

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1998
Responsible Officer:	Nick England
Land to be developed (Address):	Lot 9 DP 629464, 104 Cabarita Road AVALON BEACH NSW 2107 Lot 8 DP 629464, 102 Cabarita Road AVALON BEACH NSW 2107 Lot 15 DP 858130, 100 Cabarita Road AVALON BEACH NSW 2107 Lot 14 DP 858130, 96 Cabarita Road AVALON BEACH NSW 2107
Proposed Development:	Construction of a dwelling house on lot 5 of proposed subdivision
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Basscave Pty Ltd Peter Gordon Higgins Rebecca Meta Higgins
Applicant:	Meraki Developments Pty Ltd
Application Lodged:	17/12/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	09/01/2019 to 29/01/2019
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval
Estimated Cost of Works:	\$ 2,872,287.00

PROPOSED DEVELOPMENT IN DETAIL

The application involves the construction of a dwelling house on the land currently known as No.96-104 Cabarita Road.

The dwelling will be located on proposed Lot 5, which currently subject to a proposed subdivision of the aforementioned land, under a separate application.

Lot 5 is situated on the south-western corner of the site. The proposed dwelling is two-storey in construction and has a frontage to the internal access road on the northern boundary of the allotment.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.3 View Sharing
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - D1.11 Building envelope

SITE DESCRIPTION

Property Description:	Lot 9 DP 629464 , 104 Cabarita Road AVALON BEACH NSW 2107 Lot 8 DP 629464 , 102 Cabarita Road AVALON BEACH NSW 2107 Lot 15 DP 858130 , 100 Cabarita Road AVALON BEACH NSW 2107 Lot 14 DP 858130 , 96 Cabarita Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of four (4) allotments located on the northern side of Cabarita Road.</p> <p>The site is irregular in shape and has a combined surveyed area of 12,659m².</p> <p>The site is located within the E4 Environmental zone and accommodates two (2) dwelling houses, boatshed and</p>

associated jetty. Various former outbuildings, services and pathways exist around the site in a dilapidated condition. The primary dwelling house on the land once existed in the centre of the land. Existing vehicular access to Cabarita Road is located on the south-eastern corner of the site.

The site has a northerly aspect with a southern boundary frontage along Cabarita Road and foreshore access to Careel Bay on its northern boundary.

The site has significant stands of vegetation, being a combination of native species and exotics.

Adjoining and surrounding development is characterised by dwelling houses.

The part of the site subject to the proposed dwelling is to be on proposed Lot 5, which adjoins the south boundary of the site and the adjoining dwelling at No.90 Cabarita Road.

Map:



SITE HISTORY

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

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
---	----------

Section 4.15 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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, permits Council to requested additional information. However no formal request for additional information was made.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to</p>

Section 4.15 Matters for Consideration'	Comments
	this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(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.</p>
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.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr David William Kerr	PO Box 281 AVALON BEACH NSW 2107
Mr Alexander Ronayne	73 Cabarita Road AVALON BEACH NSW 2107

One (1) submission was received during the notification period. The issues raised in this submission are summarised and discussed below:

- *The proposed development will result in an adverse loss of the views enjoyed by the adjoining property at No.73 Cabarita Road.*

Comment: A more detailed consideration of the potential loss of views generated by the

proposal is provided in the section of the report dealing with Part C1.3 View Sharing of P21DCP. In summary, the proposed dwelling will not result in any unreasonable loss of the existing views enjoyed from this property and this is not considered a valid reason to refuse the application.

- *The loss of vegetation will have a negative impact on local wildlife and no more removal of trees on the site should occur.*

Comment: Council's Biodiversity officers have reviewed the proposal and are satisfied with the location of the proposed dwelling and the limited clearing that will be undertaken to facilitate the construction. Future conditions of consent (which will also relate to the proposed subdivision) will ensure that the vegetation communities on the site will retain their habitat functions over the life of the development.

- *Substantial building works will be carried out in the site for a significant period of time, and result in adverse noise impacts to adjoining properties. Works should not be permitted on weekends and weekday works should be limited to reasonable hours.*

Comment: The standard construction hours will apply to this proposal, as a condition of development consent. These hours are specified as:

*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.

These hours are applied generally across the Northern Beaches local government area and are within the accepted period of time for all construction and demolition works. No adverse impact in regard to noise is expected in this regard.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of existing trees and vegetation, and subject to completion of amended landscape plans.</p> <p>The amended landscape plan for Lot 5 shall include a detailed layout of the built and soft landscape elements including walling, paving, decking, and proposed landscape levels. The soft landscape elements shall include the location of all tree planting within the environmental protection area and the native revegetation area, and all tree, shrub and groundcover planting within the remaining garden areas.</p> <p>It is noted that existing tree 40 is currently showing very poor health and vigour and is nearing the end of its useful life expectancy. As</p>

Internal Referral Body	Comments
	<p>such its ongoing condition should be monitored with consideration of removal should its declining structure become hazardous. A further site investigation under supervision of the Project Arborist to assess the long term impact to tree health is required, as well as determination if the existing tree is sustainable to be retained.</p> <p>No tree is to be planted within 3 metres of the building where the building slab is elevated and no tree is to be planted within 5 metres of the building where the building slab is excavated into the natural ground.</p> <p>No turf is permitted on Lot 5.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping C1.5 Visual privacy D1.13 Landscaped Area - General</p>
NECC (Bushland and Biodiversity)	<p>Revised Referral Comments</p> <p>As the dwelling footprints formed part of the subdivision DA, the avoidance, mitigation and offsetting of residual environmental impacts was addressed as part of the subdivision assessment. Each lot will share responsibilities for the protection and enhancement of the Pittwater Spotted Gum Endangered Ecological Community located on site as part of a community title scheme requiring the implementation and ongoing management of the Conservation Management Areas. The Biodiversity Management Plan submitted with the subdivision also includes management of construction impacts to reduce impacts to the EEC, fauna habitat and native vegetation in general. The provision of site landscaping is also to be in accordance with the Landscape Plans submitted.</p> <p>Original Referral Comments</p> <p>The site is mapped as 'Biodiversity' under clause 7.6 of Pittwater LEP 2014 and as 'Coastal Environment Area' under clause 13 of the State Environmental Planning Policy (Coastal Management) 2018. The application has also been assessed against clauses B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor and B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community of P21 DCP.</p> <p>The site contains vegetation characteristic of the Pittwater Spotted Gum Forest Endangered Ecological Community (PSGF EEC), Swamp Oak Floodplain Forest EEC, and habitat for several threatened species.</p> <p>The residential dwelling is located on a lot within a proposed 10 lot community title subdivision (yet to be approved). Biodiversity comments in relation to the proposed subdivision acknowledged that the principle of including avoid and minimise measures across the site</p>

Internal Referral Body	Comments
	<p>is supported in general, however the subdivision development does not include any permanent protection measures such as inclusion of the EEC vegetation within the community association property. The review identified that the full extent of construction and operational impacts likely is understated, and therefore the conclusions of the BDAR and the extent of residual impacts offset is not supported, and a suitable mechanism to permanently protect the EEC and threatened species habitat is required.</p> <p>Based on the uncertainties outlined above and the applicable controls it is concluded that</p> <ul style="list-style-type: none"> the development has not been designed, sited and will not be managed to avoid any significant adverse environmental impact, the development may have an adverse impact on Pittwater Spotted Gum Endangered Ecological Community. the development may negatively impact on threatened species, endangered populations or endangered ecological communities. the development does not retain and enhance habitat for threatened species, endangered populations, endangered ecological communities and other locally native species.
NECC (Coast and Catchments)	<p>Estuarine Risk Management</p> <p>The coastal engineer engaged by the applicant has independently derived an Estuarine Planning Level (EPL) of RL 3.2m AHD for the proposed subdivision at a distance 10.0m landward of the existing seawall. As lots 2-5 and lot 10, located landward of the waterfront lots, are all elevated above 12.0m AHD (i.e. well above the EPL) the coastal engineer considers that these lots would not credibly be affected by estuarine processes over a design life of 100 years. The development proposal for lot 5 is therefore able to satisfy the relevant requirements of the Estuarine Risk Management Policy and associated Estuarine Hazard controls without conditions.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 12 Development on land within the coastal vulnerability area</p> <p><i>Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <p>(a) <i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i></p> <p>(b) <i>the proposed development:</i></p> <p>(i) <i>is not likely to alter coastal processes to the</i></p>

Internal Referral Body	Comments
	<p><i>detriment of the natural environment or other land, and</i></p> <p>(ii) <i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i></p> <p>(iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i></p> <p>(c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i></p> <p><u>Comment:</u> The subject land has not been included on the Coastal Vulnerability Area Map under <i>State Environmental Planning Policy (Coastal Management) 2018</i> (CM SEPP) and in regard to clause 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land. As such, it is considered that the application complies with the requirements of <i>State Environmental Planning Policy (Coastal Management) 2018</i> as they relate to development on land identified as a coastal vulnerability area or land that may be affected by coastal hazards.</p>
NECC (Development Engineering)	<p>The proposed dwelling relies upon the creation of the lot in the current subdivision application at the same address. This application has some issues with respect to the road design in terms of grades and cross falls of the common access road. The dwelling proposed in this application relies upon this road for access and as such until the issue with the road design has been resolved, the assessment of the access to this property cannot be finalised.</p> <p>The submitted Geotechnical report has been assessed and is satisfies the relevant DCP controls and the stormwater management for the site is also satisfactory.</p> <p>Development Engineers do not support the application due to insufficient information to address the driveway in accordance with Clauses B6.1 and B6.2 of Pittwater 21 DCP 2014.</p> <p>Additional Information Submitted 27/09/2019</p> <p>The driveway issue has been addressed by the applicant's Civil Engineer in a meeting held with the applicant.</p> <p>The approval must be deferred subject to the registration of the lot. Provided that a suitable condition is provided for this requirement, Development Engineering raise no objection to approval, subject to conditions as recommended.</p>

Internal Referral Body	Comments
NECC (Riparian Lands and Creeks)	<p>Revised - please delete previous referral and conditions.</p> <p>This application is recommended for approval.</p> <p>Stormwater quality management has largely been incorporated into the common property and is being dealt with under the subdivision DA.</p> <p>The boundary pit on this lot contributes to the overall management of water quality on the subdivision. The use of a SPEL basket in the boundary pit is not supported, as this type of trash rack only filters surface flows and not the inline flow from the stormwater pipe. The applicant is conditioned to construct a boundary pit as described in the On-site Stormwater Detention Technical Specification, with a trash screen as described in section 4.10 - Trash Screens and Discharge Control Pit Detail as described in this specification. The property owner is required to maintain the boundary pit, inspecting the pit on a regular basis and removing sediment and organic matter as required.</p> <p>Sediment and erosion controls must be installed prior to any work on the site and maintained until work is complete and groundcover has been re-established.</p>
Traffic Engineer	<p>Proposal is for a single dwelling to be provided in the approved subdivided lots.</p> <p>Traffic: One Dwelling will produce 0.85 trips in the peak. This equates to 1 vehicle per hour. This is deemed negligible on the local traffic network.</p> <p>Parking: One dwelling requires 2 spaces in accordance with Council's DCP. The site has provided 2 spaces for this dwelling. This is deemed adequate.</p> <p>Pedestrian: Pedestrian access is deemed satisfactory.</p> <p>Access: Driveway widths are deemed satisfactory.</p> <p>Servicing: All servicing will occur from the street. No changes to waste arrangements.</p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been

External Referral Body	Comments
	received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.972217S dated 10 December 2018).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an

application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.8m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line**	6.5m	11.9m (Cabarita Road)	N/A	Yes
Rear building line**	6.5m	8.5m (access road)	N/A	Yes
Side building line	2.5m	4.58m (western)	N/A	Yes
	1m	1m (eastern)	N/A	Yes

Building envelope	3.5m	Within envelope (western)	N/A	Yes
	3.5m	Outside envelope (eastern) 12.4m (length) x 5m (height)	N/A	No
Landscaped area	60%	800m ² or 73%	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

****Note:** for the purposes of this assessment the front building line has been taken from Cabarita Road on the southern boundary and the rear building line to the north boundary. However, the frontage of the proposed dwelling is in effect from the northern boundary on the internal road.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

During the notification period, one (1) submission was received from an adjoining property, concerning potential view loss:

- No.73 Cabarita Road.

To aid in the assessment of the potential view loss, height poles of the proposed dwelling were erected on the site.

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

A reasonable sharing of views amongst dwellings. (S)

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

1. Nature of the views affected

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

obscured".

Comment to Principle 1:

The dwelling at No.73 Cabarita Road is located approximately 53m south-east of the proposed dwelling. A site has been conducted on the subject property and it was determined that the views available were to Careel Bay, including parts of the western foreshore adjoining the subject site, its eastern foreshore and the adjoining hillslopes including the ridgelines between Whale Beach and Palm Beach. It should be noted that these views were largely obscured by existing vegetation on the site, some of which will be removed as part of the proposed development.

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

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

Comment to Principle 2:

The aforementioned views are enjoyed from the following parts of the property:

- ground floor deck adjoining living room, in both a standing and seated position;
- ground floor living and dining room, in both a standing and seated position; and
- 1st floor office, in both a standing and seated position.

3. Extent of impact

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

Comment to Principle 3:

The proposed dwelling on Lot 5 will be viewed from the existing property at No.73 from an oblique angle to the north-west. A very small portion of the view to Careel Bay and its western foreshore will be lost and is most pronounced from the ground floor deck. A smaller portion of these views from the living / dining room is likely to be lost. A negligible portion of these views will be lost from the 1st floor office. In summary, the loss of views to this property is summarised as very minor to negligible.

4. Reasonableness of the proposal that is causing the impact

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

the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

The proposed dwelling breaches the building envelope control on its eastern elevation, however the loss of views to Careel Bay (as verified by the height poles) will be very minor to negligible. It should be noted that part of the water view to be lost is already obscured by existing vegetation. Under the circumstances, the view loss proposed is considered to be reasonable.

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

Comment: The proposed dwelling is compliant with all relevant planning controls (with the exception of the building envelope control on the east elevation) and provides sufficient distances between dwellings, on a generously sized allotment (1,098m²). In this respect, there will be sufficient vistas provided to Careel Bay and associated foreshores when viewed from Cabarita Road. The proposal is therefore consistent with this Outcome.

Canopy trees take priority over views. (En, S)

Comment: The proposed subdivision which underpins the dwelling on Lot 5 has been carefully designed to ensure the retention of the existing native tree canopy on the site. Likewise the proposed dwelling has been situated on the proposed allotment to protect existing vegetation. The proposal is hence consistent with this Outcome.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.5 Visual Privacy

Since lodgement, the application has been amended to provide greater visual privacy to the adjoining proposed dwelling on Lot 4. These amendments consisted of the installation of privacy screens on the east elevation of the balcony. This balcony will also have a distance of 15m from the adjoining existing balcony at No.90 Cabarita Road. This is a sufficient distance to ensure that there is no adverse privacy impacts to this adjoining dwelling.

D1.11 Building envelope

Description of Non-Compliance

A breach of the Boundary Envelope control occurs on the south-east elevation of the proposed development.

The extent of the breach has a maximum height of 5 metres from the north elevation of the dwelling, for a maximum length of 12.4m.

Assessment of Proposal Against the Outcomes of the Control

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

Comment: The design of the proposed dwelling is consistent with the desired future character of the locality, for the following reasons: a design vernacular that is consistent with a "informal relaxed casual seaside environment"; facade modulation; use of colours that are integrated with the streetscape; and the siting of the dwelling maintain the landforms, landscapes and other features of the natural environment.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

Comment: The proposed dwelling is part of a group of nine (9) new dwellings, five (5) of which have frontage to Cabarita Road. The dwelling is located at least 12m from the frontage with Cabarita Road, located downslope and has been designed to minimise loss of trees. Generous areas of landscaped open space has been provided around the dwelling. The proposal hence complies with this Outcome.

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

Comment: The facade of the dwelling on the south-east elevation is sufficiently modulated to respond and emulate the northerly aspect of the site and its moderate slope. The proposal is therefore consistent with this Outcome.

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

Comment: The area of the dwelling outside of the envelope is typified by a variation in facade treatments and structures. The balcony structure is slender in profile and presents as a limited visual impact when viewed in proportion to the remainder of the house. The development is therefore consistent with this Outcome.

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

Comment: A more detailed analysis of view loss is provided elsewhere in this report. In summary, the proposed development will not result in any significant view loss that would warrant refusal of the application.

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

Comment: There will be no adverse amenity impact in regard to privacy or solar access as a result of the proposed breach of the Building Envelope.

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

Comment: The proposed dwelling is sited in a manner that will retain existing vegetation and enhance the future viability of the vegetation community that exists on the site.

In conclusion, despite the breach of the building envelope control, the development has demonstrated achievement of the Outcomes of the control.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$28,723 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,872,287.

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 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a Five (5) year time frame for Deferred Commencement Consents detailed within Section 95 of the EPA Act 1979 to DA2018/1998 for Construction of a dwelling house on lot 5 of

proposed subdivision on land at Lot 9 DP 629464, 104 Cabarita Road, AVALON BEACH, Lot 8 DP 629464, 102 Cabarita Road, AVALON BEACH, Lot 15 DP 858130, 100 Cabarita Road, AVALON BEACH, Lot 14 DP 858130, 96 Cabarita Road, AVALON BEACH, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Registration of title of Lot 5

Proposed Lot 5 is to be registered with NSW Land and Registry Services. Evidence that the lot has been registered with NSW Land and Registry Services is to be provided to Council in order to activate the consent.

Reason: To ensure the orderly development of land (DACPLADC1)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A5.002 Issue A	November 2018	Mark Hurcum Design Practice
A5.101 Issue B	September 2019	Mark Hurcum Design Practice
A5.102 Issue B	September 2019	Mark Hurcum Design Practice

A5.201 Issue B	September 2019	Mark Hurcum Design Practice
A5.202 Issue B	September 2019	Mark Hurcum Design Practice
A5.203 Issue A	November 2018	Mark Hurcum Design Practice
A5.204 Issue B	September 2019	Mark Hurcum Design Practice
A5.301 Issue A	November 2018	Mark Hurcum Design Practice
A5.302 Issue A	November 2018	Mark Hurcum Design Practice
A5.SK03 Issue A	November 2018	Mark Hurcum Design Practice

Engineering Plans		
Drawing No.	Dated	Prepared By
C05 Issue A	28 November 2011	NB Consulting Engineers
C11 Issue A	28 November 2011	NB Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
BASIX Certificate No.972217S	10 December 2018	Outsource Ideas P/L
Geotechnical Assessment 31842BMrpt	30 November 2018	JK Geotechnics

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

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Sht-106 Issue C	28 November 2018	Jamie King Landscape Architect

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
-	12 December 2018	Mark Hurcum Design Practice

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

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

3. **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 Certifying Authority 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 Certifying Authority 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 Certifying Authority 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) 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 a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

- (i) 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.
- (j) 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.
- (k) 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 2008
 - (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 7.12 Contributions Plan 2019

A monetary contribution of \$28,722.87 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 2019. The monetary contribution is based on a development cost of \$2,872,287.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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 \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, details demonstrating payment are to be submitted to the Certifying Authority 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. **Stormwater Disposal**

Engineering Plans in accordance with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2:1998 - Stormwater Drainage – Acceptable solutions are to be submitted and certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the inter-allotment drainage system provided as part of the subdivision of the lot.

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics dated 30 November 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

9. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

10. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with transition gradients in accordance with AS/NZS 2890.1:2004. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property.

11. 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, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

12. Shoring of Adjoining Property

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

13. Soil and Water Management Program

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

14. Amended landscape plans

A) An amended Landscape Plan shall be submitted to the Certifying Authority, demonstrating the following landscape requirements:

- i) the amended landscape plan for Lot 5 shall include a detailed layout of the built and soft landscape elements including walling, paving, decking, and proposed landscape levels. The soft landscape elements shall include the location of all tree planting within the environmental protection area and the native revegetation area; and all tree, shrub and groundcover planting within the remaining garden areas,
- ii) the tree planting layout shall be co-ordinated with the Biodiversity Management Plan,

- iii) the amended landscape plans shall locate and identify the distribution of how many of the 50 canopy tree saplings as recommended in the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants, are to be planted on Lot 5. These shall be planted at 45 litre pot size minimum, and larger where indicated in the planting schedule,
- iv) the amended landscape plan shall locate and identify the distribution of how many of the proposed 109 native canopy trees are to be planted on Lot 5. These shall be planted at 140mm pot size,
- v) no tree is to be planted within 3 metres of the building where the building slab is elevated and no tree is to be planted within 5 metres of the building where the building slab is excavated into the natural ground,
- vi) vegetation screening with small trees and mixed height shrubs shall be included to provide privacy to adjoining dwellings and to private open space areas along the common boundary with Lot 4,
- vii) a double row of screen planting consisting of small to medium trees is to be planted along the western boundary of Lot 5 common boundary with No. 90 Cabarita Rd, including a first row of 10 x *Eleocarpus reticulatus* planted as 75 litre pot size at 3 metre centres, a second staggered row of 12 x *Ceratopetalum apetulum* planted as 75 litre pot size at 2.5 metre centres,
- viii) no turf is permitted on Lot 5.
- ix) the landscape plans shall be amended identifying the following changes to selected tree species:
 - o Cupaniopsis and Tristaniopsis shall be removed from the planting schedule and replaced with species typical of the Pittwater Spotted Gum Forest including *Banksia integrifolia*, *Corymbia gummifera*, *Corymbia maculata*, *Glochidion ferdinandi* and *Syncarpia glomulifera*.
 - o *Casuarina glauca* shall be replaced with *Allocasuarina torulosa*.
 - o *Melaleuca ericifolia* shall be replaced with *Melaleuca stypheloides*.

B) Prior to the issue of an Construction Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the amended landscape plans have been completed in accordance with the design intent of the Landscape Masterplan, drawing Sht-101, the Materials Palette, drawing Sht-402, and the Plant Palette, drawing Sht-401, as prepared by Jamie King Landscape Architect, and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

15. Stormwater quality management

The boundary pit must be designed and constructed according to the Discharge Control Pit Detail as specified in Council's On-site Stormwater Detention Technical Specification with a trash screen that fits the guidelines of Section 4.10 - Trash Screens of this specification ie. a stainless steel or galvanised mesh screen (Maxi-mesh RH3030 or equivalent) with a minimum of 50 times the orifice area between the orifice and all inlets. The screen is to be placed diagonally against the face of the tank wall and should include a lifting handle welded to the top of the mesh to allow for easy removal of the screen for cleaning purposes.

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

Reason: To support overall management of water quality on the subdivision (DACNECPCC1)

16. **Project Ecologist**
Project Ecologist

Project Ecologist is to be employed for the duration of the approved works to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent, BDAR (GIS Environmental) and the Biodiversity Management Plan Parts 1 and 2 (GIS Environmental April 2019).

The Project Ecologist must have one of the following memberships/accreditation:

- Practising member of the NSW Ecological Consultants Association

<https://www.ecansw.org.au/findaconsultant/>)

OR

- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016 (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Employment of a project ecologist is to be certified by the Principal Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

17. **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in the approved Biodiversity Development Assessment Report (GIS Environmental December 2018), Biodiversity Management Plan (GIS Environmental April 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures is to be certified by the project ecologist prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls (DACNECPCC2)

18. **Implementation of Biodiversity Management Plan**

All requirements in the Biodiversity Management Plan (GIS Environmental 5 April 2019) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

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 Certifying Authority prior to the issue of the Construction Certificate.

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

20. **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 Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

21. **Construction Traffic Management Plan**

A CTMP is to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate. The CTMP must be in accordance with RMS Guidelines for preparation of a Construction Traffic Management Plan.

Reason: To ensure all construction vehicular activities are managed with minimal impact on the local road network (DACTRCPC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. **Project Arborist**

A Project Arborist with AQZ Level 5 qualification in horticulture is to be appointed to supervise and certify tree protection measures identified in the Tree Assessment & Development Impact Report prepared by Growing My Way Tree Services for the following trees on Lot 5: tree number 36, 40, 45, 46, and 47.

The Project Arborist is to supervise all excavation and construction works near these trees, including recommending the construction methods near existing trees, including flexible location of footings, pier and beam, suspended slabs, cantilevered building sections, screw piles and contiguous piling.

Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Reason: to ensure the protection of the existing landscape amenity.

23. **Approved tree removal**

Approval is granted for the removal of the following existing trees as assessed in section 6. Recommendations of the Tree Assessment & Development Impact report prepared by Growing My Way Tree Services: tree number 44 and 47A.

Exempt species on Lot 5, including the following tree: number 49D, does not require Council consent for removal.

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 (DACNED06)

25. **Bushland Protection Fencing and Signage**

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the boundary between the Conservation Management Areas and the construction area as shown on Biodiversity Management Plan (BMP) Part 1a (GIS Environmental 5/4/19) - is to be surveyed and marked clearly on the ground.

A temporary 2.0 metre steel mesh fence (or similar), incorporating BMP signage, is to be erected on the surveyed boundary between the Conservation Management Areas and the construction area for the duration of construction work.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

Reason: To ensure that the vegetation in the restricted development area is protected during and after construction.

26. **Protection Fencing**

Protection fencing measures (including sedimentation fences) are to be installed in accordance with all approved plans including those specified in the Arborist Report and/or Bushland Management Plan. Protection measures are to be maintained for the duration of the works. Protection fencing that is no longer required is to be removed once all works are completed.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

Reason: Environmental Protection

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

27. **Maintenance of Road Reserve**

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

Reason: Public Safety.

28. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business/industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety.

29. **Protection of Adjoining Property - Excavation**

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety.

30. **Tree and vegetation protection**

A) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site identified for retention as listed in the Tree Assessment & Development Impact report prepared by Growing My Way Tree Services, including trees identified as number 36, 41, 45, 46, 47, 49 and 56, as well as the following tree subject to on-site investigations by a Project Arborist - tree number 40,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with an Arborist with a AQF Level 5 qualification in horticulture,
- iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
- iv) to minimise the impact on trees and vegetation to be retained and protected, 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) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
- vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
- viii) should either or all of v), vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- ix) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

Reason: to retain and protect significant planting on development and adjoining sites.

31. **Project Arborist**

A Project Arborist with AQZ Level 5 qualification in horticulture is to be appointed to provide a definitive recommendation on the suitability to retain trees identified in the Tree Assessment &

Development Impact Report prepared by Growing My Way Tree Services as sustainable through on site management during excavation and construction works.

It is noted that existing tree 40 is currently showing very poor health and vigour and is nearing the end of its useful life expectancy. As such its ongoing condition should be monitored with consideration of removal should its declining structure become hazardous. A further site investigation under supervision of the Project Arborist to assess the long term impact to tree health is required, as well as determination if the existing tree is sustainable to be retained.

Should this tree be assessed as unsustainable and require removal, tree replacement at a ratio of 1:1 is required on the Lot, consisting of locally native tree species selected from the following list: *Corymbia gummifera*, *Corymbia maculata*, *Glochidion ferdinandi* and *Syncarpia glomulifera*, and installed at a minimum 45 litre size.

Details including field reports and photos are to be submitted to the Certifying Authority.

Note: The Project Arborist as conditioned is to be appointed at the commencement of the works and shall demonstrate that their attendance on site has occurred as required to provide such recommendations.

32. **Tree Hollow Inspection by Ecologist**

During any vegetation clearance for Asset Protection Zones and construction works the Project Ecologist is to be physically present to re-locate any displaced fauna that may be disturbed during this activity.

All tree hollows proposed for clearing are to be inspected by the project ecologist prior to removal. Inspection of tree hollows is to be facilitated by a qualified and experienced tree climber or arborist with the use of an elevated work platform where necessary.

Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of tree removals

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016 and relevant Natural Environment LEP/DCP controls.

33. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction, as specified in the approved ecological report (BDAR GIS Environmental December 2018), Biodiversity Management Plan (GIS Environmental April 2019) and these conditions of consent.

Compliance with these measures is to be certified by the project ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant

34. **Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

Reason: Management of wildlife corridors

35. **Vegetation Clearing Protocols**

Clearing of native vegetation is to be undertaken in accordance with the protocols and recommendations specified in the approved Biodiversity Management Plan. Details confirming compliance are to be certified by the project ecologist and submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNEE

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

36. **Landscape works**

Landscaping is to be implemented in accordance with the approved amended landscape plans.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved amended landscape plans and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

37. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQZ Level 5 qualification in horticulture, shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- i) Compliance to Arborist recommendations for tree protection and excavation works.
- ii) Extent of damage sustained by vegetation as a result of the construction works.
- iii) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: to ensure compliance with the requirement to retain and protect significant planting on development sites

38. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

40. **Weed Removal and Management**

No weeds are to be imported on to the site.

All invasive and priority weeds on the site are to be removed and managed continuously, in accordance with the Biosecurity Act 2015.

Details demonstrating the removal and management of weeds are to be prepared by the project ecologist in writing and submitted to the Principal Certifying Authority prior to occupation certificate.

Reason: Weed management and biosecurity

41. **Compliance with Ecologist's Recommendations – Post Construction**

All biodiversity-related measures are to be implemented at the appropriate stage of development, as specified in the approved ecological report, Biodiversity Management Plan Ongoing Maintenance Manual (GIS Environmental April 2019) and these conditions of consent.

Satisfactory establishment/initiation of post-construction measures is to be certified by the project ecologist prior to issue of any Occupation Certificate

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1

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

42. **Landscape maintenance**

All landscape components including existing vegetation are to be maintained for the life of the development.

A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

43. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

44. **Maintenance of Stormwater Quality System**

The stormwater boundary pit and trash screen must be maintained at all times. The pit should be inspected annually, with sediment and organic matter removed as required and as necessary to achieve the required stormwater quality targets for the development.

Reason: Protection of the receiving environment (DACNEGOG1)

45. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

46. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

47. **Domestic Animals Exclusion**

For the life of the development, cats are to be kept in a cat run and/or inside the dwelling such that they are prevented from entering wildlife habitat areas at all times. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties.

Reason: Wildlife protection

48. **Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

Reason: Management of wildlife corridors

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

Signed



Nick England, Planner

The application is determined on 12/11/2019, under the delegated authority of:



Anna Williams, Manager Development Assessments