

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1719
---------------------	-------------

Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 6 DP 8260, 150 Queenscliff Road QUEENSCLIFF NSW 2096
Proposed Development:	Alterations and additions to a dwelling house.
Zoning:	Warringah LEP2011 - Land zoned 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:	Antony Graham Clarke Christina Marie Clarke
Applicant:	Antony Graham Clarke

Application Lodged:	26/10/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	17/05/2023 to 31/05/2023
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 14.1%
Recommendation:	Approval

Estimated Cost of Works:	\$ 969,830.00
--------------------------	---------------

EXECUTIVE SUMMARY

DA2022/1719 seeks consent for alterations and additions to the existing dwelling house on the subject site.

The application is referred to the Development Determination Panel (DDP) as the extent of alteration to the existing dwelling breaches the maximum building height standard of the WLEP of 8.5 metres by more than 10%. The additions to the existing dwelling at the rear results in a maximum building height of 9.72 metres, which presents a variation of 14.1%. The breach in building height is attributed to the steep topography of the site and position of the existing dwelling.

Concerns raised in the objections predominantly relate to the proposed secondary dwelling (which has since been deleted from the proposal), as well as amenity impacts from the secondary dwelling.

Critical assessment issues included Clause 4.3 Height of Buildings of the WLEP 2011, as well as variation to the wall height, side boundary envelope, front boundary setback, access to sunlight and building bulk controls of the WDCP 2011. The breach in building height has been supported by a written Clause 4.6 variation request for the non-compliance with the height standard of the WLEP.

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

PROPOSED DEVELOPMENT IN DETAIL

The amended application seeks consent for alterations and additions to a residential dwelling, pursuant to the *Warringah Local Environmental Plan 2013* (WLEP 2013), comprising the following works:

External

- Elevated two (2) vehicle carport with bin storage area, external access stairs to the entry level of the principal dwelling, and gated access to the rooftop of the principal dwelling.
- Landscaping works
- External stairs along the western elevation with access from Aitken Avenue
- Amendments to the window and door schedule
- 1.55 metres high front fence along the northern front boundary along Queenscliff Road
- 1.3 metres high front fence along the southern secondary street frontage along Aitken Avenue

Ground Floor Plan

- Partial enclosure of the terrace to the northern elevation and extension to the building footprint to accommodate an entry foyer, office, guest bedroom with access to bathroom 1
- Partial enclosure of the existing balcony for internal floor space to facilitate a dining area to result in an open plan kitchen, dining and living room
- Extension to the existing balcony along the southern elevation

Lower Ground Floor Plan

- New internal staircase to connect this level to the ground floor level above
- Extension of the building footprint to facilitate larger rooms for Bedroom 2 and 3
- Balcony with access from Bedroom 1

Garage

- Demolition of the existing garage along Aitken Avenue and replaced with a two (2) car garage with storage

Multiple issues were noted with the initial proposal from a planning perspective, as well as from Council's internal referrals. Amended plans were provided on 31 March 2023 which sought to address these issues. However, the outstanding issue (being the proposed secondary dwelling) remained on the amended plans. The Applicant was advised of such, and confirmation to remove the proposed

secondary dwelling through amended plans was confirmed by the Applicant on 2 May 2023.

A final set of amended plans were provided on 11 May 2023, which showed the following amendments:

- Reduced off-street parking to the elevated car space along Queenscliff Road from two (2) spaces to one (1)
- A long section through the proposed driveway to Aitken Avenue has been provided
- Increase to the floor level of the proposed garage to Aitken Avenue of RL3.15
- Design amendments to the proposed fencing along Aitken Avenue to adhere to flooding requirements, as well as a reduced maximum height from 1.8 metres to 1.2 metres
- Increased secondary street frontage setback distance to the proposed garage from 0.96m to 1.91 metres
- Deletion of the secondary dwelling

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 6 DP 8260 , 150 Queenscliff Road QUEENSCLIFF NSW 2096
------------------------------	---

Detailed Site Description:

The subject site consists of one (1) allotment located on the southern side of Queenscliff Road.

The site is irregular in shape with a primary frontage of 15.90m along Queenscliff Road, a secondary frontage of 18.035m along Aitken Avenue and a maximum depth of 38.365 metres. The site has a surveyed area of 534.8m².

The site is located within the R2 Low Density Residential zone within the *Warringah Local Environmental Plan 2011* (WLEP 2011) and accommodates a two (2) and three (3) storey residential dwelling with a detached two (2) vehicle garage with access from Aitken Avenue.

The site has a northerly orientation toward Queenscliff Road, and a southerly orientation toward Aitken Avenue. The subject site is located on a slope of approximately 15.91m (or 41.5%), falling from the northern front boundary toward the rear south-western corner.

The site is not known to have any threatened species.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one (1), two (2) and three (3) storey dwellings within a landscaped setting.

Map:

**SITE HISTORY**

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

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

APPLICATION HISTORY

Additional information was requested in relation to the provision of amended plans and documentation to address concerns identified during the preliminary assessment, as well as issued identified within the specialist referrals including Council's Development Engineer, Flood Engineer and Landscape Officer. This information was requested via a Request for Further Information (RFI) letter on 7 February 2023.

A meeting was held on 21 February 2023 between Council officers and the applicant to discuss conceptual amendments.

Preliminary amendments were provided for review prior to finalisation on 10 March 2023, and notes on the preliminary amendments were provided to the Applicant on 13 March 2023.

Amended plans and documentation were uploaded to the NSW Planning Portal on 30 March 2023. As the amendments are considered to be of a reduced or lesser environmental impact, formal renotification is not required, in accordance with Council's Community Participation Plan. The amended plans retained the proposed secondary dwelling. The Applicant was, again, advised that the secondary dwelling could not be supported due to unreasonable impacts upon the streetscape of Aitken Avenue. As such, the Applicant was given one last opportunity to address this. Amended plans were provided to Council, and uploaded to the NSW Planning Portal, on 11 May 2023. While this is a reduced or lesser environmental impact, a substantial portion of the proposed development has been amended and, as such, the amended proposal required renotification.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a) (i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a) (ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a) (iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a) (iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to

Section 4.15 Matters for Consideration	Comments
(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	consider "Prescribed conditions" of development consent. These matters have been addressed via a recommended condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the provision of amended plans and documentation to address concerns identified as part of the preliminary assessment as well as issues identified by, Council's Development Engineer, Flood Engineer and Landscape Officer. This information was requested via a Request for Further Information (RFI) letter on 7 February 2023. The Applicant requested a meeting with Council to address the concerns raised within the RFI. This meeting was held on 21 February 2023. Preliminary amendments were provided for review prior to finalisation on 10 March 2023, and notes on the preliminary amendments were provided to the Applicant on 13 March 2023. Amended plans and documentation were uploaded to the NSW Planning Portal on 30 March 2023. Council's referrals were notified of the amended documentation on the same day. As the amendments are considered to be of a reduced or lesser environmental impact, formal renotification is not required, in accordance with Council's Community Participation Plan. The amended plans retained the proposed secondary dwelling. The Applicant was, again, advised that the secondary dwelling could not be supported due to unreasonable impacts upon the streetscape of Aitken Avenue. As such, the Applicant was given one last opportunity to address this. Amended plans were provided to Council, and uploaded to the NSW Planning Portal, on 11 May 2023. While this is a reduced or lesser environmental impact, a substantial portion of the proposed development has been amended and, as such, the amended proposal requires renotification. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a recommended condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a recommended condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of consent.
Section 4.15 (1) (b) – the likely impacts	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 17/05/2023 to 31/05/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Peter Bakalidis	152 Queenscliff Road QUEENSCLIFF NSW 2096

The following issues were raised in the submissions:

- Amenity impacts
- Secondary dwelling - building bulk, solar access and privacy

The above issues are addressed as follows:

- **Amenity impacts**

The submissions raised concerns that the proposed alterations to the principal dwelling will create unreasonable amenity impacts upon the property to the west, being 152 Queenscliff Road. It must be noted that this submission raises concern regarding privacy and view loss as a result of the extension to the rear of the principal dwelling. However, given the owners of 152 Queenscliff Road were consulted and given the opportunity to provide feedback on the proposed development, they do not, in principle, have any objection on these grounds. The submission, however, states that the non-compliances should be noted with regard to the loss of privacy.

Notwithstanding, the submission raised concern regarding the ground level balcony and the fact there is no privacy screen along the western elevation, which allows for a direct line of sight into the main bedroom of 152 Queenscliff Road. The submission requests that a reasonable condition be applied to ensure the lower ground level balcony aligns with the extension of the ground floor level above.

Comment:

As the view loss concern do not formally form part of the suite of issues identified in the submissions, a view loss assessment has not been undertaken as part of this assessment. The request to align the lower ground level balcony with the ground floor above has been considered, however, this balcony is located within 11.25 metres to the bedroom window of 152 Queenscliff Road. In accordance with the requirements for privacy mitigation as stipulated within D8 Privacy of the Warringah Development Control Plan (WDCP), the proposed bedroom 1 balcony on the lower ground floor level is located outside of the 9.0 metre parameter which would require a privacy screen or require alteration to the design. Notwithstanding, the proposed depth of this balcony shall remain, and a condition will be recommended requiring the erection of a privacy screen along the western elevation of the balcony with a maximum height of 1.65 metres.

The application and compliance with the requirements of the DCP and has been assessed as resulting in an acceptable amenity outcome for the subject site and adjoining properties.

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

- **Secondary dwelling - building bulk, solar access and privacy**

The submissions raised concerns that the proposal includes a two-storey secondary dwelling along Aitken Avenue. The plans are not clear as to whether this structure complies with the relevant WDCP requirements. This submission states that any non-compliance should be considered with regards to over-development of the site and loss of amenity upon adjoining properties.

Additionally, the submissions raised concerns that the proposed development constitutes an overdevelopment of the site, with adverse and unreasonable impacts upon the occupants of adjoining properties. Further, this submission notes that the proposed building bulk will impact upon the character of the area, where developments are predominantly made up of detached dwellings which are set back in a staggered layout from both the front and rear building line

allowing each property to benefit from views, privacy, and access to sunlight. As a result, the proposed secondary dwelling fails to meet the objectives of D9 Building Bulk control.

Further, the submissions raised concerns that as a direct result of the secondary dwelling, there will be significant loss in access to sunlight to the enclosed private rear open space of 152 Queenscliff Road. The shadow diagrams provided do not show additional overshadowing resulting from the secondary dwelling.

Comment:

The preliminary assessment of the application found the proposed secondary dwelling to be unacceptable, notwithstanding compliance with relevant WDCP and WLEP 2011 controls. As such, amended plans were provided which deleted the secondary dwelling from the application.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<i>Supported, subject to Conditions</i> The proposal is supported.
Landscape Officer	<i>Supported, subject to recommended conditions</i> The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to): • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed Vegetation The landscaped open space areas includes one area of 3.2m ² that does not satisfy the requirements for calculation under D1 including: open space areas with a dimension of less than 2 metres; and additionally includes areas under building structure as landscape area. A conceptual landscape plan is submitted and indicates areas of retained existing garden, new garden areas, trees to be removed, trees to be retained including exempt species (by height), and new tree planting. The exempt species are native Banksia trees and these shall be preserved as identified in the landscape plan. Conditions shall be imposed for an amended Landscape Plan. The Arboricultural Impact Assessment recommends the removal of one tree within the property impacted by proposed building works and one tree within the road reserve impacted by driveway works and exhibiting existing arboricultural issues. No objections are raised subject to canopy tree replacement within the property as well as replacement street tree planting, and conditions shall be imposed.

Internal Referral Body	Comments
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 biodiversity related provisions: • Warringah DCP cl. E2 Prescribed Vegetation • Warringah DCP cl. E4 Wildlife Corridors • Warringah DCP cl. E6 Retaining Unique Environmental Features • State Environmental Planning Policy (Resilience and Hazards) 2021 Chapter 2 - Coastal Management The Development Application seeks consent for alterations and additions to the existing dwelling. The Arborist Report submitted with the application recommends the removal of one <i>Callistemon viminalis</i> due to the location of the proposed driveway. As the property is mapped within a Wildlife Corridor under the Warringah DCP, cl. E4 of the WDCP applies. One of the objectives of the clause is to retain and enhance native vegetation and the ecological functions of wildlife corridors. As the tree proposed for removal is native and provides habitat for native fauna, Council's Biodiversity referrals team recommend retention of the tree where possible. Where retention is not possible, the tree is to be replaced with an advanced stock <i>Callistemon viminalis</i>. Subject to conditions, Council's Biodiversity Referrals team are satisfied that the proposed development complies with the above listed controls.
NECC (Coast and Catchments)	<i>Supported, subject to Conditions</i> The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011. Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>. State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.

Internal Referral Body	Comments
	Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Nolan Planning Consultants dated October 2022 the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021 Supported with conditions: • Erosion and Sediment Control Plan (prior to construction) • Installation and Maintenance of Sediment and Erosion Control (prior to commencement) Warringah LEP 2011 and Warringah DCP 2011 No other coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.
NECC (Development Engineering)	<i>Supported, subject to Conditions</i> 20/04/2023: Development Application is for alterations and additions including secondary dwelling (southwest corner-down hillside). Access Site have dual frontages, towards North to Queenscliff Road (uphill side) and towards South to Aitken Avenue (downhill side) Proposal is for • a new hardstand parking area for two cars with in the front setback to Queenscliff Road (and a new pedestrian stair for access from Queenscliff Road to cater main dwelling. • Demolish the existing garage on the downhill side of the property and construct a new garage with secondary dwelling over in the same location by excavating to a maximum depth of ~6.9m. Stormwater: Proposal is to discharge all collected stormwater to the existing

Internal Referral Body	Comments
	stormwater system in Aitken Avenue. For planner An excavating to a maximum depth of ~6.9m is proposed and a Geotech Report by White Geotechnical Group, Ref: J4286, Dated 14th July 2022 is provided. Please recommend the use of this report at design & construction phase. 07/12/2022: Details regarding access to the proposed double garage at the south west corner of the property has not been provided. The details such as position, width and section profile through edge of the driveway will be required to assess the application. Therefore application is not supported. Development Engineering does not support the application due to insufficient information to address vehicle access in accordance with clause C3 of the DCP.
NECC (Flooding)	<i>Supported, subject to Conditions</i> Flood Referral Response - 11th April 2023 The development generally complies with the flood related controls in the Manly DCP and LEP. • The proposed secondary dwelling garage floor level has been raised to 3.13m AHD and is located at the 1% AEP flood level. • The proposed floor level of the secondary and main dwelling are above the FPL and PMF level • The recommendations outlined in section 2.1 of the 'Flood Risk Report' prepared by Approved Consulting Engineers are to implemented to ensure there is no reduction in flood storage. • The proposed 1.2m high boundary fence on the southern boundary is to comply with prescriptive control F1. Flood Referral Response - 25th January 2023 (superseded) The proposed development includes alterations and additions to an existing dwelling and construction of a new detached secondary dwelling with a ground floor garage adjacent to the southern property boundary. The southern edge of the property is affected by the Medium Risk Flood Precinct, a 1% AEP Flood Level of 3.13m AHD and a H4 Flood Life Hazard. The development is not supported due to the following reasons: • The proposed secondary dwelling garage floor level of 2.54m AHD is located below the 1% AEP flood level of 3.13m AHD. Refer related prescriptive control D5 from Section E11 of the

Internal Referral Body	Comments
	Warringah DCP. - The proposed new 1.8m boundary fence on the southern boundary does not comply with the prescriptive control F1 from section E11 of the Warringah DCP. The development does not meet the requirements outlined in the Pittwater LEP 2014 clause 5.21 (2) Flood Planning. The development is deemed: - Not to be compatible with the flood function and behaviour on the land. - Have potential to adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties. - To not incorporate appropriate measures to manage risk to life in the event of a flood.
NECC (Riparian Lands and Creeks)	<i>Supported, subject to Conditions</i> This application was assessed in consideration of: - Supplied plans and reports; - State Environmental Planning Policy (Resilience and Hazards) 2021 (clauses 2.8 and 2.12); - Northern Beaches Water Management for Development Policy (WM Policy); and - Relevant LEP and DCP clauses. No comments in relation to riparian referral. Subject to water quality requirements.
NECC (Water Management)	<i>Supported, subject to Conditions</i> This application was assessed in consideration of: - Supplied plans and reports; - State Environmental Planning Policy (Resilience and Hazards) 2021 (clauses 2.8 and 2.12); - Northern Beaches Water Management for Development Policy (WM Policy); and - Relevant LEP and DCP clauses. The site is adjacent to Manly Lagoon, the stormwater system must include a filtration device that removes organic matter and coarse sediments. Rain Water tank as per BASIX certificate.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021,	<i>Supported, subject to Conditions</i>

External Referral Body	Comments
s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<i>Supported, subject to Conditions</i> No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. According to the Due Diligence Code of Practice, any land within 200m of water is considered to have Aboriginal heritage sensitivity and the potential to contain Aboriginal sites. Under the <i>National Parks and Wildlife Act 1974</i> (NPW Act) all Aboriginal objects are protected. Should anything thought to be Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office be contacted. In line with our normal advice for sandy areas, the Aboriginal Heritage Office recommends that the development conditions should provide for stop work provisions (unexpected discovery protocol) in the unlikely event that human remains are uncovered. Should human remains be uncovered, works must cease and the NSW Police must be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1311187S_04, dated 3 May 2023).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0 metres of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0 metres 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 3 Coastal environment area

2.10 Development on land within the coastal environment area

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

- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

The subject site is located within the Coastal Environment Area. As such, the application was referred to Council's Coast and Catchments Officer for review and comment, and no issues were raised, subject to recommended conditions.

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

Comment:

The subject site is located within the Coastal Environment Area. As such, the application was referred to Council's Coast and Catchments Officer for review and comment, and no issues were raised, subject to recommended conditions.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

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

Comment:

The subject site is located within the Coastal Use Area. As such, the application was referred to Council's Coast and Catchments Officer for review and comment, and no issues were raised, subject to

recommended conditions.

Division 5 General

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

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

Comment:

The proposed development is unlikely to increase the risk of coastal hazards.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Dwelling 9.72m	14.1%	No
		Garage 3.08m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes

Clause	Compliance with Requirements
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

Zone Objectives

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

Comment:

The proposed development will continue to provide for the housing needs of the community by maintaining the R2 Low Density Residential land use of the subject site.

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

Comment:

The proposed development seeks to retain the existing principal dwelling, and construct a new secondary dwelling. In this instance, the proposed development can enable other land uses that provide facilities or services that can meet the day to day needs of residents.

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

Comment:

The proposed development includes additional landscape planting. As such, the low density residential environment will be characterised by landscaped settings that are in harmony with the natural environment of Warringah.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.72m
Percentage variation to requirement:	14.1%

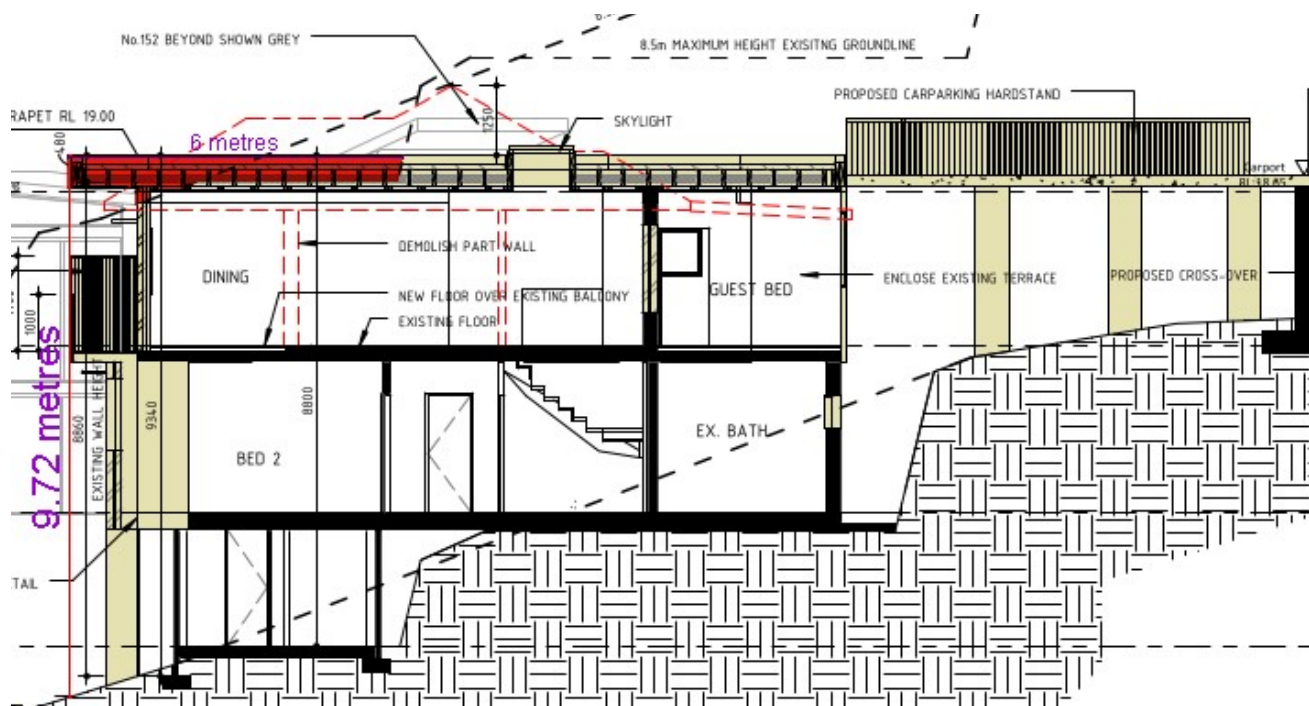


Figure 1. Maximum building height breach.

Assessment of request to vary a development standard:

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

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the

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

The applicants written request argues, in part:

- *"Compliance with the standard is unreasonable because, the underlying objective or purpose of the standard would be defeated or thwarted if compliance was required.*
- *The non-compliance with the height controls is a result of the significant slope of the site, the previous excavation and location of the existing dwelling on site.*
- *The site has a total fall of 16.7m and previous excavation has been carried out. The proposal seeks to reduce the non-compliance with the building height. The existing dwelling has a large pitched roof form with a height of RL20.35 with the proposed additions incorporating a new lower pitched roof form with a height of RL 19.0. As such the non-compliance is unreasonable given the reduction in the height of the existing building.*
- *The proposed additions result in a significant reduction in the existing building height by 1.35m. The proposal will improve the existing noncompliance and will reduce bulk and scale.*
- *No unreasonable impacts upon the amenity of the adjoining properties particularly in relation to visual and acoustic privacy, views or overshadowing result from the noncompliant height of building.*
- *The amended design promotes an objective of the Environmental Planning and Assessment Act 1979 section 1.3 in that the proposal will provide for the "good design and amenity of the built environment".*
- *The area of non-compliance is not prominent in the streetscape and does not result in any detrimental impacts. The reduction in the existing building height will improve the presentation to the public domain.*
- *The proposal is consistent with the objectives of the R2 Low Density Residential zone] as the proposal is consistent with the relevant objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential Zone the proposed development is considered to be in the public interest in satisfaction of clause 4.6(4)(a)(ii).*
- *contravention of the standard does not raise any matters of significance for State or Regional environmental planning and there is no identifiable public benefit in maintaining the development standard."*

It is considered that the Applicant's reasoning to vary Clause 4.3 Height of Building of the Warringah Local Environmental Plan 2011 (WLEP 2011) is acceptable given the site experiences a substantial slope, falling from the northern boundary at Queenscliff Road toward the southern boundary at Aitken Avenue. Additionally, the site has experienced substantial excavation over the years that has

manipulated the existing ground levels. Collectively, these create site constraints that make strict compliance with the requirements of Clause 4.3 difficult.

The scope of non-compliance is sited to the principal dwelling for a length of 6.0 metres and is sited entirely to the roof form over the dining room and balcony located off the dining room (along the southern elevation) (as indicated in red in Figure 1, above), where the site slopes with the existing excavation and topography of the land. As the scope of non-compliance is setback 16.25 metres from the front boundary line, and 13.6 metres from the secondary frontage, the non-compliance is unlikely to be easily discernible from the dual street frontages. Notwithstanding the non-compliance, when viewed from Aitken Avenue, the building mass of the proposed principal dwelling will not be dissimilar to the buildings located within the visual catchment adjoining the subject site (being 152 Queenscliff Road to the west of the subject site, and 146-148 Queenscliff Road to the east of the subject site). In this instance, the overall building height will not adversely or unreasonably impact upon the existing character of the streetscape of both Queenscliff Road and Aitken Avenue.

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

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

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

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

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

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

Comment:

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

Objectives of development standard

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

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

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

Comment:

The proposed dwelling will result in a two (2) and three (3) storey residential dwelling, which shall achieve visual consistency with the properties immediately adjoining the subject site to the east and west. As such, the building mass of the principal dwelling will be compatible with the height and scale of surrounding and nearby developments.

The proposed development **can achieve** this objective.

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

Comment:

Shadow diagrams (including elevation shadow diagrams) have been prepared and submitted with this application. The proposed development does not create unreasonable additional overshadowing. Additionally, the proposal provides for an acceptable and appropriate visual outcome with a consistent and compatible building mass. As the proposed alterations to the principal dwelling are sited behind 152 Queenscliff Road, it is unlikely to result in the disruption of views from 152 Queenscliff Road (the property to the west of the subject site). The proposal has been designed to maintain views to the adjoining properties. The development on the northern side of Queenscliff Road are well elevated above street level and the proposed works given the change in levels will not obstruct existing views from these properties. The development to the east of the site, No. 146-148 Queenscliff Road is a residential apartment building which is well elevated from the proposed development. Views from these apartments are towards the east and southeast over Manly Lagoon and Queenscliff Beach. The views from these apartments will not be affected by the proposed development, sited to the west.

The proposed development **can achieve** this objective.

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

Comment:

The subject site is located to the north of Manly Lagoon and the extent of non-compliance to Clause 4.3 sited to the principal dwelling will not adversely or unreasonably impact upon the scenic quality of Manly Lagoon. Further, the alterations to the principal dwelling are well setback from Aitken Avenue and the overall reduction in height is a positive planning outcome.

The proposed development **can achieve** this objective.

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

Comment:

The site is visible from both Queenscliff Road and Aitken Avenue. The presentation to Queenscliff Road is a single storey dwelling with a new flat roof to replace the existing pitched roof form. When viewed from Aitken Avenue, the principal dwelling will present as a two (2) and three (3) storey residential dwelling which will remain consistent with surrounding residential developments. In this instance, the visual impact of the proposal will be appropriately managed when viewed from Manly Lagoon, Aitken Avenue and Queenscliff Road.

The proposed development **can achieve** this objective.

Zone objectives

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

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

Comment:

The proposed development will continue to provide for the housing needs of the community by maintaining the R2 Low Density Residential land use of the subject site.

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

Comment:

The proposed development seeks to retain the existing principal dwelling, and construct a new secondary dwelling. In this instance, the proposed development can enable other land uses that provide facilities or services that can meet the day to day needs of residents.

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

Comment:

The proposed development includes additional landscape planting. As such, the low density residential environment will be characterised by landscaped settings that are in harmony with the natural environment of Warringah.

Conclusion:

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

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

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

Planning Circular PS20-002 dated 5 May 2020, issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, 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).

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
--------------------	-------------	----------	--------------	----------

B1 Wall height	7.2m	Dwelling <i>Eastern Elevation</i> 5.97m - 9.53m	32.3% max.	No
		<i>Western Elevation</i> 3.54m - 8.64m	20%	No
		Garage 2.7m	N/A	Yes
B3 Side Boundary Envelope	Eastern Elevation 5m	Dwelling Encroachment	N/A	No
		Garage No encroachment	N/A	Yes
	Western Elevation 5m	Dwelling Encroachment (existing)	N/A	Yes
		Garage No encroachment	N/A	Yes
B5 Side Boundary Setbacks	Eastern Boundary 0.9m	Elevated Car Space 6.97m - 7.25m	N/A	Yes
		Dwelling Ground floor: 0.9m - 3.65m Lower ground floor: 1.35m - 2.0m (existing) Basement: 1.34m - 2.13m (existing)	N/A N/A N/A	Yes Yes Yes
		Balcony Ground floor: 1.34m - 2.3m Lower ground floor: 1.1m - 1.3m	N/A N/A	Yes Yes
		Garage 7.05m - 7.77m	N/A	Yes
	Western Boundary 0.9m	Elevated Car Space 1.9m - 3.05m	N/A	Yes
		Dwelling Ground floor: 3.3m - 3.7m Lower ground floor: 3.05m - 3.4m Basement: 2.2m - 3.1m (existing)	N/A N/A N/A	Yes Yes Yes
		Balcony Ground Floor: 6.9m - 7.25m Lower ground floor: 10.25m	N/A N/A	Yes Yes
		Garage 1.24m - 3.12m	N/A	Yes
	Primary Frontage	Elevated Car Space Nil	100%	No

	Queenscliff Road 6.5m	Dwelling Ground floor: 7.9m - 12.6m Lower ground floor: 7.9m - 12.6m	N/A N/A	Yes Yes
	Secondary Frontage Aitken Avenue 3.5m	Dwelling Ground Floor: 13.3m - 14.1m Lower ground floor: 11.5m - 13.3m	N/A N/A	Yes Yes
		Balcony Ground Floor: 10.95m - 11.45m Lower ground floor: 9.65m - 10.75m	N/A N/A	Yes Yes
		Garage 1.91m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (213.92m ²)	45.5% (243.5m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	No	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

This control requires development to result in a maximum wall height of 7.2 metres. The proposed development will result in a dwelling that exceeds the maximum wall height requirement along both the eastern and western elevations, as indicated in the figures below.

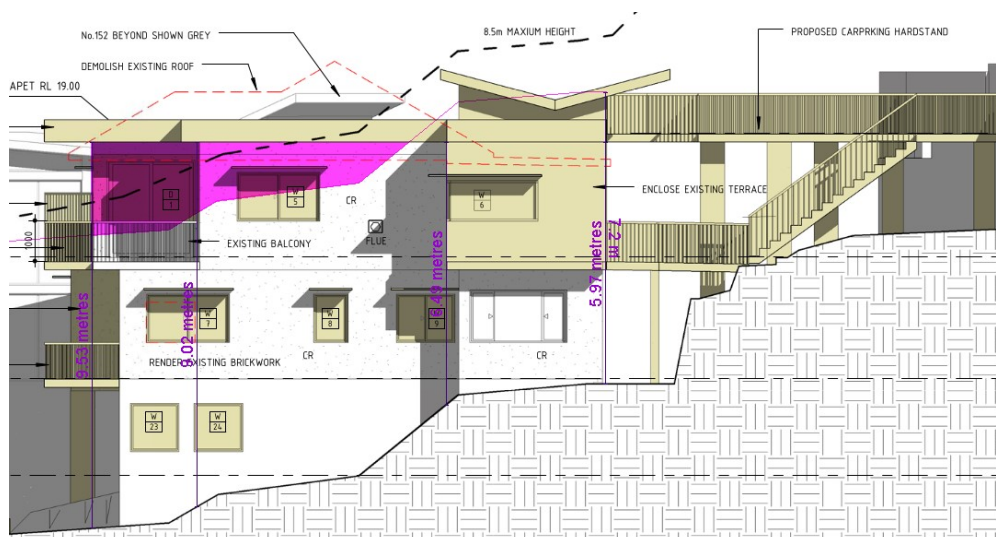


Figure 2. Eastern elevation wall height breach (indicated in pink).

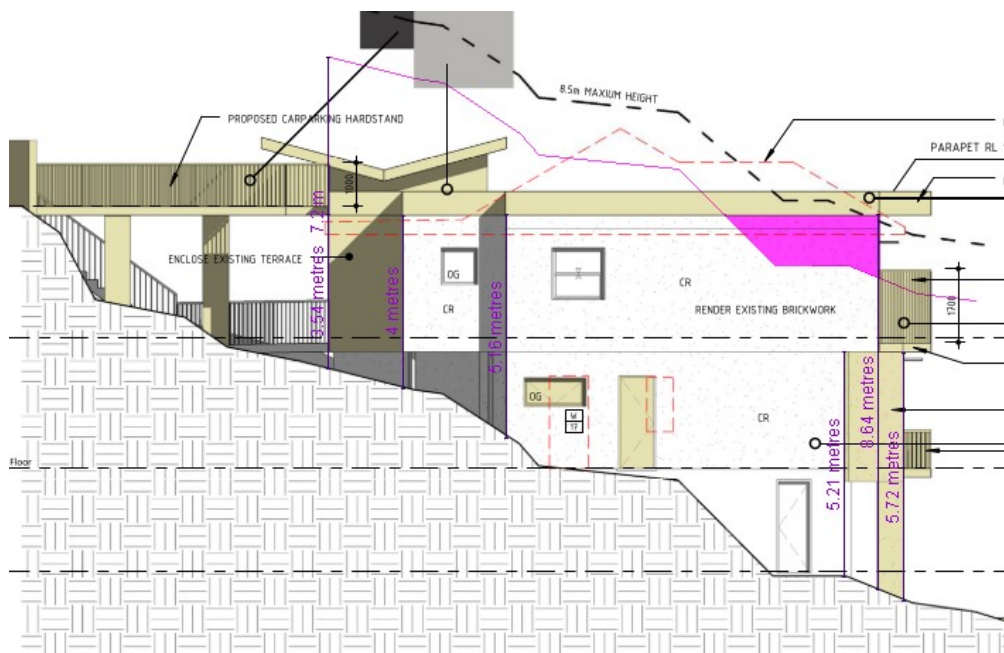


Figure 3. Western elevation wall height breach (indicated in pink).

An exception may be permitted which allows the requirements of this control to be varied on sites with slopes greater than 20% below the building footprint, provided that the building does not exceed 8.5 metres, is designed and located to minimise the bulk and scale and has a minimal visual impact when viewed from the downslope sides of the land. As the proposed maximum height exceeds 8.5 metres, the exception cannot be applied, notwithstanding the fact the building footprint is sited on a slope of approximately 39.9% along the western elevation and 28.5% along the eastern elevation.

In this instance, the proposed development has been assessed against the underlying objectives of this control.

Merit consideration:

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

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

Comment:

The existing dwelling ranges between two (2) and three (3) storeys where the land significantly slopes to the south. The existing site constraints and the siting of the dwelling means that strict compliance with this control is difficult. Amended plans were received which removed the proposed secondary dwelling. As amended, the visual impact of the built form of the dwelling is consistent with the existing built form of the dwelling on the subject site, and those of single residential dwellings on adjoining and surrounding properties. Further, the proposal includes replacement tree planting in the southern portion of the site (that is, between the dwelling house and garage), which contributes to providing visual relief of the built form when viewed from Aitken Avenue and the nearby waterway. The extent of non-compliance will not be discernible from the Queenscliff Road frontage.

The proposed development **achieves** this underlying objective.

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

Comment:

Due to the slope of the land, the proposed development, and the dwellings within the visual catchment of the subject site, could not be sited below the surrounding tree canopy. Notwithstanding, the proposed tree replacement planting throughout the site, and the retention of vegetation and trees, will provide visual relief of the built form.

The proposed development **achieves** this underlying objective.

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

Comment:

The proposed development, as shown on the architectural plans, is not sited forward of the building line of 152 Queenscliff Road. As such, a reason sharing of views of provided to and from public and private properties.

The proposed development **achieves** this underlying objective.

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

Comment:

Notwithstanding the numerical non-compliance to the wall height along the eastern elevation, the proposed development allows for the reasonable sharing of views between properties. Notwithstanding, a view loss assessment has been undertaken within this report under section **D7 Views**. Further, a reasonable level of privacy is provided to adjoining properties, and for the occupants of the subject site, thus achieving compliance with **D8 Privacy**.

The proposed development **achieves** this underlying objective.

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

Comment:

The proposed development is sited to the existing dwelling, thus appropriately responding to the site topography. A degree of excavation is required to facilitate the new proposed garage. In this instance, the proposal appropriately responds to the topography of the site.

The proposed development **achieves** this underlying objective.

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

Comment:

The proposed roof is flat which is commensurate with the design of the house, and contributes

to minimising the built form of the dwelling, and thus minimising the impact upon adjoining properties.

The proposed development **achieves** this underlying objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

This control requires development to be sited within a side boundary envelope, which is measured at a height of 5.0 metres from the side boundaries, then angled inward at 45 degrees. The proposed development will encroach the side boundary envelope along the eastern elevation, as indicated in Figure 4 below.

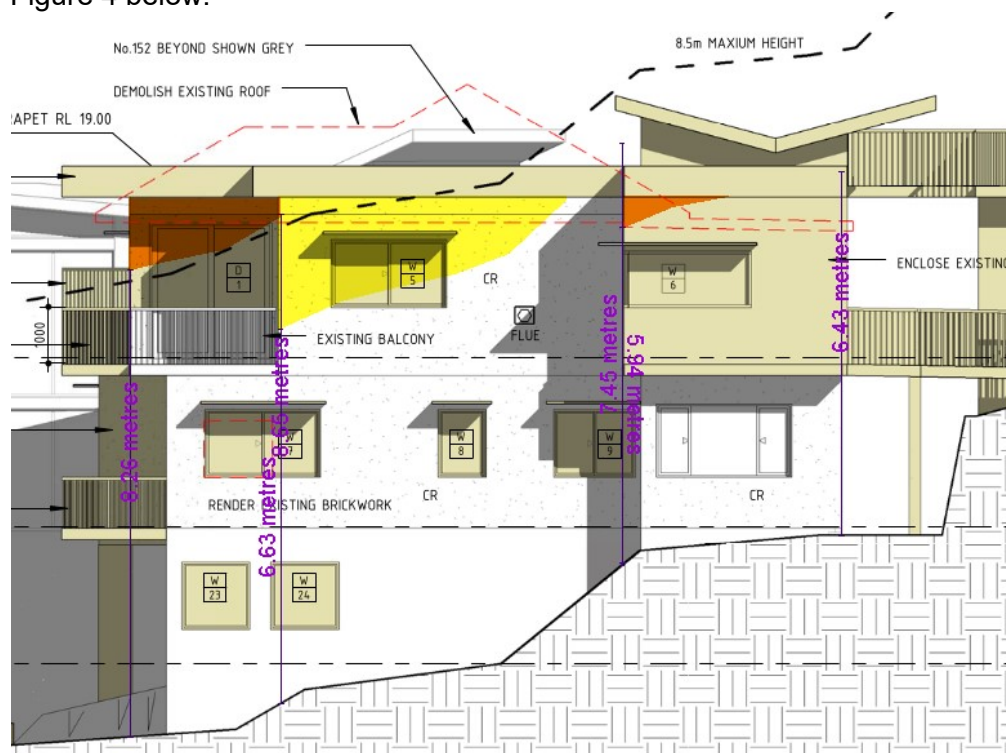


Figure 4. Eastern side boundary envelope breach (indicated in orange; yellow indicates existing breach).



Figure 5. Existing western side boundary envelope breach (indicated in yellow).

This control permits an exception that allows consent to be granted for the addition of a secondary storey to an existing dwelling house that to a minor extent does not comply with the requirement of this control. While the proposed development does not seek an entire second storey addition, the breach to the side boundary envelope is minor.

In this instance, the proposed development has been assessed against the underlying objectives of this control.

Merit consideration

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

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

Comment:

As a direct result of the steep topography of the site, the rear portion of the proposed development (along the southern elevation) results in non-compliances to the requirements of the wall height, side boundary envelope and the maximum wall height. The extent of encroachment is minor and sited only to the eastern elevation, as indicated in Figure 5 above. The greatest encroachment is sited 3.25 metres from the eastern side boundary. In this instance, and by virtue of it's height and bulk, the proposed development is considered acceptable with no unreasonable amenity impacts upon adjoining properties and the subject site.

The proposed development **achieves** this underlying objective.

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

Comment:

As detailed within this report under section D6 Access to Sunlight, while the proposed development does not achieve compliance with the requirements of D6, the proposed development does not unreasonably increase overshadowing to adjoining properties. As conditioned, the proposed development will result in a reasonable level of privacy between properties.

The proposed development **achieves** this underlying objective.

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

Comment:

As detailed elsewhere within this report, the proposed development appropriately responds to the topography of the site in that substantial excavation works are not required, thus the existing landform will generally be retained.

The proposed development **achieves** this underlying objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

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

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

- **Primary street frontage: Queenscliff Road (6.5 metre requirement)**
 - Elevated car space: Nil (which presents a 100% variation)
 - Principal dwelling: 7.9 metres - 12.6 metres
- **Secondary street frontage: Aitken Avenue (3.5 metres)**
 - Garage: 1.9 metres (which presents a 45.71% variation)
 - Principal dwelling: 11.5 metres - 13.3 metres (lower ground floor); 13.3m - 14.1m (ground floor)

It is noted that the proposal seeks an excess of on-site parking arrangements, with the requirement being two (2) and the proposal providing three (3) car spaces. However, due to the significant slope of the street and the orientation of the dwelling toward Queenscliff Road, a single car space with vehicular access from Queenscliff Road will improve access amenity for the occupants of the subject site, with no unreasonable impacts upon the streetscape. It is noted that dwellings with vehicular access from Queenscliff Road have enclosed garages with nil or significantly reduced front setbacks with carparking

in the front setback being characteristic of the site. In this instance, the visual outcome of the elevated car space to Queenscliff Road is acceptable.

In this instance, a detailed merit consideration of the variation to the primary street frontage against the underlying outcomes of this control is conducted below.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

Queenscliff Road

The proposed elevated car space for one (1) vehicle is an entirely open structure and thus a sense of openness is created.

Aitken Avenue

The proposed garage is a single storey structure that is in a similar location to the existing garage on the subject site. In this instance, there is no material change, or unreasonable impact, upon the streetscape character of Aitken Avenue as the garage is ancillary to the dwelling house, and is a common feature along Aitken Avenue, particularly within the visual catchment of the subject site.

The proposed development **achieves** this underlying objective.

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

Comment:

With regards to both parking structures along Queenscliff Road and Aitken Avenue, the proposed developments maintain the visual continuity applicable for the relevant streetscapes.

The proposed development **achieves** this underlying objective.

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

Comment:

As detailed above, the proposed garage and elevated car space will continue to adhere to the visual character, particularly with regards to on-site parking structures, of Queenscliff Road and Aitken Avenue. As such, the visual quality of these streetscapes is maintained.

The proposed development **achieves** this underlying objective.

- *To achieve reasonable view sharing.*

Comment:

The proposed parking structures do not cause any unreasonable impacts upon view sharing.

The proposed development **achieves** this underlying objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D6 Access to Sunlight

Detailed description of non-compliance

This control requires at least 50% of the required area of private open space of the subject site and at least 50% of the required private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21 (which is the Winter Solstice).

Shadow diagrams have been provided with the amended plans, which highlights that, due to the steep topography of the land and the orientation of the subject site and adjoining properties (being north - south), the subject site and adjoining properties cannot benefit from full solar access to the main private open spaces to meet the requirements as prescribed within this control.

Notwithstanding, a merit assessment has been undertaken below.

Merit consideration

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

- *To ensure that reasonable access to sunlight is maintained.*

Comment:

Due to the slope of the land and the siting of buildings, strict compliance with the requirements of this control is impossible. However, at 9am and 12noon, the shadow elevations show that there is no increased overshadowing to the private open space at 152 Queenscliff Road. At 3pm, however, the proposal results in a small increase to overshadowing to the residential flat building (RFB) to the east of the subject site, at 146-148 Queenscliff Road. However, the greatest overshadowing is sited over the garage for the RFB.

The proposed development **achieves** this underlying objective.

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

Comment:

The proposed development is considered to result in a built form that is acceptable for the context of the site and surrounding land. The proposed design of the building will be a contemporary built form that is commensurate with newer-style buildings within the Queenscliff locality. The design, therefore, is sufficiently innovatively and is not expected to have any unreasonable impacts upon the solar access of adjoining properties, as detailed above.

The proposed development **achieves** this underlying objective.

- *To promote passive solar design and the use of solar energy.*

Comment:

The proposed dwelling is noted sited higher than adjoining properties. As such, if the adjoining properties have solar panels affixed to the top of the roof, the proposed development will not obstruct these receiving full solar access. As such, the proposal promotes passive solar design and the use of solar energy.

The proposed development **achieves** this underlying objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

Detailed description of non-compliance

This control requires the follow:

- *side and rear setbacks to be increased as the wall height increases,*
- *large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief of the built form,*
- *on sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill shall be reduced by designs which minimise the building footprint and allow the building mass to step down the slope,*
- *building height and scale needs to relate to the topography and site conditions,*
- *orientate the development to address the street,*
- *use colour, materials and surface treatment to reduce building bulk,*
- *landscape plantings are to be provided to reduce the visual bulk of new buildings and works,*
and
- *articulate walls to reduce building mass.*

The proposed development is constrained by the existing siting of the dwelling and the ability to 'step down' the slope is impractical. In any case, the proposal provides for articulated walls that break-up continuous wall planes to all elevations, which contributes to a reduction in the building mass. As such, and as detailed elsewhere in this report, the proposed built form appropriately responds to the steep topography of the site.

Notwithstanding the non-compliances to the relevant built form controls, the proposal provides for a reasonable building mass that is commensurate with adjoining and nearby properties within the visual catchment of the subject site, particularly those that are on sites with slopes greater than 20%.

Merit consideration

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

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The proposed development provides articulated external walls, resulting in a building mass that is commensurate with residential dwellings within the visual catchment of the subject site. The proposal generally complies with the built form controls, in exception of the side boundary envelope, wall height and maximum building height - all of which are a direct result of the significant and steep topography, noting that these non-compliances are severe at the steepest part of the site. Based on the articulation provided, and the minimal amenity impacts upon adjoining properties, the resultant bulk of the built form is reasonable and acceptable, and provides good design and innovative architecture that positively contributes to the urban environment.

The proposed development **achieves** this underlying objective.

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

Comment:

The proposed development provides for ample spatial separation between buildings, particularly to the residential dwelling to the west of the subject site (being 152 Queenscliff Road). Further, where the proposal seeks to remove vegetation, replacement planting of trees has been proposed within the southern portion of the site. This encourages visual relief of the built form, particularly when viewed from the downslope street, waterways and land zoned for public recreation (being Aitken Avenue and Manly Lagoon).

The proposed development **achieves** this underlying objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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 \$9,698 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$969,830.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

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

PLANNING CONCLUSION

This proposal, for alterations and additions to a residential dwelling has been referred to the Development Determination Panel (DDP) as the maximum building height exceeds 8.5 metres by more than 10%.

The concerns raised in the objections have been addressed within the assessment report. The amended plans have deleted the secondary dwelling, as such the primary concerns raised within the submission have been resolved by virtue of this deletion. Where necessary, recommended conditions have been included to minimise amenity impacts upon adjoining properties.

The critical assessment issues included Clause 4.3 Height of Buildings of the WLEP 2011, Zone R2 Low Density Residential, wall heights, side boundary envelope, front boundary setbacks, access to sunlight and building bulk.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for **approval**.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 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 DA2022/1719 for Alterations and additions to a dwelling house. on land at Lot 6 DP 8260, 150 Queenscliff Road, QUEENSCLIFF, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A01 Rev No. 3 Site Plan	3 May 2023	Scope Architects
A02 Rev No. 3 Carparking Plan	3 May 2023	Scope Architects
A03 Rev No. 3 Ground Floor Plan	3 May 2023	Scope Architects
A04 Rev No. 3 Lower Ground Floor Plan	3 May 2023	Scope Architects
A05 Rev No. 3 Basement & Secondary Dwelling	3 May 2023	Scope Architects
A06 Rev No. 3 Garage	3 May 2023	Scope Architects
A07 Rev No. 3 Elevations & Materials	3 May 2023	Scope Architects
A08 Rev No. 3 East Elevation	3 May 2023	Scope Architects
A09 Rev No. 3 West Elevation & Materials	3 May 2023	Scope Architects
A10 Rev No. 3 South Elevation &	3 May 2023	Scope Architects

Materials		
A11 Rev No. 3 Sections	3 May 2023	Scope Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation (Ref: J4286)	14 July 2022	White Geotechnical Group
Arboricultural Impact Assessment	7 March 2023	Complete Arborcare
A01 Rev 2 TPZ & SRZ Plan	27 February 2023	Complete Arborcare
Flood Risk Report (Job No. 2023025)	Not dated	Approved Consulting Engineers
BASIX Certificate 1311187S_04	3 May 2023	Scope Architects

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

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
A20 Rev No. 3 Landscaping Plan	3 May 2023	Scope Architects

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	August 2022	Not dated

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

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

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	Not dated

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

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

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 Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during 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 \$9,698.30 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 \$969,830.00.

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.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. **Amended Landscape Plan**

An amended landscape plan prepared by a qualified professional shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:

- a) all documented 'existing trees' and native vegetation shall remain for retention, with the exception of the existing street tree within Queenscliff Road,
- b) one (1) street tree replacement (*Tristania laurina* 'luscious') shall be planted within the road reserve of Queenscliff Road; at a minimum pre-ordered planting size of 75 litres; including four post and top and mid rail timber tree guard; generally located at least 2.0 metres from driveways, and shall generally be centralised within the road verge,
- c) a total of three (3) proposed trees shall be located on the plan; at a minimum pre-ordered planting size of 75 litres; generally selected from Northern Beaches Council's Native Plant Species Guide, or Council's Tree Guide; to achieve at least 6.0 metres height at maturity; located at least 3.0 metres from buildings or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- d) new garden areas planting species shall be identified and located, at a minimum 1metre intervals for shrubs of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

Certification shall be submitted to the Certifier that these amendments have been documented.

Reason: Landscape amenity.

8. **Flooding**

In order to protect property and occupants from flood risk the following is required:

A: Flood Effects Caused by Development

A2 - There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 3.13m AHD.

B: Building Components and Structural Soundness

B1 - All new development below the Flood Planning Level of 3.63m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 3.63 m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 3.63 m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

C: Floor Levels

C1 - New floor levels within the development shall be set at or above the Flood Planning Level of 3.63 m AHD.

C3 - The underfloor area of the dwelling below the 1% AEP flood level of 3.13m AHD is to be designed to allow clear passage of floodwaters. At least 50% of the perimeter of the underfloor area must be of an open design from the natural ground level up to the 1% AEP flood level.

D: Car parking

D5 - The floor level of the proposed garage shall be set at or above the 1% AEP flood level of 3.13 m AHD.

E: Flood Emergency Response

E1 - The shelter-in-place refuge for the main and secondary dwelling must:

- a) Have a floor level at or above the Probable Maximum Flood level of 5.64 m AHD; and

- b) Have a floor space that provides at least 1m² per person; and
- c) Be intrinsically accessible to all people on the site, plainly evident, and self-directing, with sufficient capacity of access routes for all occupants without reliance on electrical means.

F: Fencing

F1 - New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area along any straight length, from the natural ground level up to the 1% AEP flood level of 3.13m AHD. Openings shall be a minimum of 75mm x 75mm.

G1 - Storage of Goods

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 3.63 m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

9. **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 Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

10. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT for DEVELOPMENT POLICY. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

11. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)

- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

12. Stormwater Treatment Measures – Minor

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

13. Amendments to the approved plans

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

- The proposed access from the elevated car space to the roof, as indicated on A02 Rev No. 3 Carparking Plan (prepared by Scope Architects, dated 3 May 2023) is to be deleted from the approved plans.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

14. 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 referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

15. 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.

16. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

17. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer.

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

Reason: To provide public and private safety.

18. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels for both vehicle crossings

- Along frontage of Queenscliff Road (uphill side) to cater main dwelling &
- Along frontage of Aitken Avenue (downhill side) to cater secondary dwelling

with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An 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.

19. **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.

20. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

21. **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:

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. **Tree Removal Within the Property**

This consent approves the removal of existing trees on the subject site as identified in the Arboricultural Impact Assessment, approved Plans, or as listed below:

- a) T1 Bottlebrush
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

23. **Tree Removal Within the Road Reserve**

This consent approves the removal of existing trees within the road reserve as identified in the Arboricultural Impact Assessment, or as listed below:

- a) T2 Bottlebrush, subject to street tree replacement,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Reason: Public liability.

24. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after

periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. Tree and Vegetation Protection

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

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

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

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

Reason: Tree and vegetation protection.

26. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

27. **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.

28. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

29. **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.

30. **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.

31. **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.

32. **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.

33. **Vehicle Crossings**

The Applicant is to construct two vehicle crossings;

- along frontage of Queenscliff Road &
- along frontage of Aitken Avenue

Both crossings are to be 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 01N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Certifier.

Reason: To facilitate suitable vehicular access to private property.

34. **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.

35. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

36. **Street Tree Planting**

All street trees shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees. All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be generally located at least 2.0 metres from driveways, and shall generally be centralised within the road verge.

Reason: To maintain environmental and streetscape amenity.

37. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan,
- c) where planting within existing gardens fail, replacement planting shall be installed.

Prior to the issue of an Occupation Certificate, details 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.

38. **Condition of Retained Vegetation**

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

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

Reason: Tree and vegetation protection.

39. **Replacement of Canopy Trees**

At least 1 locally native canopy tree (*Callistemon viminalis*) is to be planted on site to replace protected trees approved for removal.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

40. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

41. **Stormwater Disposal**

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

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

42. **Geotechnical Certification Prior to Occupation Certificate**

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

43. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking

facility was constructed in accordance within this development consent and the 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. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: Compliance with this consent.

44. **Certification of Works as Executed**

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

1. Floor levels for ground floor, shelter in place refuge and garage are set at or above the required level
2. There has been no filling on the land other than what has been approved
3. Openings are provided under floor areas where required for the free passage of flood waters
4. Openings are provided in fencing where required for the free passage of flood waters

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

45. **Removal of All Temporary Structures/Material and Construction Rubbish**

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

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

Reason: To ensure bushland management.

46. **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.

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

47. **Landscape Maintenance**

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

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

Reason: To maintain local environmental amenity.

48. **Flood Management**

A2 - There shall be no filling of the land below the 1% AEP flood level of 3.13 m AHD, blocking of areas required by DA consent to be left open, or any other obstruction of flow paths through the property.

G1 - Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 3.63 m AHD unless adequately protected from floodwaters in accordance with industry standards.

E1 - Appropriate access to the shelter in place refuge is to be maintained at all times from all areas within the development and it must contain as a minimum: sufficient clean water for all occupants; portable radio with spare batteries; torch with spare batteries; and a first aid kit.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

49. **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.

50. **Replacement of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

51. **Maintenance of Stormwater Treatment Measures - Minor**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

52. **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.

53. **Rooftop Access**

The proposed roof is to be non-trafficable for the life of the development.

Reason: To ensure no unreasonable amenity impacts.