development, view sharing concerns, the number of dwellings within the existing building, impact upon street traffic and on-street parking, inconsistent built form with the streetscape and surrounding locality, misleading references and inadequate documentation, precedence, characterisation of the proposal as a first floor addition, resultant bulk and scale, and that the proposal is contrary to the *Environmental Planning and Assessment Act 1979*, the *Pittwater Local Environmental Plan 2014* (PLEP 2014) and the *Pittwater 21 Development Control Plan* (P21DCP).

The development proposes a breach to the maximum building height of 8.5m set under Clause 4.3 of the PLEP 2014. The variation has been supported by a written Clause 4.6 variation request for the non-compliance with the height standard. The written Clause 4.6 variation request argues that, as the site has been previously partially excavated underneath the existing building footprint, the new works cause a technical breach of 16.1% variation for a portion of the proposed first floor addition.

It is noted that, based on extrapolated natural ground levels, the proposed maximum building height would be measured at a maximum of 8.5m, thus achieving compliance with the requirement of Clause 4.3 of the PLEP 2014.

This report concludes with a recommendation that the NBLPP grant **approval** to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

This development application seeks consent for alterations and additions to an existing residential dwelling, comprising the following works:

First floor level (RL26.89)

- Bedroom with walk-in robe
- Bathroom
- Wet bar, cupboard and storage area
- Retreat space
- Alfresco area with BBQ space within the existing rooftop terrace

Amended Plans

Amended plans were provided to Council, comprising the following changes:

- Reduced maximum ridge line to RL26.89
- Reduced open space on the rooftop with the inclusion of glass balustrades and non-trafficable areas
- Privacy awning along the south-eastern elevation
- Altered roof design and pitch
- Removal of the BBQ space

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D9.7 Side and rear building line

Pittwater 21 Development Control Plan - D9.9 Building envelope

SITE DESCRIPTION

Property Description:	Lot 23 DP 6195 , 14 Bassett Street MONA VALE NSW 2103
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Bassett Street. The site is irregular in shape with a frontage of 17.365 metres along Bassett Street and a maximum depth of 88.315 metres. The site has a surveyed area of 1283.0m². The site is located within the R2 Low Density Residential zone within the <i>Pittwater Local Environmental Plan 2014</i> and accommodates a two (2) storey residential dwelling within a landscaped setting, with a detached shed and secondary dwelling within the rear portion of the site. The site has a southerly orientation and is located on a slope of approximately 9.45 metres (or 11%), falling from the rear boundary line toward the front boundary line. The site is not known to have any threatened species. Detailed Description of Adjoining/Surrounding

Development

Adjoining and surrounding development is characterised by residential developments within a landscaped setting.

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:

- **N0168/09.** This development application sought consent for a secondary dwelling and boundary wall. This application was approved, subject to conditions, on 3 November 2009. A Construction Certificate (CC0135/10) was obtained and provided to Council on 26 February 2010.
- **N0114/14.** This development application sought consent for the demolition of the existing two-level dwelling and construction of a new single dwelling with swimming pool located on proposed roof terrace. This application was refused on 25 February 2015.
- **CDC0138/15.** This Complying Development Certificate (CDC) was submitted to Council for demolition of the existing building.
- **CDC0165/15.** This CDC was submitted to Council for the construction of a new 2 storey dwelling, new pool and internal alterations to the secondary dwelling to revert to a cabana and associated yard storage area.
- **N0168/09/S96/1.** This modification application sought consent to modify N0168/09 which involved the removal of a tree. This application was refused on 11 December 2015.
- **CDC0043/16.** This CDC was submitted to Council for alterations and additions to an existing partially constructed dwelling house, resulting in a 2 storey dwelling, new swimming pool and internal alterations to the existing secondary dwelling to revert to a cabana and associated yard storage area. A Final Occupation Certificate (FOC2019/1813) was obtained and provided to Council on 28 October 2019.

- **BC2019/1813.** This Building Information Certificate (BIC) was submitted to Council for the detached secondary dwelling. The BIC was approved on 16 November 2022.
- **DA2022/1125.** This development application sought consent for alterations and additions to a dwelling house including a secondary dwelling. This application was not accepted by Council and returned on 13 July 2022. The return was based on the following issues: a Cost Summary Report Form was not provided, owners consent was not provided, the Statement of Environmental Effects was inadequate, the BASIX Certificate provided did not relate to the proposed works, and architectural drawings were not provided.
- **DA2022/1415.** This development application sought consent for alterations and additions to an existing building and use as a secondary dwelling. This application was granted a deferred commencement approval, subject to conditions, on 20 October 2022.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a recommended 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. Additional information was requested in relation to amending the proposed architectural plans to minimise the built form. This issue was detailed within a Request for Further Information (RFI) letter, dated 9 July 2024, which was sent to the Applicant via email as well as uploaded to the NSW Planning Portal.

Section 4.15 Matters for Consideration	Comments
	Amended plans and supporting documentation was provided to Council, via the NSW Planning Portal, on 8 August 2024 and 13 August 2024. While Council's Community Participation Plan (CPP) stipulates that when an application has been amended to result in a lesser or reduced environmental impact, it is not required to be re-notified. However, the proposed amendments have been formally re-notified to all relevant properties. <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 matter has been addressed via a recommended condition of consent. <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 recommended 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 recommended condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 21/08/2024 to 04/09/2024 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 14 submission/s from:

Name:	Address:
Mr Andrew Paul Kingston	26 Bassett Street MONA VALE NSW 2103
Mrs Claire Ellen Jaroszewicz	22 Bassett Street MONA VALE NSW 2103
Withheld	MONA VALE NSW 2103
Ms Alison Margaret Edye	35 Avon Road PYMBLE NSW 2073
Mr Jeffrey John Atkinson	39 Heath Street MONA VALE NSW 2103
Nicholas Tate	18 Bassett Street MONA VALE NSW 2103
Mr Miles Randall Goodman Phoebe Brosnan	12 Bassett Street MONA VALE NSW 2103
Mr Neil Colin Berrell	20 Heath Street MONA VALE NSW 2103
Mr David Arthur Hellmich Mrs Jodie Leanne Hellmich	37 Heath Street MONA VALE NSW 2103
Mrs Jodie Marie Holmes	28 Bassett Street MONA VALE NSW 2103
Mr Graeme Raymond Jessup	8 Bassett Street MONA VALE NSW 2103
Mr Jeffrey Philip Golder Mrs Barbara Golder	Po Box 514 MONA VALE NSW 1660
GLN Planning Pty Ltd	GPO Box 5013 SYDNEY NSW 2001
Mr Benjamin Philip Wheeler Mrs Shonagh Wheeler	102 Victor Road NARRAWEENA NSW 2099

The application received amended plans and documentation, which were re-notified in accordance with Council's Community Participation Plan (CPP).

The first notification period, between 16 May 2024 and 30 May 2024 generated 14 Submissions and two (2) submissions were made to the second notification. These submissions did not raise any additional concerns, but stated that the proposed amendments did not satisfactorily address the concerns previously raised. Additionally, these submissions came from property owner's who had already provided submissions during the first notification period. As the submissions did not raise any additional concerns, the initial concerns have been addressed below and, where necessary, within the assessment report.

The following issues were raised in the submissions:

- ***Proposed maximum building height and resultant bulk and scale***

The submissions raised concerns that the proposed development resulted in a numerically non-compliant maximum building height, which is against Council's regulations, and has subsequent impacts upon adjoining and nearby properties (both public and private). As a result of the proposed maximum building height, concern is raised that the proposed resultant built form will create an unreasonable bulk and scale.

Comment:

Amended plans were received which reduced the maximum building height of 9.87m, however the proposed maximum building height remains numerically non-compliant with Clause 4.3 Height of buildings of the *Pittwater Local Environmental Plan 2014* (PLEP 2014). An amended Clause 4.6 written request to vary the development standard has been provided with this application which, for the reasons as detailed within the Clause 4.6 assessment within this assessment report, is considered to be acceptable in this particular circumstance, given the context of the subject site and the minimal environment impacts arising from the proposed development, despite the height breach.

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

- ***Amenity impacts (visual and acoustic privacy, solar access, artificial light pollution)***

The submissions raised concerns that the proposed development results in unreasonable amenity impacts upon adjoining properties. Such amenity impacts include direct overlooking into private open spaces and internal habitable rooms, unreasonable overshadowing, as well as unreasonable artificial light pollution during the evening.

Comment:

Amended plans were provided which included privacy plans to provide visual representation of sight lines across the adjoining properties (refer to DA23 'Privacy Plan and DA24 'Privacy Plan', dated 6 August 2024), and a 600mm wide privacy awning along the south-eastern elevation to further restrict views in a downward direction to the windows of 12 Bassett Street, Mona Vale (being the property to the east). A detailed assessment of the amended proposal against the requirements and outcomes of Control C1.5 Visual Privacy has been undertaken within this report, and the assessment found that the amended proposal minimises visual privacy impacts between buildings.

Shadow diagrams have been provided with this application which shows compliance with the requirements of Control C1.4 Solar Access of the Pittwater 21 Development Control Plan (P21DCP).

Artificial lighting used during the evenings is not unreasonable within a residential zone.

These issues do **not** warrant reason for refusal of this application.

- **View sharing concerns**

The submissions raised concerns that the proposed development will cause unreasonable view loss to adjoining and nearby properties.

Comment:

Site visits were undertaken at properties whereby submissions raised concern regarding view loss impacts arising from the proposed development. In accordance with *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140, the four-part test was undertaken as part of this assessment to ascertain the extent of view loss. The assessment found that the proposal provides a reasonable and acceptable level of view sharing between properties.

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

- **Number of dwellings within existing building**

The submissions raised concerns that as the existing dwelling has multiple domiciles within the principal dwelling, the proposed development will further contribute to providing separate habitation within the principal dwelling, subsequently resulting in unreasonable traffic impacts upon Bassett Street (including on-street parking requirements to meet the needs of the occupants of these dwellings).

Comment:

Upon a site visit, it was observed that the principal dwelling has one (1) dwelling within, and historical planning applications shows that there is an existing, and approved, secondary dwelling within the rear yard of the subject site. Nothing within Council's historical records shows that there are more dwellings on the subject site (other than what has been previously approved).

Should this application be approved, relevant conditions will be included to ensure the proposed addition to the principal dwelling is not used as separate habitation.

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

- **Impact upon street traffic and on-street parking**

The submissions raised concerns that the proposed development will cause unreasonable additional load to Bassett Street, including the need for on-street parking.

Comment:

As detailed above, the existing site does not have more than two (2) domiciles (one being the principal dwelling, the other being the secondary dwelling - both of which have been approved). The proposed development does not seek to include additional separate habitation to the principal dwelling.

Notwithstanding, the subject site has a four (4) car garage, with one (1) additional on-site parking space to the east of the existing driveway. In this instance, the subject site has five (5) on-site parking spaces, which far exceeds the minimum requirement of two (2) spaces (in accordance with Control B6.3 Off-street Vehicle Parking Requirements). Furthermore, *State Environmental Planning Policy (Housing) 2021* does not require additional on-site parking for a

Secondary Dwelling.

In this particular circumstance, the subject site has ample on-site parking for the needs of the occupants of the subject site. Furthermore, as the proposal does not seek to add separate habitation to the subject site, there is no unreasonable additional load upon Bassett Street.

These issues do **not** warrant reason for refusal of this application.

- **Existing & proposed works are inconsistent with streetscape and surrounding locality, and the cumulative effect on adjoining properties.**

The submissions raised concerns that the existing dwelling is not consistent with the existing streetscape and surrounding locality, particularly within the Mona Vale Basin. The submissions further noted that the proposed works will further exacerbate this inconsistency, creating a dwelling that does not maintain the low density residential nature of the immediate locality.

Comment:

Concerns regarding the existing dwelling is not for consideration under this development application (as it has been approved and constructed through Complying Development). The proposed development, as amended, achieves compliance with the relevant built form controls, allowing for a degree of articulation to the built form. As the proposal is a generally compliant structure (save for the maximum building height, however this has been addressed under Section 4.6 of this report), it is considered to be an acceptable built form that is not unreasonable for the context of the subject site and surrounds.

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

- **Misleading references and documentation**

The submissions raised concerns that the proposed development is accompanied by misleading references and documentation, specifically relating to the existing lift rooftop being labelled as a 'lift overrun' and the existing external staircase along the western elevation of the dwelling, noting that the proposed Clause 4.6 uses the existing RL of the lift to support the argument for the maximum building height. Additional misleading statements includes the reference to the proposed development as a 'first floor level', with the submissions noting the proposed works to be a third level. Furthermore, the submissions note that the plans do not clearly show what is proposed, specifically that it does not clearly delineate the proposed additional footprint from the existing dwelling. Finally, the submission raises confusion as to why reference has been made to pre-lodgement notes under PLM2022/0028 which sought Council's advice on a more compliant design to that currently under assessment of this application.

Comment:

Notwithstanding the comments and assertions made within the Statement of Environmental Effects (SEE), an independent assessment has been undertaken for the proposed development, as amended, in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*, where the proposal has been assessed, in detail, against the relevant planning controls within the P21DCP and PLEP 2014.

Furthermore, the level that comprises the garage, guest room, laundry, wine cellar and storage areas is considered to be the lower ground floor level, with the middle level being the ground

floor (comprising the main internal living areas and bedrooms), and the proposed top level addition being the first floor level. This is commensurate with properties on sloping sites where existing excavation has created lower levels. The naming of the floor levels is acceptable and appropriate for the proposed development.

While the design provided for PLM2022/0028 differs from the proposed development currently under assessment, the Statement of Environmental Effects (SEE) stipulates that the responses provided by Council in the PLM Notes were addressed in the subject submission (as detailed within Table 1 - Pre-lodgement Discussions summarised), hence why reference has been made to PLM2022/0028.

These issues do **not** warrant reason for refusal of this application.

- ***Precedence***

The submissions raised concerns that approving this development application would create an undesirable and unreasonable precedence for development in the Mona Vale locality, particularly the Mona Vale basin area.

Comment:

An approval to this development application does not guarantee approval of any future development applications, as each development application is assessed on its own merits in accordance with the relevant Clauses within the PLEP 2014 and controls within the P21DCP. An assessment of a development application is not bound by precedence.

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

- ***Extent of demolition***

The submissions raised concern that the extent of demolition of the existing concrete parapet is not clear, including on the amended architectural plans.

Comment:

DA10, Issue 6, 'Elevations Plan SE & NW', dated 6 August 2024, includes a Note Schedule which assigns specific numbers to proposed works. As indicated on the South East Elevation, number 4 indicates 'Demolish Concrete Roof Parapet' and number 8 indicates '1m Glass Balustade to NCC'. The proposal, as amended, clearly indicates the intent for demolition of the existing concrete parapet to be replaced with a 1.0m high glass balustrade.

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

- ***Excessive additional floor area***

The submissions raised concern that the proposed first floor addition provides a substantial floor area that is substantially more than what currently exists on the subject site, ultimately resulting in unreasonable amenity impacts upon adjoining and nearby private and public properties.

Comment:

A Floor Space Ratio control is not applicable to the subject site. The proposed development is

sited entirely above the existing building footprint and does not reduce the existing landscaped area of the subject site. Further, the amenity (such as visual and acoustic privacy and solar access) of the subject site and adjoining and nearby properties has been considered within this assessment report, and the assessment has found that the proposal provides a reasonable level of amenity to the subject site and adjoining and nearby properties.

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

- **Characterisation of the proposed development**

The submissions raised concerns that the characterisation of the proposed development as a first floor level is inaccurate, and rather it would be more appropriate to describe the proposed development as the addition of a third storey (as the existing rooftop is being converted to internal habitable space).

Comment:

The garage, storage and entry level is considered to be the lower ground floor level, with the middle level being the ground floor, and the proposed top level being the first floor level. This is commensurate with properties on sloping sites where existing excavation has created lower levels. The characterisation of the floor levels are considered acceptable and appropriate for the proposed development.

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

- **Contrary to the Environmental Planning and Assessment Act 1979 ('the Act'), Pittwater Local Environmental Plan 2014 (PLEP 2014) and Pittwater 21 Development Control Plan (P21DCP).**

The submissions raised concerns that the proposed development is contrary to the relevant objects of the Act, the aims of the PLEP 2014, as well as the objectives of the R2 Low Density Residential Zone, in addition to the relevant controls of the P21DCP.

Comment:

The proposed development has been assessed against the relevant objects of the Act, the aims of the PLEP 2014 as well as the objectives of the R2 Low Density Residential Zone, as well as all relevant controls of the P21DCP. The assessment has found that the proposal is reasonable in the context of the subject site, notwithstanding the numeric non-compliances to Clause 4.3 of the PLEP 2014 and D9.7 Side and rear building line of the P21DCP,.

The proposal is consistent with the relevant objects of the Act, the aims of the PLEP 2014 as well as the objectives of the R2 Low Density Residential Zone, as well as all relevant controls of the P21DCP.

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

- **Concerns raised in the first submission remain**

The submission noted that the concerns raised within the original submission remain as the amended plans and documentation have not satisfactorily addressed their concerns.

Comment:

This is noted and the concerns originally raised have been addressed above.

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

- ***Inadequate changes on the amended plans***

The submissions raised concerns that the proposed amendments made on the architectural plans are not sufficient enough to address concerns previously raised by objectors. Of further concern is that the amendments made along the western elevation will cause greater privacy impacts upon the internal habitable rooms of 16 Bassett Street, which is the property to the west.

Comment:

The amended architectural plans have been assessed against the requirements of control C1.5 Visual Privacy of the P21DCP and the assessment has found that the proposal, as amended, satisfactorily achieves the requirements and outcomes of this control and that a reasonable level of privacy is afforded between properties.

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

- ***Previous preliminary plans should be considered***

The submission raised concern that the proposed development did not use plans previously considered in a pre-lodgement meeting, noting that the plans for consideration during the pre-lodgement meeting created a better amenity outcome to adjoining properties.

Comment:

Plans used for a pre-lodgement meeting are preliminary and for discussion purposes only. An Applicant and/or home owner is not required to use those plans for any future development applications, nor is the home owner required to consult adjoining and/or nearby property owners of their intent for development with such plans.

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

REFERRALS

Internal Referral Body	Comments
NECC (Coast and Catchments)	<i>Supported, subject to Conditions</i> The applicant seeks development consent to undertake the following - Construction of a new first floor addition to provide for primary bedroom with ensuite, walk in robe, retreat, wet bar and attached alfresco area. - Refurbishment of the existing first floor terrace area

Internal Referral Body	Comments
	- Removal of the existing concrete parapet along the south-east elevation and replacement with a glass balustrade. This application was assessed in consideration of: • Supplied plans and reports; • <i>Coastal Management Act (2016)</i> • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.11 & 2.12); • Relevant LEP and DCP clauses. State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.11 and 2.12 of the CM (R & H) apply for this DA. Comment: On internal assessment, the alteration and proposed development outlined within the updated DA including the Statement of Environmental Effects dated April 2024 by Vaughan Milligan Development Consulting Pty Ltd satisfies requirements under clause 2.11 & 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021. Pittwater LEP 2014 and Pittwater 21 DCP No other coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP

Internal Referral Body	Comments

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<i>Supported, subject to Conditions</i> The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<i>Supported, subject to Conditions</i> Reference is made to the proposed development at the above area and Aboriginal heritage. 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1742332, dated 4 April 2024).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

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

SEPP (Resilience and Hazards) 2021

Chapter 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 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
 - ii) adverse 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:

This Clause applies to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and no issues were raised with regards to the proposed development, noting that the consent authority has considered the matters prescribed in subclause (a) and is subsequently satisfied that the proposed development achieves subclause (b)(i) and subclause (c).

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:

The proposed development is unlikely to cause an increased risk of coastal hazards as the works are sited entirely over the existing building footprint.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

For the reasons as detailed above, the proposed development does not require the provision of a coastal management program.

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.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	9.87m	16.1%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
7.1 Acid sulfate soils	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

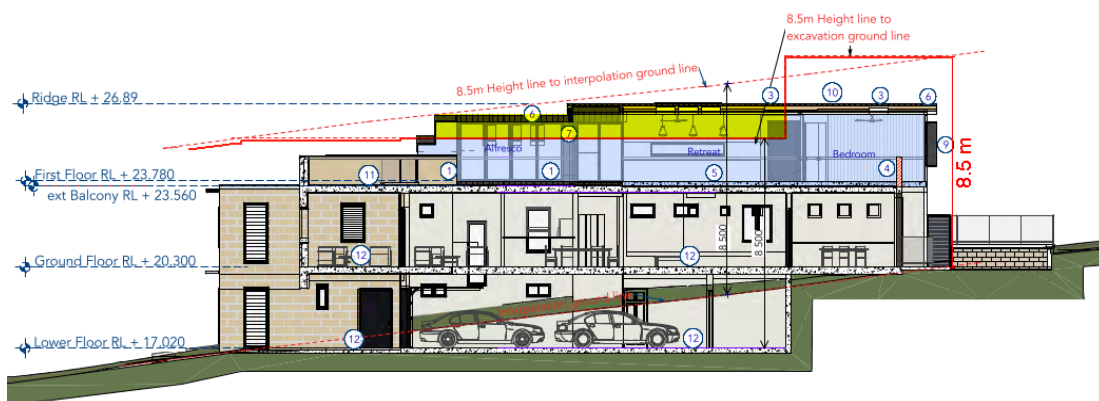
The application seeks consent to vary a development standard as follows:

Development Standard: Clause 4.3 Height of buildings

Requirement: 8.5m

Proposed: 9.87m

Percentage of Variation: 16.1%



Section A-A

Figure 1. Proposed maximum building height (extent of breach shown in yellow)

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the

development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the PLEP 2014 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(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.*

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

(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 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:

Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Height of buildings is unreasonable or unnecessary in the circumstances of this application for the following reasons:

- Sloping topography of the land
- Existing excavation of the site to accommodate the garage, storage and entry level (the 'lower ground level', and the location of the upper levels sited over the existing excavation to accommodate the lower ground level.

(b) 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.'*

The Clause 4.6 Request argues, in part:

- *'The proposed alterations and additions to the existing dwelling will accommodate a new first floor with a variation to the building height development standard of 1.37m to the portion of the new roof at the first floor level.*
- *Strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard.*
- *As sought by the zone objectives, the proposal will provide for an alterations and additions to an existing dwelling which is designed to accommodate the existing dwelling position, the sensitive coastal location and the sloping topography of the locality.*
- *The non-compliance with the building height control arises as a direct result of the sloping topography of the site and position of the existing dwelling over the previously excavated portions of the site.*
- *The proposal maintains a bulk and scale which is in keeping with the extent of surrounding development, with a consistent palette of materials and finishes which will provide for high quality development that will enhance and complement the locality.*
- *The proposed additions to the dwelling will not introduce unreasonable impacts on the existing views enjoyed by neighbouring properties, nor create unreasonable or adverse impacts to the existing levels of solar access or privacy enjoyed by adjoining dwellings.*
- *The proposed additions and alterations to the existing building and in particular the new skillion roof form which incorporates the existing lift within the new roof to the first floor level will see a height of up to 9.87m, exceeding the height standard by 1.37m or 16.11%.*
- *The surrounding area is predominantly characterised by two and three storey development corresponding with the sloping topography.*
- *The uneven topography and excavated contours of the land influence the requirement to seek a variation under Clause 4.6.*
- *The land has a sloping topography from the front to the rear of the site, which influences the building height and roof elements which exceed the corresponding height plane. The proposed variation to the building height is not readily distinguished when viewed from the Bassett Street frontage due to the location on the upward slope of the land.*
- *In response to the site conditions, the generous setbacks, recessed design within the existing footprint, open balcony elements, differing materiality and a flat roof form are used to reduce building bulk. The styling of the building is consistent in terms of streetscape and general landscape elements. The built form is consistent with the existing pattern of newer development in the Bassett Street area.*
- *The varied form of the first floor addition includes a minimal pitch skillion roof design to minimise impact while creating a more modern visual interest. Detailed solar access diagrams are provided to demonstrate that the proposed height variation does not create any unreasonable impact on solar access to adjacent land.*

- *By retaining the building's contribution to the local streetscape and its building heights and setbacks, the works will be consistent with the desired character of the Mona Vale locality.*
- *The articulated side boundary setbacks maintain the rhythm of development and building setbacks within the street and provide appropriately for spatial separation, deep soil landscape opportunity, privacy, solar access and view sharing.*
- *The extent of the proposed overshadowing is reflected in the shadow diagrams submitted with the architectural package and which note that the height of the new works will not unreasonably affect the primary living spaces and outdoor areas of the adjacent neighbour to the south, with the proposal consistent with Councils solar access requirements.*
- *The dwelling house at No.14 Bassett is sited well forward of the proposed building line of the proposed first floor, meaning the proposed first floor does not intrude into the existing view lines across the southern portion of the site. Similarly, views across the rear of the site are generally maintained for properties to the north and north-west.*
- *The development has no unreasonable impact upon the existing views from further up slope of the site due to the higher placement/vantage point of these properties. The proposal is therefore not considered to result in any unreasonable view loss for neighbouring properties.*
- *The proposed works will not see any further site disturbance, or loss of landscaped area. The site does not join any sites of heritage significance and the proposal is considered to be reasonable in this portion of Bassett Street and the Mona Vale locality.*
- *The proposed development achieves the objects in Section 1.3 of the EPA Act:*
 - *The height non-compliance can be attributed to the prior excavation of the site within the footprint of the existing building, which has distorted the height of buildings development standard plane overlaid above the site when compared to the topography of the existing land and this is considered to be an environmental planning grounds which supports the variation to the control.*
 - *The proposed development will maintain the general bulk and scale of the existing surrounding development and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land (cl 1.3(c)).*
 - *Similarly, the proposed development will provide for improved amenity within a built form which is compatible with the streetscape of Bassett Street which also promotes the orderly and economic use of the land (cl 1.3(c)).*
 - *The topography has influenced the design response of the floor levels, side and front setbacks positions, built form, and amenity considerations for coastal views in context with surrounding houses, which is consistent with the Objective 1.3 (g).*
 - *The proposed development improves the amenity of the occupants and respects the current levels of privacy, amenity and solar access enjoyed by the surrounding this replicating the existing built form (1.3(g)).*
- *The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly when considering the bulk, height, setbacks and selected elements of the proposal have been designed in consideration to minimise elements that contribute to the height and scale of the upper level to ensure non-complying elements do not contribute to unreasonable views and overshadowing.*
- *It is considered that notwithstanding the variation of to the building height control, the proposal which involves additions and alterations to the existing building will be consistent with the individual Objectives of the R2 Low Density Residential Zone following reasons:*
 - *The proposed height variation does not offend this objective [being objective 1. of the R2 Zone] of the zone in that the use of the dwelling remains for detached housing and is provided for within a landscape setting that is compatible with the scale, density and pattern of surrounding development. It is considered that the development satisfies this objective. The height variation does not impact the scenic setting of the site and the surrounding steep topography. The surrounding dwellings form a backdrop to the dwelling that are consistent with the pattern of surrounding development within the Bassett Street locality.'*

It is considered the Applicant's written request to vary development standard Clause 4.3 Height of Buildings of the *Pittwater Local Environmental Plan 2014* (PLEP 2014) is acceptable given that the proposed resultant built form will be commensurate with surrounding and nearby residential developments sited on a sloping topography. Furthermore, the existing excavation on site has altered the existing ground level, thus establishing site constraints that make strict compliance with this requirement difficult. The overall site experiences a fall from the rear boundary line toward the front boundary line of approximately 11% (or 9.45m); and the building footprint is sited on a natural slope of 11.5%. As indicated in Figure 1 above, the extent of breach is sited to a portion of the proposed first floor addition.

Based on the existing excavation of the site, the maximum building height has been measured in accordance with *Merman Investments Pty Ltd Woollahra v Municipal Council* [2021] NSWLEC 1582, which is to the existing ground level. The existing dwelling achieves compliance with the maximum building height requirement as stipulated under Clause 4.3 of the PLEP 2014. Furthermore, as indicated in Figure 1 (and the proposed amended section plans), the proposed first floor addition achieves compliance with the 8.5m maximum building height requirement when measured from the interpolated natural ground line (that is, the natural ground level prior to the site's excavation). This confirms that the proposed first floor addition is appropriate for the context of the subject site and that strict compliance with the requirements of Clause 4.3, when measured in accordance with *Merman Investments*, would result in a disjointed built form.

As is evidenced throughout this assessment report, the extent of non-compliance to Clause 4.3 does not cause any unreasonable environmental and amenity impacts upon adjoining properties, particularly noting that the amended plans have shown all efforts to minimise and/or remove adverse or unreasonable amenity impacts upon adjoining properties - detailed assessments against the requirements of C1.3 View Sharing, C1.4 Solar Access and C1.5 Visual Privacy have been undertaken, regardless as to whether the proposal achieves compliance with the requirements of these controls.

Furthermore, the proposed (as amended) built form results in compliant front and rear setback distances, is sited within the prescribed building envelope, and results in a compliant landscaped area.

The proposed privacy screens along the eastern elevation marginally extend into the side boundary area. However, as detailed in this assessment report under section D9.7 Side and rear building line, this numeric non-compliance is considered acceptable and does not cause any unreasonable impacts upon the adjoining property, rather it is a necessity to limit direct overlooking into the internal rooms of the adjoining property.

Furthermore, the proposed front setback distance is considerable and thus the extent of non-compliance to Clause 4.3 will not be easily discernible when viewed from the street frontage, adjoining and nearby private and public places. In this instance, notwithstanding the numeric non-compliance to Clause 4.3, the proposed built form is considered reasonable.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 Height of buildings.

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, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the PLEP 2014.

It is considered that, with regard to the above and the particular circumstances of this proposed development, the proposed departure from the development standard is **acceptable** and it is reasonable that flexibility to the standard be applied.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

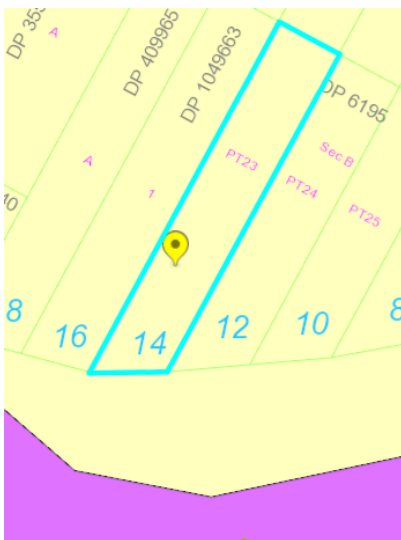


Figure 2. Pittwater Acid Sulfate Soils map, indicating the subject site is located within Class 5

Works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum and by which the watertable is likely to be lowered below 1m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The proposed works are sited over the existing building footprint and, therefore, does not require any excavation works that would impact upon the watertable.

In this regard, an Acid Sulfate Soils Management Report is not required to be submitted with this development application.

7.7 Geotechnical hazards

The subject site is marginally located within Pittwater's Geotechnical Hazard H1 map, as indicated

below.

In this instance, and with consideration to the scope of works being sited to the existing building footprint with no excavation works required, a Geotechnical Risk Assessment has not been provided with this application, and nor has it been requested for the reasons as previously detailed.

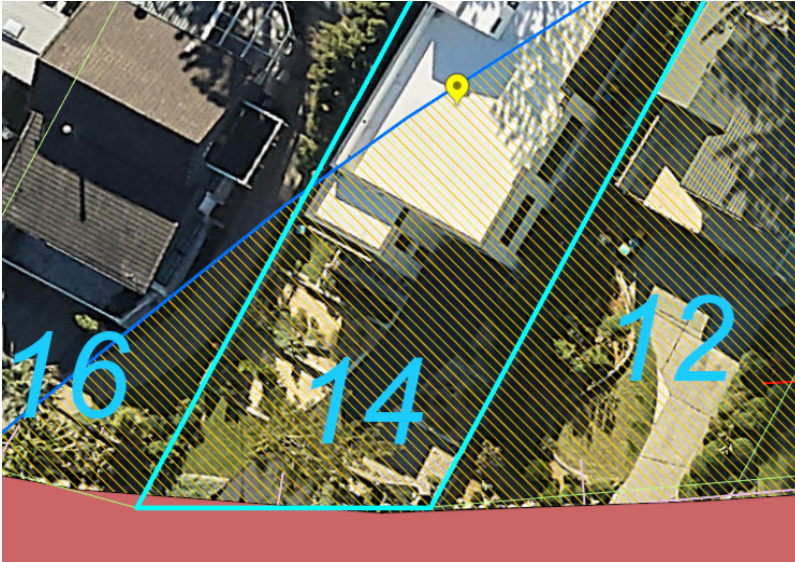


Figure 3. Extent of Geotechnical Hazard H1 on the subject site

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

- (a) *site layout, including access,*
- (b) *the development's design and construction methods,*
- (c) *the amount of cut and fill that will be required for the development,*
- (d) *waste water management, stormwater and drainage across the land,*
- (e) *the geotechnical constraints of the site,*
- (f) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

As detailed above, a Geotechnical Risk Assessment has not been provided with this application. The proposed development is supported by architectural plans in addition to recommended conditions relating to appropriate stormwater management.

Should this application be approved, compliance with the approved architectural plans and conditions ensures compliance with the matters prescribed above.

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

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

Comment:

Relevant conditions have been recommended to ensure appropriate stormwater management on the subject site.

- (b) *the consent authority is satisfied that:*

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

Comment:

As has been detailed elsewhere in this report, the proposed development has been appropriately designed and sited to avoid an geotechnical risk and/or significant adverse impact upon the subject site and adjoining/surrounding properties.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	29.4m	N/A	Yes
Rear building line	6.5m	39.75m	N/A	Yes
Side building line	South-eastern Boundary 2.5m	First Floor <i>Dwelling: 3.5m - 4.7m</i>	N/A	Yes
		Ground Floor <i>Privacy awning: 1.5m - 2.06m</i>	40% max.	No
	North-western Boundary 1.0m	2.37m - 3.5m	N/A	Yes
Building envelope	South-eastern Elevation 3.5m	Within envelope	N/A	Yes
	North-western Boundary 3.5m	Within envelope	N/A	Yes
Landscaped area	50% (641.5m ²)	53.2% (683.1m ²)	N/A	Yes, existing & unchanged

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	No	Yes
D9.9 Building envelope	Yes	Yes
D9.10 Landscaped Area - General	Yes	Yes
D9.17 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

Merit consideration

Submissions were received from multiple adjoining and nearby properties which raised concern regarding the potential impact upon existing views as a result of the proposed development. It must be noted that one (1) submission has been listed as confidential, and thus the views from this property cannot be shown or discussed in detail within this assessment report. As such, a view sharing assessment has been undertaken in accordance with the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140.

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

- *A reasonable sharing of views amongst dwellings.*

Comment:

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

1. Nature of the views affected

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

Comment to Principle 1:

The views are obtained from properties located to the rear of the subject site and these include heavily filtered water views. These views are filtered by the surrounding natural and built environment.

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:

24 Bassett Street (which is located to the north-west of the subject site), has heavily filtered water views across side boundaries of 18, 16, 14 and 12 Bassett Street, as indicated in the figures below. These views are obtained from a standing and seated position on the ground floor level deck.

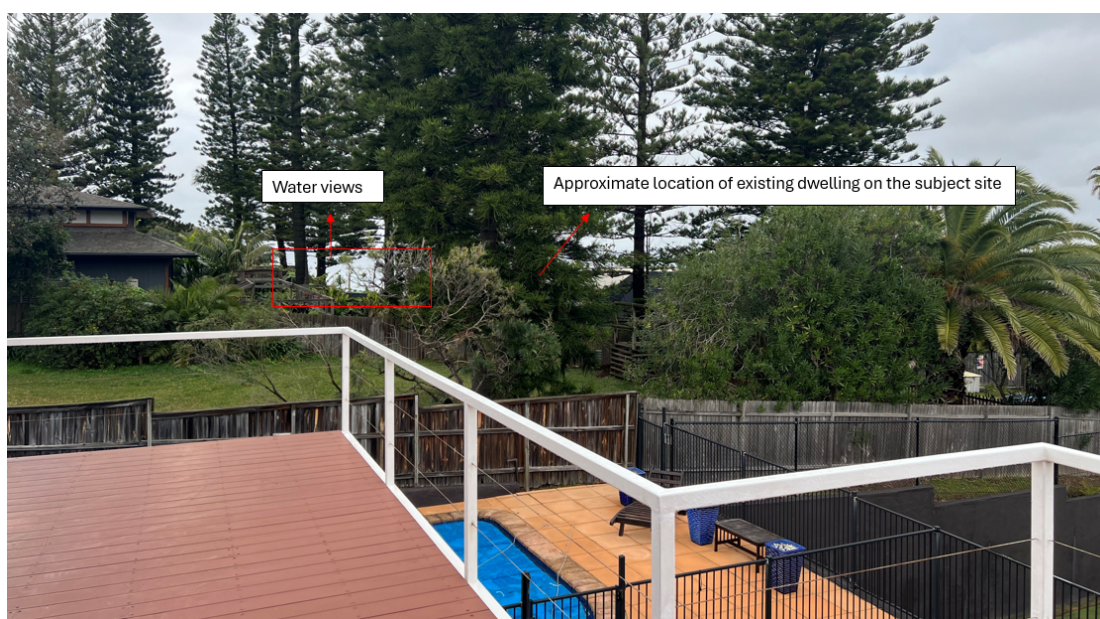


Figure 4. Standing on the ground floor level deck, facing south-east, across side

boundaries

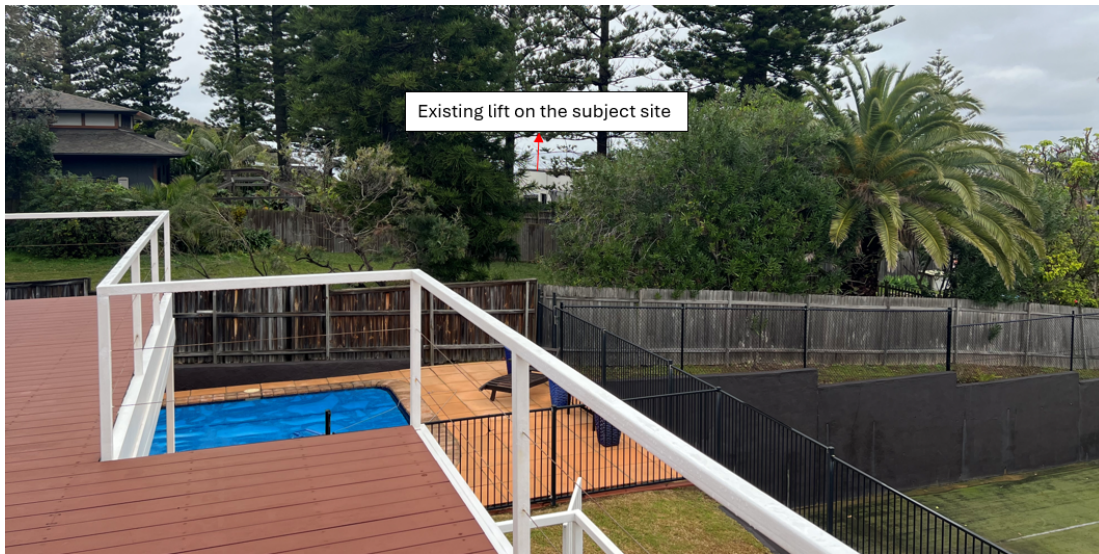


Figure 5. Standing on the ground floor level deck, facing south-east, across side boundaries



Figure 6. Standing on the ground floor level deck, facing south, across the front boundary of 24 Bassett Street

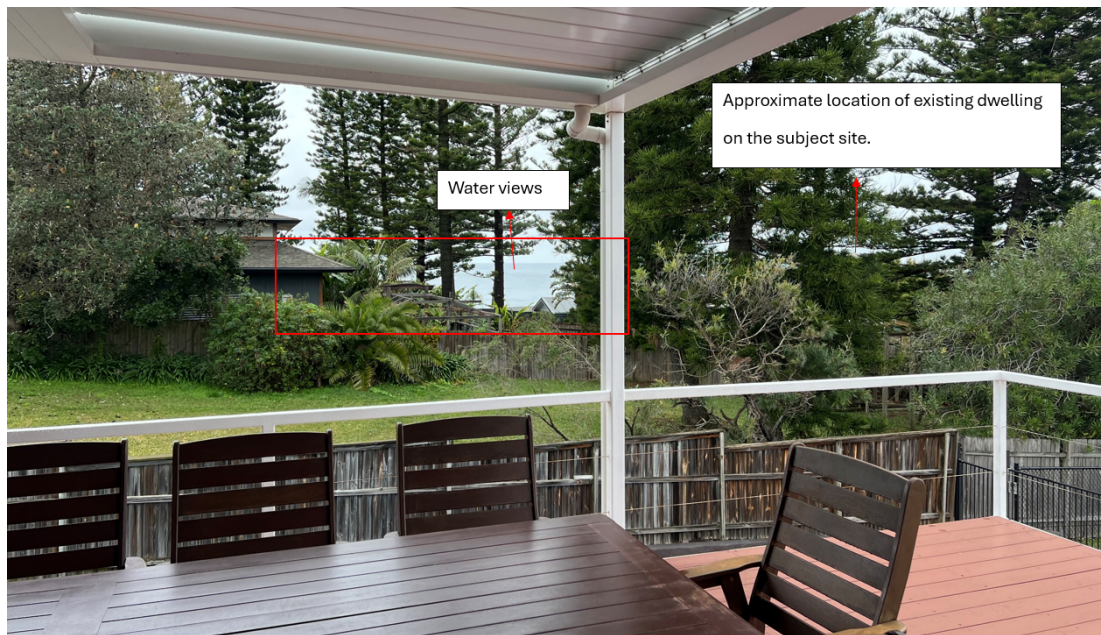


Figure 7. Standing on the ground floor level deck, facing south-east, across side boundaries



Figure 8. Sitting on the ground floor level deck, facing south-east, across side boundaries

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:

As is evidence in the figures above, the proposed development does not obstruct the views currently enjoyed by the occupants of 24 Bassett Street (as the existing natural environment creates obstructions and view corridors) from the main private open space area. It is clear in the figures above, that the existing view corridor to the south-east which affords the occupants of 24 Bassett Street with water views will be retained, notwithstanding the proposed development.

With consideration of the *whole* of the property, the extent of view loss is considered **minor**, and thus a reasonable sharing of views is provided.

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 proposed development complies with the front and rear setback distances, side boundaries and the landscaped area, with a minor non-compliance to the eastern side boundary as a result of the proposed privacy awnings. The proposal is also numerically non-compliant with the maximum building height requirement as stipulated under Clause 4.3 of the PLEP 2014. However, due to the siting of the existing dwelling, the proposed first floor addition, as detailed above, does not cause view loss from adjoining or nearby properties (as has been evidenced in the figures above). Due to the slope of the land beneath the building footprint, the rear portion of the proposed first floor addition is sited under 8.5m.

Notwithstanding the minor non-compliance to the eastern side setback and the proposed maximum building height, the existing views currently enjoyed on the ground floor level deck of 24 Bassett Street will be maintained. As such, the non-compliances of the proposed development are reasonable in the context of the subject site with no impacts upon the sharing of views between, and across, properties.

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

Comment:

The proposal has utilised innovative design solutions to improve the urban environment.

- *Canopy trees take priority over views.*

Comment:

The proposal has multiple canopy trees throughout the site, all of which will be maintained as part of this development application.

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

Accordingly, this assessment finds that the proposal is **supported**, in this particular circumstance.

C1.5 Visual Privacy

Detailed description of non-compliance

This control stipulates that:

- *private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation.*
- *Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*

This control also suggests the following may be used to increase privacy between properties:

- *vegetation/landscaping*
- *a window sill height 1.7 metres above floor level, or*
- *offset windows*
- *fixed translucent glazing in any part below 1.7 metres above floor level, or*
- *solid translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are:*
 - *permanent and fixed;*
 - *made of durable materials; and*
 - *designed and painted or coloured to blend in with the dwelling.*

Submissions were received which raised concern regarding potential privacy impacts upon adjoining properties. As such, the architectural plans have been amended to include additional privacy measures, these include:

- 600mm awnings along the south-eastern elevation
- Non-trafficable areas on the first floor level along the south-eastern and southern elevations.

Furthermore, additional information has been provided to indicate the extent of overlooking from the proposed development to 12 Bassett Street, being the property to the east. This information has been included within the architectural plans, specifically drawing numbers DA23 'Privacy Screen' dated 6 August 2024 and DA24 'Privacy Plan' dated 6 August 2024.

Merit consideration

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

Comment:

No windows are proposed along the north-western elevation of the first floor addition. The

proposed rooftop space to the south of the alfresco area is setback, at its closet point, 6.8m to the upper balcony, 9.24m to the kitchen window and 9.1m to a bedroom on the upper level at 16 Bassett Street. There is, however, a 1.8m high wall/screen along the north-western elevation of the rooftop space, ensuring privacy between the subject site and 16 Bassett Street. The proposed glass balustrades on the rooftop will further setback the development from the side boundaries, ensuring that direct overlooking into the adjoining property is not easily facilitated. Furthermore, due to the location of the subject site, sightlines are oriented toward the south-east.

Below are photos taken from within the kitchen along the side balcony at 16 Bassett Street, at a standing position, facing north-east.



Figure 9. Standing in the kitchen, facing north-east, at 16 Bassett Street



Figure 10. Standing on the side balcony, facing north-east, of 16 Bassett Street

Privacy concerns have also been raised by the residents of 12 Bassett Street, being the property to the east of the subject site. Multiple windows are proposed along the south-eastern elevation. However, as detailed elsewhere in this report, the proposed side setback distance to the south-eastern boundary ranges between 3.5m and 4.7m. There are areas of the rooftop which have been indicated as non-trafficable. Should this application be approved, a condition will be recommended to ensure that the areas indicated as non-trafficable will remain as such

for the life of the development. Additionally, amended plans were provided which included 600mm-wide awnings to ensure that direct overlooking into the internal habitable areas and private open space areas of 12 Bassett Street cannot be achieved. A privacy/direct overlooking analysis has been provided in the amended plans on drawing no. DA24.

As per the recommended conditions, the proposed development provides an acceptable level of privacy between properties.

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

Comment:

The proposed development provides a sense of territory and safety for residents.

Having regard to the above assessment, it is considered that the proposed development is consistent with the relevant objectives of PLEP 2014/P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is **supported**, in this particular circumstance.

D9.7 Side and rear building line

Detailed description of non-compliance

This control requires development to be setback 2.5m from one side boundary and 1.0m from the other side boundary, as well as 6.5m from the rear boundary line.

The proposed development achieves compliance with the rear setback requirement. Additionally, the proposal generally achieves compliance with the side setback requirements, save for the proposed privacy awning along the south-eastern elevation (which was added on the amended plans to address privacy concerns raised within the submission from 12 Bassett Street).

Merit consideration

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

- *To achieve the desired future character of the Locality. (S)*

Comment:

The extent of non-compliance to this control is minor and the proposed development is sited entirely over the existing footprint. Notwithstanding the breach to the maximum building height, the proposal remains below the surrounding natural environment, particularly the canopy trees and the Norfolk Pines that are characteristic for the immediate locality. The proposal also achieves compliance with the front and rear setback requirements, the building envelope along both side elevations, as well as the minimum requirement for the landscaped area. In this instance, the proposal retains a low-density residential built form that is appropriate for the context of the subject site, with minimal amenity impacts upon adjoining properties. In this

instance, the proposal achieves the desired future character of the Mona Vale locality.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The extent of non-compliance to this control does not give rise to an unreasonable built form. Amended plans have been received which have minimised the built form, allowing for a generally compliant scheme, noting that the extent of non-compliance to the side setback requirement is a direct result of the inclusion of a privacy awning (with a width of 600mm) to ensure there is no direct overlooking into the windows of 12 Bassett Street.

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

Comment:

The extent of non-compliance does not give rise to any unreasonable impacts upon existing views and vistas to and/or from public/private places.

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

Comment:

As above, the extent of non-compliance does not give rise to any unreasonable impacts upon existing views and vistas to and/or from public/private places.

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

Comment:

As detailed above, the extent of non-compliance to the side setback requirement to the south-eastern boundary is a direct result of the inclusion of a 600mm wide privacy. In this instance, the extent of non-compliance does not give rise to any unreasonable privacy impacts upon the adjoining property, nor does it cause unreasonable overshadowing of adjoining properties. In this instance, a reasonable level of amenity is provided to adjoining properties, notwithstanding the extent of non-compliance.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment:

The existing landscaping throughout the site will be maintained under this development application and thus the proposal maintains an attractive streetscape.

- *Flexibility in the siting of buildings and access. (En, S)*

Comment:

The proposed awnings are sited well above the existing ground level and thus access throughout the site is maintained, notwithstanding the minor non-compliance to this control.

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

Comment:

The proposed development is sited entirely to the existing building footprint and thus no vegetation is proposed to be removed. The proposed development includes substantial setback distances to the front and rear property boundaries, and considerable distances to the

side boundaries (save for the proposed privacy awnings, which are a minor addition to the built form).

- *To ensure a landscaped buffer between commercial and residential zones is established. (En, S)*

Comment:

The subject site is located within, and surrounded by, residential development. Therefore, this outcome does not apply to the subject site.

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

Accordingly, this assessment finds that the proposal is **supported**, in this particular circumstance.

D9.9 Building envelope

Notwithstanding the architects 3D perspectives (as indicated on drawing no. DA13 Issue 6), an independent assessment has been undertaken which shows that the proposed development, as amended, achieves compliance with the requirements of this control.

There are elements of the roof eaves that extend beyond the prescribed building envelope, however this is permitted by the control.

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 \$8,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$800,000.

CONCLUSION

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

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

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

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

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

PLANNING CONCLUSION

This proposal, for alterations and additions to a dwelling house, has been referred to the Northern Beaches Local Planning Panel (NBLPP) as more than 10 submissions, in objection to the proposal, were received during the assessment of the application.

The application was notified in accordance with the Northern Beaches Community Participation Plan. A total of 13 submissions were received in objection to the proposed development.

Amended plans and documentation were provided and the application was subsequently re-notified, during which time no additional submissions were received.

The concerns raised in the objections have been addressed within this assessment report and, where necessary, these have been resolved by way of conditions.

The critical assessment issues that were addressed, in detail, within this assessment report included a Clause 4.6 assessment, Clause 7.1 Acid sulfate soils and Clause 7.7 Geotechnical hazards of the

PLEP 2014; and controls C1.3 View Sharing, C1.5 Visual Privacy and D9.7 Side and rear building line of the P21DCP.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal has therefore been recommended for **approval**.

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 the Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches 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 DA2024/0534 for Alterations and additions to a dwelling house on land at Lot 23 DP 6195,14 Bassett Street, MONA VALE, 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. **Building Information Certificate**

A Building Information Certificate is to be obtained for the existing external staircase along the western elevation and the existing lift access to the roof top.

Reason: To ensure the existing dwelling is approved in accordance with the relevant regulations.

Evidence required to satisfy these conditions must be submitted to Council (through the NSW Planning Portal) within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

Applicants must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

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

GENERAL CONDITIONS

2. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA5	6	Site Analysis Plan & Waste Management	Northern Beaches Designs	6 August 2024
DA8	6	First Floor Plan	Northern Beaches Designs	6 August 2024
DA9	6	Roof Plan	Northern Beaches Designs	6 August 2024
DA10	6	Elevations Plan SE & NW	Northern Beaches Designs	6 August 2024
DA11	6	Section A-A, B-B	Northern Beaches Designs	6 August 2024
DA12	6	Elevations Plan NE & SW, Section C-C and D-D	Northern Beaches Designs	6 August 2024
DA25	6	Ceiling Height Detail 1 & 2	Northern Beaches Designs	6 August 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate - A1742332	-	Whnigate Trust	4 April 2024
Waste Management Plan	-	Not signed	Not dated

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

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

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

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	20 May 2024

(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. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy, except where covered by a separate development consent. Built in cooking facilities are not permitted to be installed on the proposed first floor level, other than those shown in the designated kitchen area on the existing ground floor level.

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

5. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a **Dwelling House**, in accordance with the Dictionary of the *Pittwater Local Environmental Plan 2014*, as follows:

dwelling house means a building containing only one dwelling.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

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

6. **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.

7. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (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

8. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$8,000.00 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 \$800,000.00.

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.

9. 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

10. Stormwater Drainage Disposal

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

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil

Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

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

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

Reason: To ensure satisfactory management of stormwater.

11. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, shall be provided 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.

12. Installation and Maintenance of Sediment Control

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

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

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

13. 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.

14. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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

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

15. 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:

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. Installation and Maintenance of Sediment and Erosion Control

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

DURING BUILDING WORK

17. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;

- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

18. **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.

19. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

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

20. **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.

21. 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, Housing and Infrastructure.

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, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

22. Stormwater Drainage Disposal Certification

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

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

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

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

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

Reason: To ensure satisfactory management of stormwater.

23. 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.