

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1206
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Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 8 DP 232257, 6 Net Road AVALON BEACH NSW 2107
Proposed Development:	Alterations and additions to a dwelling house including secondary dwelling
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Daniel Rex Charlton Mussett Melissa Ostel Mussett
Applicant:	Andy Lehman Design

Application Lodged:	29/08/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	05/09/2023 to 19/09/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 17.65%
Recommendation:	Approval

Estimated Cost of Works:	\$ 655,000.00
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EXECUTIVE SUMMARY

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

The application is referred to the Development Determination Panel (DDP) as the proposal results in a variation of more than 10.0% to Clause 4.3 Height of Buildings of the *Pittwater Local Environmental Plan 2014* (PLEP 2014).

The maximum permitted building height under the PLEP 2014 is 8.5 metres. The proposed building height is 10.0 metres resulting in a variation of 17.65%. In support of the variation is a detailed written

Clause 4.6 variation request where compliance with the development standard is considered unreasonable in the circumstances of this case. The variation arises from the proposed roof replacement and is limited to the extension of the eaves to the north, which will be located above an existing inground swimming pool. The swimming pool is to be removed and replaced with soil fill and lawn as part of this application.

The proposal includes several variations to the built form controls under the Pittwater 21 Development Control Plan (P21DCP), these being; C1.11 Secondary Dwellings and Rural Worker's Dwellings, D1.8 Front building line, D1.9 Side and rear building line and D1.14 Landscaped Area - Environmentally Sensitive Land. The proposal in regard to these variations do not result in unacceptable environment and/or amenity impacts, with the development achieving the relevant objectives.

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for fourteen (14) days. No submissions were received.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that, on balance the proposal (as amended) is a suitable and an acceptable development for the subject site for the reasons outlined in this report.

This report concludes with a recommendation that the DDP **approve** the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

This application seeks development consent for the alterations and additions to an existing dwelling house including a secondary dwelling.

Specifically, the works comprise of the following:

- Lower Ground Floor extension and reconfiguration including new internal stairwell;
- First Floor internal reconfiguration and new entry deck from Net Road;
- Existing garage/studio (lower level) and carport (upper level) to be converted into a secondary dwelling with courtyard. The vehicle crossover to this area shall be removed.
- Construction of a new lower level garage and upper floor carport with storage to be constructed to the western portion of the site with new crossover from Net Road. The below garage will now be linked to the existing Gunyah Place driveway and crossover;
- Existing swimming pool and decking to the north to be removed and replaced with vegetation and landscaped retaining walls to level rear yard;
- The existing pitched roof form will be replaced with an angled skillion roof; and
- New decking to lower level and associated landscaping works.

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 - 5.4 Controls relating to miscellaneous permissible uses

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.11 Secondary Dwellings and Rural Worker's Dwellings

Pittwater 21 Development Control Plan - D1.5 Building colours and materials

Pittwater 21 Development Control Plan - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

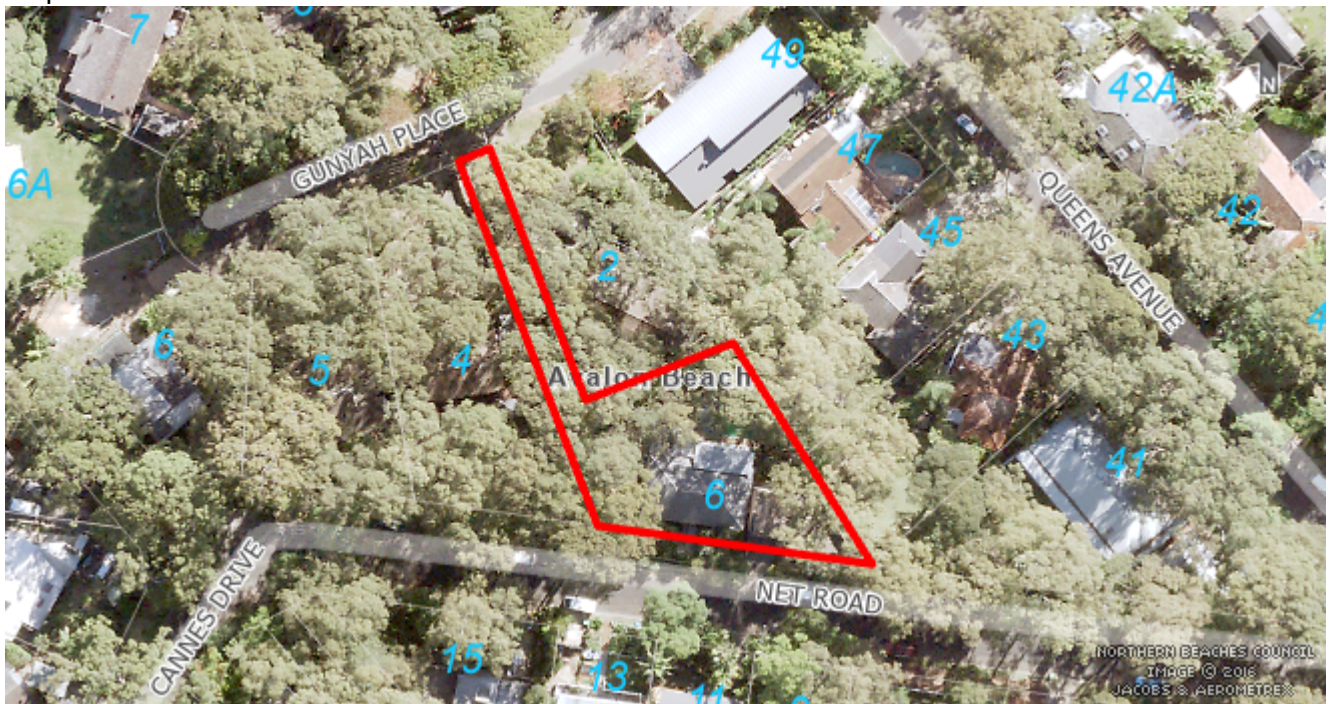
Property Description:	Lot 8 DP 232257 , 6 Net Road AVALON BEACH NSW 2107
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Net Road. The subject site is legally identified as Lot 8 in Deposited Plan 232257, No. 6 Net Road, Avalon Beach. The site is irregular in shape with a primary frontage of 40.54m to Net Road and secondary frontage of 4.88m to Gunyah Place. The site has a surveyed area of 1030.7m². The site is located within the R2 Low Density Residential zone under the provisions of the <i>Pittwater Local Environmental Plan 2014</i> and accommodates a dwelling house, carport, swimming pool and studio. The site consist of four(4) vehicular access points, three (3) being from Net Road and one (1) from Gunyah Place. The site topography slopes downward from south to north by approximately 9.0 metres, in exception of the sloped driveway access down to Gunyah Place.

The site consists of garden beds, limited lawn areas and various trees/shrubbery. Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). A minor section to the north-western end of the site is located within the Littoral Rainforest Proximity Area.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential development including secondary dwellings situated 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:

PLM2022/0238

Pre-lodgment advice (written advice only) for alterations and additions to a dwelling house including a secondary dwelling, carport, garage and swimming pool. The following advice was provided:

- Recommended that the proposed secondary dwelling parking space is deleted and that the front building line to the proposed garage/workshop and carport is increased to achieve full or greater compliance with the required front building line. As the parking structures are larger than the minimum size required under AS/NZS 2890.1:2004 - Parking Facilities, Part 1: Off Street Car Parking, there is scope to reduce the depth of these structures to achieve full or greater compliance with the required front building line.

- As per Clause C1.11 of P21DCP, only one (1) storey is allowed for a secondary dwelling that is separate from the principal dwelling, however, a variation to this control may be supported given the site constraints, including the topography of the land and the siting of the existing dwelling house, subject to demonstrated consistency with the objectives of the control.
- The provision of more than one (1) driveway may be permitted on merit where a property has a frontage of more than 30.0m to a public road and/or where the subject site has a frontage to a second public road. As the proposed secondary dwelling parking space is not supported, it is strongly recommended that the parking space and the associated driveway is deleted.

Assessment Officer Note: The proposal has responded to take into consideration the above PLM advice, with recommended amendments reflected in the proposed architectural plans. The proposal includes only two (2) vehicle access points, rather than the original four (4).

Current Application History

The development application was notified for a period of fourteen (14) days, as stated within Council's Community Participation Plan (CPP) and resulted in no submissions.

Council requested amended plans on 7 December 2023 to address concerns in regard to the following:

- **Permissibility Concern:** The kitchen to the lower floor level of the main dwelling is to be deleted, with the demolition noted on the proposed plans, if approval is sought for the detached secondary dwelling.
- **Clause 4.3 Height of Buildings:** The building height is to demonstrate compliance, or alternatively, a Clause 4.6 Variation Request must be submitted. An additional section of the secondary dwelling will also need to be provided.
- **Clause B8.1 Construction and Demolition - Excavation and Landfill:** The overall design of the rear yard should be revised, and the levelled lawn area lowered. An additional northern elevation of the rear yard and retaining walls will also need to be provided, with an approximation of the volume of fill required.
- **Clause C1.11 Secondary Dwellings and Rural Worker's Dwellings:** Detailed justification as to why the proposal cannot comply with this requirement has not been provided. It is advised that the applicant considers incorporating the existing storage area (lower level) as floor space, limiting the need for a two (2) storey secondary dwelling.

The amended plans were submitted on 18 January 2024 and addressed the concerns raised. Re-notification was not required as the amendments reduced the overall environmental impact, as stated within Council's Community Participation Plan (CPP).

Further additional information was later required by Council's Development Engineer, this included a Traffic Report, amended Stormwater Plans and driveway crossover sections. This information was provided on the 6 March 2024. Council's Development Engineer is in support of the amended information, subject to recommended conditions.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>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, refer to 'Site History'; for further detail. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21

Section 4.15 Matters for Consideration	Comments
impacts on the natural and built environment and social and economic impacts in the locality	Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushcon Australia Pty Ltd, dated 9 May 2023) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 05/09/2023 to 19/09/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<i>Supported, subject to conditions.</i>

Internal Referral Body	Comments
	The proposal is supported with regard to landscape issues. Council's Landscape Referral section have assessed the application against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls (but not limited to): • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1 Avalon Beach Locality It shall be noted Landscape Referral only assesses the works within the property boundaries, and any work in the road reserve shall be determined under the appropriate applications. Existing encroachments within the road reserve are noted and Council reserves the future right to seek removal of any unapproved encroachment for public safety or for any other public capital works. The Arboricultural Impact Assessment (AIA) identified 16 trees of which trees 1, 2, 2.1, 2.2, 3, 5, 6, 7, 9, 10, 11, 12 and 13 are located in neighbouring properties and must be retained and protected during works. The retention of the neighbouring trees is supported by the Arborist's findings. Trees 4, 8 and 14 are within the property boundaries and will be retained. Some trees will require works within their tree protection zones and as such a Project Arborist shall be engaged to supervise these works. Footing design for the suspended driveway and garage/workshop/carport, adjacent to trees 12 and 14, shall be undertaken in collaboration with the Arborist. The tree protection requirements outlined in the AIA are supported, subject to the imposed conditions. The landscape proposal is generally supported and all proposed planting shall be installed in accordance with the requirements outlined in the conditions of consent.
NECC (Bushland and Biodiversity)	<i>Supported, subject to conditions.</i> Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable provisions: • Biodiversity Conservation Act 2016 • Biodiversity Conservation Regulation 2017 • Planning for Bushfire Protection 2019 • State Environmental Planning Policy (Resilience and Hazards) 2021 cl. 2.8 Development on land in proximity to coastal wetlands or littoral rainforest • Pittwater LEP 2014 cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community The Development Application seeks consent for Alterations and additions to a dwelling house including secondary dwelling.

Internal Referral Body	Comments
	Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). The Arboricultural Impact Assessment (Treeism Arboricultural Services, May 2023) submitted with the application has confirmed that all prescribed trees within the lot will be retained and protected. The Bushfire Report (Bushfire Consultancy Australia, April 2023) has confirmed that defendable space is provided on all sides of the building and that an APZ is provided and maintained for the life of the building. The Landscape Plan (Volker Klemm Landscape Design July 2023) is noted and supported. As no native vegetation is required for removal, the BOS is not triggered and a BDAR is not required to be submitted with the application. However, it should be noted that any future impact to native vegetation within the BV Map, including any future clearing for the APZ, may require a BDAR under the BC Act 2016. No objections in relation to Biodiversity, subject to these comments and conditions.
NECC (Development Engineering)	<i>Supported, subject to conditions.</i> The applicant proposes "proposing alterations and additions to the existing dwelling as well as a new secondary dwelling". <u>Access</u> There are four 4 existing driveways which service the property. The site has dual frontage access to both Net Rd and Gunyah Pl. The proposal removes 2 driveways on Net Rd, totaling 2 proposed driveways post development. This is in accordance with Clause B6.1 of P21DCP. <u>Access from Gunyah Pl:</u> The proposed garage levels are at RL34.50 and the proposal is to use the existing driveway. The existing driveway is extremely steep, with some sections exceeding grades of 30%. Should the existing driveway be used, there does not seem to be sufficient transitions to prevent scraping. The parking facilities and driveway gradients need to be designed in accordance with AS 2890.1:2004: Parking facilities - Off-street car parking. Provide 2 longitudinal cross sections on both ends of the driveway, showing existing and proposed levels

Internal Referral Body	Comments
	commenced from the existing driveway to the end of the parking facility. The profile must show that a B85 vertical clearance model can safely access the site. <i>Access from Net Rd:</i> The proposed garage levels is RL37.85, which is approximately the same level as the boundary. There would be significant fill within the boundary to meet these levels. Details are required to be provided. There are no proposed levels or longitudinal sections for the driveway. Requesting 2 longitudinal cross sections on both ends of the driveway, showing existing and proposed levels commenced from the existing driveway to the end of the parking facility. The driveway shall maintain 900mm of clearance to the Power Pole. There should be a dish drain at the edge of the bitumen to keep runoff on the road There are retaining walls in the road reserve, up to 1.2m high. The removal of the redundant elevated driveway may create a fall hazard in the road reserve. Requesting that the geotechnical report certifies the existing retaining wall is structurally sound. Note to planner: Please refer this to Road Assets Team regarding the retaining walls in the road reserve, suitability of on street parking in the road reserve and the suitability of a dish drain for the driveway on Net Road. <u>Stormwater</u> The site has dual frontages and is located in Region 1 of the Water Management for Development Policy. Councils records indicate from February 1996, the proposal is reducing the impervious area. As such, no OSD is required. The DP plan suggests there is an easement to drain water via 2 Gunyah Place. There is an opportunity to divert water from the site to the driveway which leads to Gunyah Place as it is currently. The existing driveway on the western end of Net Road falls directly from the centerline of the road to the boundary. However, stormwater runoff follows the driveway through to Gunyah Place and does not affect the property. The proposal now leads the new driveway to a 2 storey garage. In minor and major storm events, the garage would be flooded. Requesting plans and a solution to prevent stormwater runoff from affecting the property. <u>Geotechnical</u> A geotechnical report prepared by White Geotechnical Group has been provided along with Form 1 and 1a in accordance with Appendix 5 - Geotechnical Risk Management Policy for

Internal Referral Body	Comments
	Pittwater. Geotech proposal is supported subject to conditions. As such, development engineering cannot support the application due to insufficient evidence to address B5.15 and B6 of the P21DCP. Additional Information Provided on 6/3/2024 The submitted stormwater plans are acceptable subject to conditions. The submitted driveway sections and Traffic Report by Terraffix Pty Ltd, dated 5/3/2024 are acceptable. No objections to approval subject to conditions as recommended. <u>Planner Note:</u> The Development Engineer also considered any Road Reserve matters, and applied the required conditions.

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.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

Two (2) BASIX certificates have been submitted with the application, one (1) for the principal dwelling and one (1) for the secondary dwelling.

Principal Dwelling: Certificate No. A498797 dated 28 June 2023.

Secondary Dwelling: Certificate No. 1398068S dated 28 June 2023.

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

SEPP (Housing) 2021

Part 1 – Secondary Dwellings

The application has been assessed against the requirements SEPP (Housing) 2021. This Policy provides State-wide planning controls for the provision of different type housing.

The site is located within the R2 Low Density Residential zone under the Pittwater Local Environmental Plan 2014, which is listed in the policy as a zone where secondary dwellings are permissible. Clause 52 outlines the development standards for secondary dwellings. The following table sets out the proposal's compliance with these standards.

Clause 52 – Development may be carried out with consent	
Standard	Compliance/Comment
(2) Development consent must not be granted for development to which this Part applies unless— a) No dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and b) The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and c) The total floor area of the secondary dwelling is: i) no more than 60m ² , or ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument - the greater floor area.	a) The proposed development will result in one (1) existing principal dwelling and one (1) new secondary dwelling. b) There is no floor space ratio control applicable to this site. c) The total floor area of the secondary dwelling does not exceed 60.0m ² , complying with Clause 5.4 (9) under the Pittwater Local Environmental Plan 2014.

Clause 53 – Non-discretionary development standards—the Act, s 4.15	
Standard	Compliance/Comment
a) For a detached secondary dwelling - a minimum site area of 450m ² .	The proposed development will be erected on a site area which is more than 450m ² .
b) The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	The number of parking spaces will not be reduced and will provide for at least three (3) parking spaces.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment

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

SEPP (Resilience and Hazards) 2021

Chapter 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 1 Coastal Wetlands and littoral rainforest area

2.8 Development on land in proximity to coastal wetlands or littoral rainforest

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment

The proposed works have been reviewed by Council's Biodiversity Officer with recommended conditions being included. It is not considered that the works will detrimentally impact the the biophysical, hydrological or ecological integrity of the nearby littoral rainforest.

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	10.0m	17.65%	No <i>Refer to discussion under Clause 4.6</i>

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of Non-compliance

Development Standard	Height of Buildings
Requirement	8.5m
Proposed	10.0m
Percentage variation to requirement	17.65%

Figures:

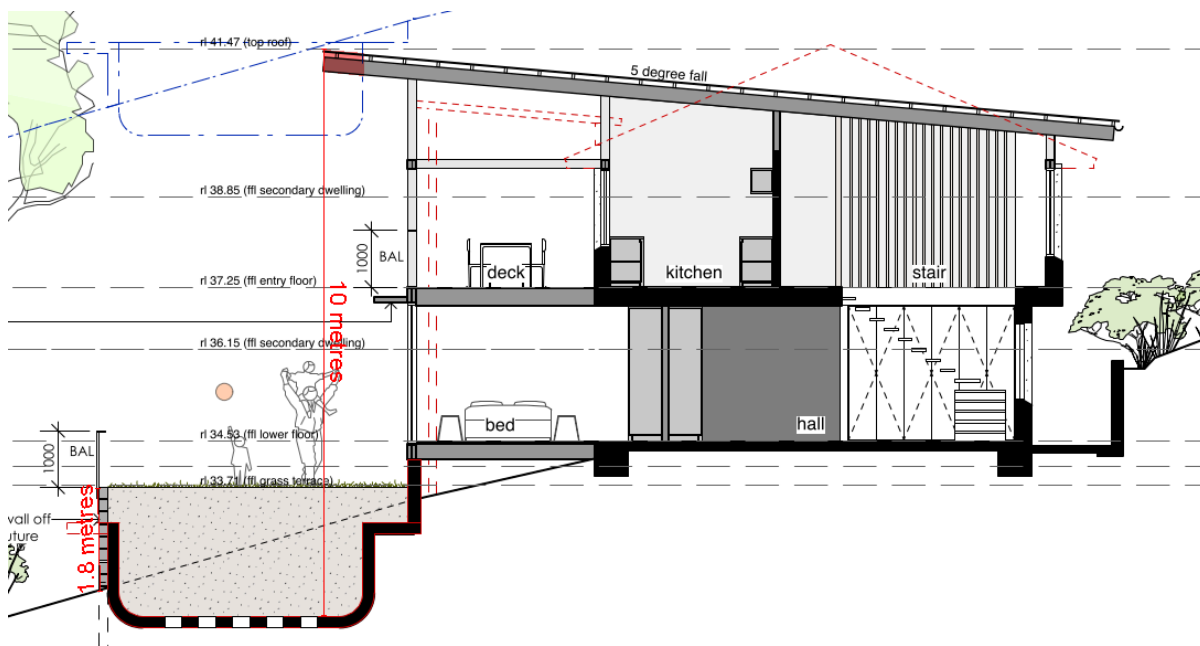


Figure 1 - Red shading indicating extent of height variation - limited to eaves of primary dwelling.

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

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

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

Comment

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment

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

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

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

Comment

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

(c) to promote the orderly and economic use and development of land,

(d) to promote the delivery and maintenance of affordable housing,
 (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
 (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
 (g) to promote good design and amenity of the built environment,
 (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
 (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
 (j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

- *When extrapolating an 8.5m height plane from surveyed natural ground levels the dwelling is compliant with the 8.5m height control.*
- *The non-compliance is due to existing ground level being taken from the existing swimming pool which is proposed to be filled and converted to a grassed terrace. The ground level will therefore be modified to be increased in height. When measured from the proposed level of the grassed terrace the height to the top of the roof will be 7.76m.*
- *The works do not give rise to any unreasonable amenity impacts with regard to views, overshadowing or privacy. The works present a 2 storey built form that is consistent with the scale of development in the area and the low density residential zone.*

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

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

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

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

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

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

Comment

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

Objectives of development standard - Clause 4.3 Height of buildings

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

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

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

Comment

The height of buildings within the area are considered to be varied as a result of the sloping topography and scattered nature of allotments. When compared to the existing building's roof ridge of the primary dwelling (which is RL41.54 - RL41.44), the proposal is considered to be consistent (Max: RL41.47 - area of non-compliance). Majority of the building is compliant with the 8.5m building standard, with the extent of non-compliance limited to an eave that happens to extend over an existing swimming pool (which is proposed to be filled). Once the pool is filled, the overall building height to this area of building will be approximately 7.76m. The dwelling will present as single storey to the street. The overall scale of the proposal is consistent with built form across the vicinity and is generally compliant with side setbacks and side building envelope controls.

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

Comment

As discussed above. A two (2) storey built form is achieved which is consistent with surrounding development.

c) to minimise any overshadowing of neighbouring properties,

Comment

The proposal exhibits compliance with the solar access requirements as stipulated within the P21DCP. Therefore, acceptable solar access will be afforded to the subject site and adjoining properties.

d) to allow for the reasonable sharing of views,

Comment

The proposal is not considered to result in unacceptable view loss to surrounding properties.

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

Comment

The dwelling house is considered to have been designed to respond to the topography of the site. The non-compliance arises from the eave extending over an existing swimming pool. The swimming pool area is to be filled and replaced with soft landscaping and lawn area.

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

Comment

The proposal overall will not impact any heritage conservation areas and heritage items. Conditions have been recommended to protect the surrounding natural environment. The landscaping provided is non-compliant with the P21DCP numerical controls, however is an increase compared to the existing landscaped area of the site. As noted above, the proposed works are compliant with the side building envelope controls.

Zone Objectives

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

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

Comment

The proposed works will provide additional housing (secondary dwelling) within a low density residential environment, contributing to the housing needs of the community.

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

Comment

The works are located on a site zoned R2 Low Density Residential and accommodates a dwelling house and secondary dwelling.

- ***To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.***

Comment

The works are located on a site zoned R2 Low Density Residential and accommodates a dwelling house and secondary dwelling.

Conclusion

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

It is considered on balance, that having regard to the particular circumstances noted above. This being the extent of non-compliance being limited to a roof eave located above an existing swimming pool, which results in a building height of 10.0m, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Exception to Development Standards conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development, the extent of non-compliance being limited to a roof eave located above an existing swimming pool, resulting in a building height of 10.0m will not contribute to unacceptable amenity impact and is considered to be consistent with overall height and scale of surrounding properties. It is therefore considered appropriate that in this instance, flexibility in the application of the development standard Clause 4.3 Height of buildings be applied. In this context the proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the

development is considered to be in the public interest, subject to conditions.

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

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

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 2 November 2021, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Height of building Development Standard associated with a single dwelling house (Class 1 building).

5.4 Controls relating to miscellaneous permissible uses

Clause 5.4 (9) Controls relating to miscellaneous permissible uses must meet the below requirements for secondary dwelling:

"If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 25.0% of the total floor area of the principal dwelling."*

The proposed secondary dwelling exhibits a total floor area of 60.0m², and is compliant with the requirements of this clause.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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

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

Comment

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

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

Comment

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

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

Comment

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

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

Comment

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

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

Comment

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

(f) the likelihood of disturbing relics

Comment

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

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

Comment

The site is not located in the vicinity of any watercourse, drinking water catchment. Council's Biodiversity Officer has reviewed the proposal in relation to the Littoral Rainforest which is in close proximity to the subject site, and has included recommended conditions.

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

Comment

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

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

Comment

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

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

7.6 Biodiversity protection

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

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment

Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). The Arboricultural Impact Assessment (Treeism Arboricultural Services, May 2023) submitted with the application has confirmed that all prescribed trees within the lot will be retained and protected. As no native vegetation is required for removal, the BOS is not triggered and a BDAR is not required to be submitted with the application.

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval, subject to conditions. It is considered that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. The development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

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

Comment

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval, subject to conditions, which include appropriate measures to avoid, minimise, or mitigate the impacts of the development.

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

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

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

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

Comment

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

7.7 Geotechnical hazards

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

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

Comment

The proposed development is supported by a geotechnical risk assessment and Forms 1 and 1A prepared by White Geotechnical Group Pty Ltd (dated 25 May 2023). The assessment demonstrates that all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

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

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

Comment

The proposed development is supported by a geotechnical risk assessment and Forms 1 and 1A prepared by White Geotechnical Group Pty Ltd (dated 25 May 2023). The assessment demonstrates that all geotechnical risks have been taken into account. The application and stormwater management has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

- (b) the consent authority is satisfied that:

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

Comment

The proposed development is supported by a geotechnical risk assessment and Forms 1 and 1A prepared by White Geotechnical Group Pty Ltd (dated 25 May 2023). As such, it is considered that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m Southern Boundary - Primary	Entry Deck: 1.5m - 3.3m Dwelling: 4.4m Secondary Dwelling: 3.8m	76.9% 32.3% 41.5%	No " "

	Frontage (Net Road)	Secondary Dwelling Terrace: Nil Carport Wall: 6.5m	100.0%* -	" Yes
	3.25m North-western - Secondary Frontage (Gunyah Place)	All proposed works > 3.25m	-	Yes
Side Building Line	2.5m Northern/Eastern Boundary	Secondary Dwelling Terrace: 0.8m Secondary Dwelling: 2.5m Rear Lawn Retaining Wall: 1.2m - 8.9m* Primary Dwelling: 5.0m	68.0% - - -	No Yes Yes Yes
	1.0m Western Boundary	Carport/ Garage: 1.0m - 5.0m	-	Yes
Building Envelope	3.5m Western Elevation	Within Envelope	-	No
	3.5m Northern/Eastern Elevations	Within Envelope	-	Yes
Landscaped Area	60.0% (618.42m ²)	49.7% (512.0m ²)	10.3% (106.42m ²)	No

*Driveways, fences and retaining walls are permitted within the side and rear setback areas as stated within Clause D1.9 Side and rear building line of the P21DCP.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	No	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	No	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B8.1 Construction and Demolition - Excavation and Landfill

Control B8.1 stipulates that any excavation greater than 1 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, than the overall depth of the excavation must be accompanied by a Geotechnical Report and certified forms as set out in Council's Geotechnical Risk Management Policy in relation to potential impact of excavation on land stability.

The proposal will require excavation for the new garage/carport structure to the western portion of the site, to a maximum of approximately 2.2m and is setback 1.0m from the western boundary (at minimum).

It is noted that the proposal has been appropriately accompanied by a Geotechnical Report and certified forms, with the subject site not being mapped on the Geotechnical Hazard Map under the Pittwater LEP 2014.

The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

- ***Site disturbance is minimised.***

Comment

Majority of the excavation is limited to the area to accommodate for garage/carport structure. The rear yard towards the north will experience a level of fill to level the lawn area, which will replace a swimming pool and deck area.

- ***Excavation, landfill and construction not to have an adverse impact.***

Comment

The proposed works have been accompanied by a Geotechnical Report, with no detrimental hazards present, it is considered unlikely to result in an unreasonable impact.

- ***Excavation and landfill operations not to cause damage on the development or adjoining property.***

Comment

The carrying out of the development in accordance with the recommendations of the Geotechnical Report will ensure the adjoining properties are protected. A condition of consent has been included for a Dilapidation Report for No. 4 Net Road, Avalon Beach, given the close proximity to the excavation works.

Based on the above, and the submitted Geotechnical Report, the proposal is considered to therefore meet the outcomes of the control and is supported on merit in this particular instance.

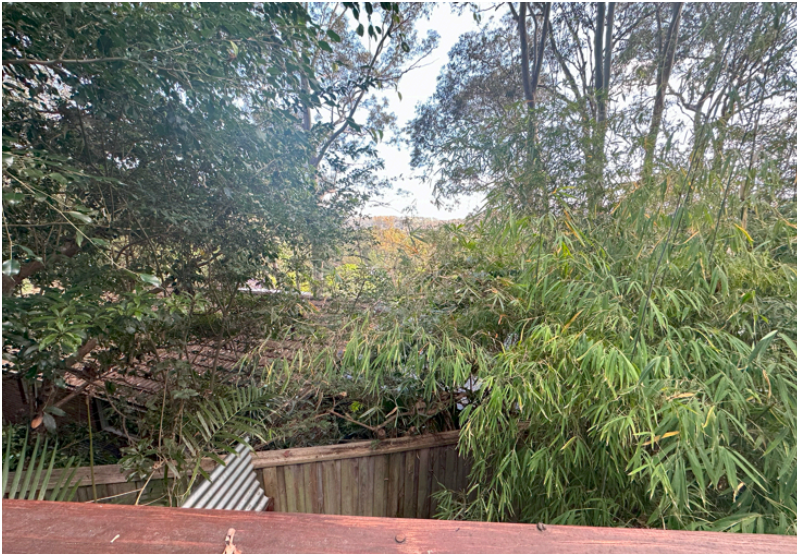
C1.5 Visual Privacy

Merit Consideration

Clause C1.5 requires that habitable rooms and outdoor living areas of dwellings optimise visual privacy through an appropriate design outcome. Private open space areas and living rooms of the proposal, and any existing adjoining dwellings are to be protected from direct overlooking within 9.0m.

The proposal includes the removal of an existing swimming pool and associated decking, which is to be replaced with additional fill to create a levelled lawn area for the residents. The levelled lawn area will be elevated to a height similar to that of the existing pool and decking area that is to be replaced. This new lawn area will include a retaining wall which will run along the north and east of the property due to the sloped topography, this wall will be a maximum of 1.8 metres at its height point.

The elevated rear lawn area will be within close proximity (less than 9.0 metres) to No. 2 Gunyah Place, No. 45 and No. 47 Queens Avenue. Due to the location of the building and topography of No. 2 Gunyah Place, it would be unlikely to directly overlook into the dwelling or open space area. *See Images below.* The existing vegetation and trees are situated to the northern corner of the subject site (between these properties), will obstruct potential downward viewing and shall aid in the protection of the privacy levels of all adjoining properties listed above). In addition, a Landscape Plan has been provided which includes further vegetation types to be planted within this area.



(Figure 1: Toward No. 2 Gunyah Place)



(Figure 2: Toward No. 45 and No. 47 Queens Avenue)



(Figure 3: Rear Vegetation)

The first floor deck is located within a similar location to the existing. It is considered that the privacy levels as a result of this deck will be maintained as existing. The secondary dwelling courtyard to the east will be screened by additional and existing landscaping, and is considered unlikely to create adverse privacy impacts to No. 43 Queens Avenue.

All additional windows to the dwellings have been placed in acceptable locations, with majority of the windows situated to the front or rear facades.

In light of the above the privacy impacts considered to be reasonable within a residential environment. No further privacy measure is deemed necessary in this regard.

It is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

C1.11 Secondary Dwellings and Rural Worker's Dwellings

Description of Non-compliance

Clause C1.11 Secondary Dwellings and Rural Worker's Dwellings states that where the secondary dwelling is separate from the principal dwelling, only one (1) storey will be allowed.

The proposed works include a two (2) storey secondary dwelling.

It is noted that the existing building to this area consisted of a studio/garage to the lower-ground floor and open carport to the upper floor (which aligns with Net Road). The two (2) existing crossovers in this area will be removed, and replaced with a courtyard and additional landscaped open space. It is important to note that when viewed from the street and public domain, the proposal appears as a single storey building.

Merit Consideration

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

-

- ***Limitation of the visual bulk and scale of development.***

Comment

The secondary dwelling will present as a single storey development when viewed from Net Road. In addition, the development sits within the required side boundary envelope, and will be visually softened by additional landscape elements. It is noted that the secondary dwelling design and materials will be consistent with the primary dwelling, providing a cohesive presentation to the public and adjoining properties.

- ***Provision of design flexibility for second storey development.***

Comment

It was recommended that a single storey secondary dwelling be explored, however it was advised that this would result in a reduction of landscaping and would not achieve 60.0m² of floor space, resulting in a loss of amenity. The secondary storey will not cause a significant change in streetscape, as a carport structure of similar dimensions and height is currently located in the proposed secondary dwelling position. As noted previously, as a result of the

topography of the land, the secondary dwelling will present as a single storey when viewed from Net Road, and has been designed to acceptably sit within the required envelope and side setback controls of the P21DCP. The understorey will not be easily viewed from the public domain. A second storey is considered reasonable in this instance.

- ***Restriction of the footprint of development site.***

Comment

The footprint of the secondary dwelling is restricted to the footprint of the existing structure located in the same area. The first floor to the secondary dwelling allows the existing footprint to be retained.

- ***Retention of natural vegetation and facilitation planting of additional landscaping.***

Comment

The provided Landscape Plan demonstrates an increase in landscaped open space when compared to the existing landscaped situation. A single storey secondary dwelling design was explored, however it was determined that such a design would limit landscaped area. The Landscape Plan retains existing trees and provides a range of vegetation types to assist in enhancing the natural vegetation and facilitation planting of additional landscaping. Refer to 'Clause D1.14 Landscape Area - Environmentally Sensitive Land' for further detail.

- ***Provision of rental accommodation.***

Comment

The new secondary dwelling allows the potential for rental accommodation.

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

D1.5 Building colours and materials

Merit Consideration

Clause D1.5 Building Colours and Materials require that buildings are to utilise medium to dark colour ranges with natural and earthy tones.

The proposed development indicates that the primary materials will consist of a light - medium colour scheme. It is noted that the existing primary dwelling and surrounding developments within the immediate vicinity consists of a similar lighter - medium colour scheme, which do not strictly meet the prescribed requirements of this control.

As the colour scheme is to match the existing dwelling, the lighter -medium colour scheme is considered acceptable in this instance.

A condition however is to be recommended to ensure the proposed roof maintains a medium to dark range and that any roof with a metallic steel finish is not permitted in order to minimise solar reflections to neighbouring properties.

D1.8 Front building line

Description of Non-compliance

Clause D1.8 Front Building Line prescribes a front boundary setback requirement of 6.5m for all built structures, other than driveways, fences and retaining walls.

The proposed works include the following front setbacks to the primary street frontage, this being Net Road.

- Front Entry Deck: 1.5m - 3.3m
- Primary Dwelling: 4.4m (*Existing*)
- Secondary Dwelling: 3.7m - 3.8m
- Secondary Dwelling Terrace: Nil

Where the outcomes of this control are achieved, Council may accept a minimum building setback to a secondary street of half the front building line. In this instance, Gunyah Place, all proposed works are located more than 3.25m from the secondary frontage.

Council may also accept variation to these building lines in the following circumstances:

- considering established building lines;
- degree of cut and fill;
- retention of trees and vegetation;
- where it is difficult to achieve acceptable levels for building;
- for narrow or irregular shaped blocks;
- where the topographic features of the site need to be preserved;
- where the depth of a property is less than 20 metres.

It is noted that the subject site is an irregular shaped allotment, which slopes downward from Net Road. The primary dwelling setback is existing and will not be altered. The front entry deck is also existing but will be replaced and extended toward the east, in-front of the living room windows to provide a front porch element. The secondary dwelling is in the location with similar front setbacks to that of the existing carport/garage. The secondary dwelling courtyard that fronts Net Road replaces the existing driveway and crossover. Given the sloping topography of the site and the existing under storage, landscaping to this area is impracticable. However, the plans have incorporated further landscaping within the front setback area where possible, enhancing the landscaping when compared to the existing.

Merit Consideration

In regards to a variation, the proposed development will be considered against the underlying outcomes of the control as follows:

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

Comment

The proposed works will maintain a low density residential design suitable for Avalon Beach. The removal of two (2) of the four (4) vehicle crossing to Net Road will be removed and replaced with landscaped elements to further assist in establishing the character of built form

being situated within a landscaped setting.

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

Comment

Both Net Road and Gunyah Place are not main roads. This objective does not apply.

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

Comment

The proposal includes additional landscaping on site and within the front setback area to Net Road, enhancing the vegetation when compared to the existing situation. The additional landscaped features will aid in the visual reduction of built form. It is noted that most of the elements within the front setback area will either not be seen from the street (located on lower ground floor) or will be perceived as a single storey structure.

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

Comment

The proposal includes a garage to the lower-ground floor that will be accessed via Gunyah Place and can facilitate vehicle manoeuvring in a forward direction. The carport atop the garage is accessed via Net Road, and cannot facilitate vehicle manoeuvring in a forward direction, as this would not be achievable. Council's Development Engineer has reviewed the proposal and is in support subject to conditions.

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

Comment

The proposal will enhance the streetscape to Net Road, by providing additional landscaping and removing two (2) driveway crossovers and providing only one (1) to the new carport. The proposal also includes a replacement entry deck/walkway and porch element improving pedestrian access. The secondary dwelling can be accessed via Net Road with the addition of a front terrace. The streetscape to Gunyah Place will not be significantly altered.

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

Comment

The development overall has been designed to respond to the topography and irregular shaped allotment. The secondary dwelling and carport can be easily perceived as being apart of the primary dwelling, and provides acceptable side setbacks and is situated within the required boundary envelope. The front setbacks although numerically non-complaint are consistent with the existing building line of the primary dwelling and the existing structures to be replaced.

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

D1.9 Side and rear building line

Description of Non-compliance

Clause D1.9 Side and Rear Building line prescribes a side setback of 2.5m to one side and 1.0m to

the other. For this assessment, the 2.5m side building line is applied to the western boundary and the 1.0m side building line applied to the Northern and Eastern boundary.

The development is compliant with the above requirements, in exception of the secondary dwelling's courtyard which exhibits a setback of 0.8m to the eastern boundary.

Merit Consideration

With regard to the consideration for 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.***

Comment

The proposed works will maintain a low density residential design suitable for Avalon Beach. The additional landscaping throughout the site, replacing many impervious areas, enhances the landscape character.

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

Comment

Majority of side setbacks of the built form are compliant and sit within the required side boundary envelope. The landscaping within the side setback areas and retention of trees will aid in reducing overall built form.

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

Comment

This encroachment into the side setback area is not considered to result in any unreasonable view loss from surrounding private properties or the public domain.

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

Comment

The side setback non-compliance is not considered to negatively impact on the current view sharing of the adjoining properties.

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

Comment

Solar Access is compliant with the relevant clause requirements. Refer to 'Clause C1.5 Visual Privacy' for further detail in relation to privacy.

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

Comment

The proposal includes additional landscaping on site, enhancing the vegetation when compared to the existing situation. The additional landscaped features will aid in the visual reduction of built form. Due to the inclusion of additional landscaping the existing streetscape will be enhanced.

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

Comment

Access has been maintained at an acceptable level. The siting of the buildings have not altered the flexibility of the site.

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

Comment

As noted above.

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

Comment

The subject site is located in and is surrounded immediately by either environmental protection or residential zones, this outcome does not apply.

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

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance

Clause D1.14 requires a site located within Area 2 of the Landscaped Area Map to provide a minimum of 60.0% landscaped open space, equating to 618.42m².

The proposal provides a landscaped area of 49.7% which equates to 512.0m², with a variation of 10.3% or 106.42m² to the requirements of the clause.

Despite the shortfall in landscaping, the proposal provides for an increase when compared to that of the existing landscaped area. This being approximately 35.6% or 367.2m².

The proposal is accompanied by a detailed landscaping plan which has been prepared by a Landscape Designer. This landscaping plan includes various forms of vegetation (i.e. ground covers, shrubbery and native trees). The level of vegetation, in conjunction with the increase in landscaping area is considered acceptable for an irregular shaped and sloped allotment, with the proposed vegetation to aid in visually softening the built form. The building will also present as a building situated within a landscaped setting, when viewed from the street and adjoining properties. The proposal is considered overall to provide an appropriate built form on the site, despite the variation in landscaped area for an R2 Low Density Residential area.

It is also acknowledged that the proposal qualifies for a variation, provided the outcomes of this control are achieved. This includes impervious areas up to 6.0% of the site area. The inclusion of the variation would increase the landscaped calculation to 55.6% or 573.8m².

Merit Consideration

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

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

Comment

The development is sited well below tree canopy height and will consist of new vegetation to complement the natural environment within the immediate vicinity. The proposal is consistent with the desired future character of the Avalon Beach Locality, in preserving the significance of the surrounding natural environment, by providing additional landscaping areas.

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

Comment

The proposal is accompanied with a high quality Landscape Plan, prepared by a Landscape Designer. The new landscaping includes native trees, screen vegetation and ground cover plants, providing the subject site with landscaped dimension and will act to mitigate any perceivable bulk and scale. Conditions provided by Council's Landscape Officer will also contribute to the reduction in bulk and scale.

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

Comment

The proposal complies with the solar access requirements stipulated within P21DCP. Refer to Clause C1.5 Visual Privacy' for further detail on privacy impacts.

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

Comment

No trees are to be removed to accommodate the works. Despite the non-compliance, the landscaping will be increased. The additional landscaping elements will aid in visually reducing built form.

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

Comment

The proposal has been reviewed by Council's Biodiversity and Landscape Team who are in support, subject to conditions. The proposal will provide for an increase in landscaping, therefore increasing natural vegetation and biodiversity habitat.

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

Comment

Stormwater runoff is not expected to result in any unacceptable impacts to soil erosion and siltation of natural drainage channels, and is supported by both Council's Landscape Officer and Development Engineer, subject to conditions.

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

Comment

The subject site is located within, and is surrounded by environmental and residential zones, however the proposal has addressed the incorporation of acceptable levels of landscaping. Furthermore, preserving any bushland character present within the Avalon Beach area.

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

Comment

The dimensions of the proposed landscape open space area is considered reasonable to provide infiltration of water and minimise run off. Council's Development Engineer has reviewed the proposal and is in support, subject to conditions.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$6,550 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$655,000.

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:

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

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

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

PLANNING CONCLUSION

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

The application is referred to the Development Determination Panel (DDP) as the proposal results in a variation of more than 10.0% to Clause 4.3 Height of Buildings of the *Pittwater Local Environmental Plan 2014* (PLEP 2014).

The proposed development was notified in accordance with the Northern Beaches Community Participation Plan (CPP) for fourteen (14) days, with no submissions received.

On balance, and considering the preceding detailed assessment of the application, including a detailed analysis of the variation to Clause 4.3 of the PLEP 2014, it is considered that the proposal, subject to recommended conditions will result in a development that is acceptable in design, and not detrimentally impact the character or amenity of the area.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed. Accordingly, the application is referred to the DDP with a recommendation for **approval**.

REASONS FOR DETERMINATION

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

RECOMMENDATION

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

Accordingly Council as the consent authority grant Development Consent to DA2023/1206 for

Alterations and additions to a dwelling house including secondary dwelling on land at Lot 8 DP 232257, 6 Net Road, AVALON BEACH, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA.09	A	Proposed Site/Roof/Analysis Plan	Andy Lehman Design	6 March 2024
DA.10	A	Proposed Lower Ground Floor Plan	Andy Lehman Design	6 March 2024
DA.11	A	Proposed Entry Floor Plan	Andy Lehman Design	6 March 2024
DA.12	A	Proposed Street Elevation	Andy Lehman Design	January 2024
DA.13	A	Proposed North Elevation	Andy Lehman Design	January 2024
DA.14	A	Proposed East Elevation	Andy Lehman Design	January 2024
DA.15	A	Proposed West Elevation	Andy Lehman Design	January 2024
DA.16	A	Proposed Section AA	Andy Lehman Design	January 2024
DA.17	A	Proposed Section BB	Andy Lehman Design	January 2024
DA.18	A	Proposed Section CC	Andy Lehman Design	January 2024
DA.25	A	Proposed Section DD	Andy Lehman Design	January 2024
DA.26	A	Proposed North Elevation @ Retaining Wall	Andy Lehman Design	January 2024
DA.27	A	Driveway Plan & Section 1	Andy Lehman Design	6 March 2024
DA.28	A`	Driveway Plan & Section 2	Andy Lehman Design	6 March 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate (No. A498737)	-	Anthony Lehman	28 June 2023
BASIX Certificate (No. 1398068S)	-	Anthony Lehman	28 June 2023
Arboricultural Impact Assessment	-	Treeism Arboricultural Services	May 2023
Geotechnical Investigation (Ref. J4920)	-	White Geotechnical Group	25 May 2023
Bush Fire Assessment Report	-	Bushfire Consultancy Australia	9 May 2023
DA01, DA Landscape Plan, Revision A	-	Volker Klemm Landscape Design	July 2023
DA2023/1206 – 6 Net Road, Avalon Beach Proposed Residential Development (<i>Traffic Report</i>) - Ref 23049	-	Terraffic Pty Ltd	5 March 2024

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

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

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

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response - OH and UG Cables	13 September 2023

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

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

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon

- plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's

footpaths, roadways, parks or grass verges without Council Approval.

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a

manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$6,550.00 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 \$655,000.00.

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.

6. 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

7. Footing Design Near Trees to be Retained

- a) footing structural layout plans for the works including the driveway and carport/garage/workshop shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, following a non-destructive tree root investigation (if required by the Arborist), complying with clause 3.3.4 of AS 4970-2009 Protection of trees on development sites, near existing tree(s) 12 and 14, to locate critical tree roots and recommend footing design and locations for the construction works.
- b) the Arborist shall review, comment, recommend design revision as required and approve the footing layout, to ensure the locations of footings will be manageable in terms of tree protection measures.
- c) the Arborist shall submit certification to the Certifier, that the locations of the footings are accepted.
- d) the agreed footing structural layout plans shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate.

Reason: Tree protection.

8. No Clearing of Vegetation

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

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

Reason: To protect native vegetation.

9. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy and generally in accordance with concept plans by Barrenjoey Consulting Engineers, job number 230903, drawing numbers SW1, SW2, SW3, SW4, date undated, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments.

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Whites Geotechnical Group dated 25/5/2023 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Vehicle Crossings Application (Net Road)**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 3.0 metres wide in Net Road in accordance with Northern Beaches Council Standard Drawing Normal Low in accordance with Section 138 of the Roads Act 1993. The two existing redundant vehicle crossings in Net Road are to be reinstated to turf.

Note, driveways are to be in plain concrete only.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

12. **Off Street Parking Design**

The Applicant shall submit a design for the parking facility in accordance with the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

13. **Encroachment Application**

The applicant is to submit an Minor Encroachments/ Constructions With Road Reserve Application for approval the proposed landing and stairs in the road reserve in Net Road.

The applicant is to enter into any appropriate agreements with Council. All costs related to the above application are to be borne by the applicant.

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

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

14. Boundary Identification Survey

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

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

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

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

15. 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.

16. 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.

17. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.46 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a metallic steel or 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.

18. Sydney Water "Tap In"

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

19. Construction Traffic Management Plan (CTMP)

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise

the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.

- No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
 - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
 - Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
 - Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
 - Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
 - The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
 - Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
 - Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours,

crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. Project Arborist

a) a Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

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

- i) works and tree protection measures under section 5 Recommendations,
- ii) any landscape works in the tree protection zone of trees to be retained.

c) All tree protection measures specified must:

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

d) the Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

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

Reason: Tree protection.

21. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the below property must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property: No. 4 Net Road, Avalon Beach

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

DURING BUILDING WORK

22. Tree and Vegetation Protection

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

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

b) tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are

to be placed within the canopy dripline of trees and other vegetation required to be retained,

- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) the Principal Certifier must ensure that:

- i) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

23. **Condition of Trees**

a) during the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

b) any mitigating measures and recommendations required by the Arborist/Project Arborist are to be implemented.

c) the owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

24. **Wildlife Protection**

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

Reason: To protect native wildlife.

25. **Road Reserve**

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

Reason: Public safety.

26. **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.

27. **Geotechnical Requirements**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

28. **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.

29. **Survey Certificate**

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

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

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

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

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

30. **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.

31. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

32. **Landscape Completion**

a) landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawing DA01 by Volker Klemm Landscape Design), and inclusive of the following conditions:

i) landscape works are to be contained within the legal property boundaries unless otherwise approved under Minor Encroachments or Section 138 applications,

ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,

iii) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings or more, at least 1 metre from common boundaries; and located either within garden bed or within a prepared bed within lawn,

iv) mass planting shall be installed at minimum 1 metre intervals (or less) for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,

v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,

vi) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

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

Reason: Environmental amenity.

33. Condition of Retained Vegetation

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

i) compliance to any Arborist recommendations for tree protection generally and during excavation works,

ii) extent of damage sustained by vegetation as a result of the construction works,

iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

34. No Weeds Imported On To The Site

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

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

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

35. Stormwater Disposal

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

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

development.

36. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

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

Reason: To maintain proper records in relation to the proposed development.

37. 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.

38. Certification of Off Street Parking Works

The Applicant shall submit a certificate from a suitably qualified person certifying that the parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

39. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

40. Encroachment

The applicant is to submit the agreement with Council to the Certifying Authority prior to the issue of the Occupation Certificate

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

41. No Impacts to native vegetation within Biodiversity Values Map

Impacts to any native vegetation within the area mapped as Biodiversity Values Map will require an application for development consent which must be accompanied by a Biodiversity Development Assessment Report prepared by an ecologist accredited in application of the NSW Biodiversity Assessment Method, unless otherwise approved under an existing development consent, Local Land Services Native Vegetation Panel permit, or Threatened Species License.

Compliance is to be confirmed in writing by the Project Ecologist and provided to the Certifier prior to issue of any Occupation Certificate.

Reason: To ensure compliance with the Biodiversity Values Map threshold of the NSW Biodiversity Offsets Scheme

42. Demolition of kitchen facilities within Rumpus

The kitchen facilities to the "Rumpus" as noted on the approved plans within the existing lower ground floor is to be demolished.

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

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

43. Landscape Maintenance

a) if any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.

b) trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

c) if any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

d) the approved landscape planted areas, whether containing lawn, gardens or planters, or other shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

44. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

45. Geotechnical Recommendations

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

Reason: To ensure geotechnical risk is mitigated appropriately.

46. No Impacts to native vegetation within Biodiversity Values Map

Impacts to any native vegetation within the area mapped as Biodiversity Values Map will require an application for development consent which must be accompanied by a Biodiversity Development Assessment Report prepared by an ecologist accredited in application of the NSW Biodiversity Assessment Method, unless otherwise approved under an existing development consent, Local Land Services Native Vegetation Panel permit, or Threatened Species License.

Compliance is to be confirmed in writing by the Project Ecologist and provided to the Certifier prior to issue of any Occupation Certificate.

Reason: To ensure compliance with the Biodiversity Values Map threshold of the NSW Biodiversity Offsets Scheme

47. Proposed Lower Ground Floor Plan - No Secondary Dwelling

The existing lower ground floor is not to be used for the purposes of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed.

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