

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1989
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<b>Responsible Officer:</b>	Alex Keller
<b>Land to be developed (Address):</b>	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 Lot 9 DP 629464, 104 Cabarita Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Land subdivision of 4 Lots into 2 Torrens Title Lots to create 9 Community Title residential Lots with 1 Community Title access Lot, including landscaping, roadworks, services infrastructure and ancillary site works
<b>Zoning:</b>	E4 Environmental Living E4 Environmental Living E4 Environmental Living E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Basscave Pty Ltd
<b>Applicant:</b>	Meraki Developments Pty Ltd

<b>Application Lodged:</b>	17/12/2018
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Subdivision only
<b>Notified:</b>	09/01/2019 to 11/02/2019
<b>Advertised:</b>	12/01/2019
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 2,190,660.00
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### Executive Summary

This application is referred to the development determination panel as it involves more than 5 new lots, has site works exceeding \$1million and there were 3 submissions received by Council. Two of the submissions were actually lodged against the separate house development applications but are also considered in this report due to overlapping issues raised.

The proposal involves a subdivision that comprises a Torrens Title plan to consolidate and define the principal development areas. Proposed Lot 1 will then be subject to a Community Title Subdivision into 10 Lots (9 housing blocks and 1 private access road). The residue of the Torrens Title subdivision being Lot 2 will remain unchanged and is not part of the future community title scheme.

The principal works involve the construction of stormwater water drainage, road access and infrastructure, including site preparation work and ancillary works along Cabarita Road. However the community subdivision pattern has concentrated the civil works and future dwelling footprints to parts of the site that are already substantially disturbed to reduce impacts on native vegetation.

A significant proportion of the site contains remnant Pittwater Spotted Gum Forest (PSGF) endangered ecological community (EEC) and other remnant vegetation therefore minimising the environmental impact on this EEC and along the foreshore zone has formed a principal consideration in this assessment report.

Subject to conditions to manage environmental impacts during site works and post construction the proposal is considered to be satisfactory for approval.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal involves subdivision and consolidation two (2) Torrens Title allotments (lots) and then a Community Title subdivision of one of the Torrens lots into 10 smaller Community Title lots (including the road access).

### **A. Consolidation of Lot 14 and 15 DP 858130 and Lot 8 and 9 DP 629464**

### **B. The Torrens Title subdivision Lot descriptions are:**

<b>Lot</b>	<b>Proposed area</b>	<b>Details</b>
Lot 1	9,918 sqm	Existing dwelling demolished for Community Title subdivision.
Lot 2	2,741 sqm	Existing dwelling retained and a boatshed. (including easements for right of carriageway, services and water. Note Lot 2 is nominally labelled for descriptive purposes only as a "Lot 11". This is only to avoid reference to two "Lot 2"s. between the Community Title and Torrens Title) Lot 2 is not part of the CMS and part of the purposes of the Torrens Title subdivision is to establish appropriate easements / ROW so that Lot 2 is not reliant on the Community Title subdivision or CMS.

### **C. The Community Title subdivision Lot descriptions are:**

<b>Lot</b>	<b>Proposed area</b>	<b>Details</b>
Lot 1	1,258 sqm	Access Lot, including access handle to foreshore and on-site detention facility and easements for access, services and waste.
Lot 2	973.8 sqm	Dwelling house lot
Lot 3	757.1 sqm	Dwelling house lot
Lot 4	752.4 sqm	Dwelling house lot
Lot 5	1098 sqm	Dwelling house lot, including stormwater easement
Lot 6	1324 sqm	Dwelling house lot, including stormwater

easement

Lot 7	943.2 sqm	Dwelling house lot
Lot 8	954.5 sqm	Dwelling house lot
Lot 9	877.7 sqm	Dwelling house lot.
Lot 10	979.4 sqm	Dwelling house lot

Ancillary site works include:

Excavation and selected tree removal, demolition of remnant structures, drainage works, civil works for ancillary structures.

Therefore, in order to effect the construction certificate works in co-ordination with the houses and the civil works for the subdivision, some works will progress in phases (for appropriate sections of the site) rather than all at once. This is appropriately managed by condition's of subdivision and construction certificates required between times for the subdivision certificate/s (Torrens and Community Title) stage.

In summary the phasing of works is respondent to the Applicant managing specific construction certificates in co-ordination with subdivision works and the various development applications for dwelling on each residential Lot.

## **ASSESSMENT INTRODUCTION**

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

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

## **SUMMARY OF ASSESSMENT ISSUES**

Pittwater Local Environmental Plan 2014 - Zone E4 Environmental Living

Pittwater Local Environmental Plan 2014 - 5.7 Development below mean high water mark

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality

Pittwater 21 Development Control Plan - B3.10 Estuarine Hazard - Subdivision

- Pittwater 21 Development Control Plan - B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)
- Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community
- Pittwater 21 Development Control Plan - B4.15 Saltmarsh Endangered Ecological Community
- Pittwater 21 Development Control Plan - B6.2 Internal Driveways
- Pittwater 21 Development Control Plan - C1.3 View Sharing
- Pittwater 21 Development Control Plan - C1.4 Solar Access
- Pittwater 21 Development Control Plan - C1.7 Private Open Space
- Pittwater 21 Development Control Plan - C4.4 Subdivision - Public Roads, Footpath and Streetscape
- Pittwater 21 Development Control Plan - C5.18 Public Road Reserve - Landscaping and Infrastructure
- Pittwater 21 Development Control Plan - D1.11 Building envelope
- Pittwater 21 Development Control Plan - D15.18 Seawalls
- Pittwater 21 Development Control Plan - D15.22 Masterplan - Careel Bay

**SITE DESCRIPTION**

<b>Property Description:</b>	<p>Lot 8 DP 629464 , 102 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 15 DP 858130 , 100 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 14 DP 858130 , 96 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 9 DP 629464 , 104 Cabarita Road AVALON BEACH NSW 2107</p>
<b>Detailed Site Description:</b>	<p>The subject land has an irregular subdivision shape and currently comprises four (4) Torrens Title residential Lots having a combined area of 12,668 square metres (sqm) with a maximum width of 132.9 metres and a maximum depth of 126.2m across the central area of the site.</p> <p>The north-eastern boundary of the site is defined by the mean high water mark of Careel Bay and the south-western boundary extends along a corner frontage with Cabarita Road. Adjacent land to the south-east and north-west is developed for residential use (detached dwellings) and some of those properties have water views across part of the site.</p> <p>The natural landform of the site slopes moderately toward Careel Bay foreshore with some steeper sections toward Cabarita Road and the north-eastern site. Parts of the land have been terraced due to previous residential occupation. The principal development on the site consists of a stormwater line near the northwestern boundary, retaining wall along Cabarita Road, concrete driveway area, dwelling house (land owners residence), two-storey boat house at the foreshore, a foreshore outbuilding and a retaining wall along the foreshore area. A former large dwelling house near the centre of the site has been demolished.</p> <p>The site contains an area of remnant Pittwater spotted gum forest that is a significant landscape feature across much of</p>

the site. The foreshore area also contains some she-oak trees and grassy flat areas adjacent the waterfront. The sandy foreshore area is exposed at low tide, therefore boat access is available via an existing jetty adjacent the 'boat house' building.

Cabarita Road is a narrow through road with regular bus services to / from Mona Vale. Only a short footpath links is constructed along part of the site frontage but there is no continuous link east or west along Cabarita Road.

Map:



## SITE HISTORY

**Pre-lodgement Meeting No.PLM2018/1989** for the subdivision of 4 Lots into 11 Lots and construction of dwelling on each residential Lot.

**Complying Development Certificate No.CDC0234/16** for demolition of a dwelling house was issued by private certification (110296) on 12 December 2016.  
The works have been completed.

## 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 Matters for Consideration'	Comments
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)(iiia) – 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&amp;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>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. The applicant provided amended details including driveway levels, access, footpath construction, waste services and vegetation management. This information is of a minor supplementary nature and does not require re-notification in accordance with the DCP. These matters are related to conditions but only affect a minor part of the proposal.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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>
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) <b>Environmental Impact</b> 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) <b>Social Impact</b></p>

Section 4.15 Matters for Consideration'	Comments
	<p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> 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, subject to conditions.
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.
Section 4.15 Determinations	<p>(4) A development consent may be granted:</p> <p>(a) for the development for which the consent is sought, or</p> <p>(b) for that development, except for a specified part or aspect of that development, or</p> <p>(c) for a specified part or aspect of that development.</p>

## 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 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 1 submission/s from:

Name:	Address:
Mr Alexander Ronayne	73 Cabarita Road AVALON BEACH NSW 2107

The subdivision application received one (1) submission, however two (2) further submissions have been received on the related development applications for proposed dwellings within the Community Title lots. Therefore, consideration of all issues received for all submissions has been made collectively with this subdivision assessment due to some overlapping issues raised. (This is in addition to any consideration made under the relevant assessment of the separate dwelling house applications).

The following summary of issues were raised in the submissions and each have been addressed below:

- View & outlook impacts
- Flora & fauna impacts
- Building work impacts
- Traffic and parking impacts
- Dwelling occupancy and residential parking

The matters raised within the submissions are addressed as follows:

- *Concern that the subdivision will result in new dwellings on the land that will impact water views and the outlook from adjacent land, including No.73 Cabarita Road.*

Comment:

Council is currently also assessing development applications for dwelling houses within the proposed Community Title subdivision residential lots (Community Lots 2 to 10). Each dwelling will maintain a landscape setting and the principal location of private open space is oriented so that it does not have an unreasonable impact on adjacent land and is consistent with the pattern of development in the Locality. In consideration of views, a detailed assessment of this issue is made under the individual development applications for the dwelling houses that may impact on existing view lines from adjacent land / dwellings.

Therefore, this issued has been suitably considered and is addressed by conditions to ensure no unreasonable impact.

- *Concern that the proposal will impact on the existing tree canopy and further extensive vegetation clearing that will be required will remove habitat for native animals.*

Comment:

Detailed plans of the subdivision layout, location of trees to be retained or removed as well as proposed dwelling footprints are shown on the submitted plans. Comprehensive new civil works are required for the road access, infrastructure, drainage, services, and buildings. Comprehensive landscaping works will therefore be required to restore new landscaping for the final completion. The completion of landscaping works are principally part of the final phase for each dwelling house and a detailed planting schedule has been provided to ensure the extensive use of endemic species and other native / suitable plants to encourage habitat for wildlife. The community management plan includes provisions for the long term management / retention of trees and restrictions that will ensure the long term retention of the forest canopy.

Therefore, this issued has been suitably considered and is addressed by conditions to ensure no unreasonable impact.

- *Concern that the proposal will have an extensive construction period by the combined subdivision civil works and then building works, which will extend into weekend time creating noise & amenity impacts on surrounding residents, including construction traffic / parking issues.*

Comment:

Construction works are limited to standard industry hours (which include Saturdays) for development that is regulated under the *Protection of the Environment Operations Act 1997*. While the site does require some excavation works for the principal building elements (road, services, drainage, retaining walls) most excavation works are relatively shallow, with the dwellings also designed to have building footprints that minimises the need for deep or

extensive excavation.

The proposal has been provided with a construction traffic management plan (CTMP) addressing procedures to ensure no unreasonable impact on traffic movement or parking in the vicinity of the site during subdivision works. The site is sufficiently large to accommodate parking on-site and ensure that construction vehicles can enter and leave in a forward direction. The CTMP included details for traffic management including risk assessment, construction vehicles, minimising vehicle movements, traffic control and works along the road reserve. In addition to the CTMP the applicant has provided a construction and site management plan to address related issues and co-ordination of traffic control devices, site access, health and safety, designated areas, contractor parking, sediment devices, stockpiles, material delivery / loading, water runoff and related work site issues.

Therefore, this issued has been suitably considered and is addressed by conditions to ensure no unreasonable impact.

- *Concern that the subdivision should have a restriction for single occupancy dwellings only and adequate off-street parking access.*

Comment:

The separate development applications for dwellings proposed for each lot within the Community Title subdivision are for single dwelling only. Each dwelling is provided with garages sufficient to accommodate two (2) cars and the internal driveway areas have sufficient space to accommodate casual visitor parking. The inclusion of any new secondary dwellings within the site would require development consent as secondary dwelling are permissible with the R2 Residential zone and also subject to the provisions of the Pittwater21 Development Control Plan.

Therefore, this issue has been considered and addressed by the separate development applications made for Community Lots 2-10. Notwithstanding this a condition is included to ensure the existing "outbuildings" to be retained on site are not unlawfully used as separate dwellings.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	Proposal to Subdivide raises no material Building Certification issues that warrant additional or special conditions for any Consent that may issue for this proposal.
Environmental Health (Acid Sulphate)	Acid Sulfate Soils class 5 considered.  No objection to approval with no conditions
Landscape Officer	The landscape component of the subdivision is acceptable subject to the provision of a public footpath, provision of a tree protection plan, engagement of a project arborist, the protection of existing trees, and the provision of canopy tree planting at subdivision.  Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls:

Internal Referral Body	Comments
	<p>B4.22 Preservation of Trees and Bushland Vegetation  C4.4 Subdivision - Public Roads, Footpath and Streetscape  C4.7 Subdivision - Amenity and Design  C4.8 Subdivision - Landscaping on the existing and proposed public road reserve frontage to subdivision lots</p>
<p>NECC (Bushland and Biodiversity)</p>	<p><b>Amended Comments</b>  It has been discussed and agreed with Council development assessment planners that a s88b restriction on title will be conditioned to ensure the permanent protection of portions of the Pittwater Spotted Gum Forest Endangered Ecological Community (EEC) vegetation that has been recorded and mapped on site. The restriction is proposed over two separate areas, namely a portion of Lot 2 of the Stage 1 (Lot 11 of the Stage 2) subdivision, as well as portions of lots 2-5 (Stage 2). As some of the highest quality PSGF EEC on the site occurs within Lot 2 (Stage 1), a proposed area subject to the restriction has been identified and mapped by Council. The second area will be in accordance with the 'Environment Protection Area' mapped within the Biodiversity Development Assessment Report.</p> <p><b>Original Comments</b>  I have reviewed the Stage 1 &amp; 2 subdivision plans, the Biodiversity Development Assessment Report and SEE, and provide the following comments. A brief site inspection was also conducted. 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. The site is also mapped on the Pittwater LEP Biodiversity layer and Wildlife Corridor layer.</p> <p>The two stage subdivision, subsequent residential dwelling development, and biodiversity development assessment report (BDAR) rely on 'permanent' conservation of a 1125sqm area within proposed lot 1 (Stage 1). This 1125 sqm environment protection area is to be retained (lots 2 - 5 Stage 2 community title subdivision) and improved, along with a native revegetation area (lots 2 - 6) and landscaping. The BDAR sets out the overall impacts, mitigation and offset strategy proposed as part of the subdivision development. While the principle of including avoid and minimise measures on site is supported in general, the development does not include any permanent protection measures such as inclusion of the EEC vegetation within the community association property (Lot 1), or a restriction on title such as a s88b instrument (or similar). While the environment protection area (lots 2 -5 Stage 2) is proposed to be managed in accordance with a Bushland Management Plan (to be provided), and is referred to within the draft community management statement, it will be reliant on the community association and ten separate owners to avoid impacts to the endangered vegetation community into the future. The burden of implementing the BMP which applies to the EPA area will be the responsibility of four owners, however it is unclear if this will be an individual, joint or even a</p>

Internal Referral Body	Comments
	<p>community association responsibility</p> <p>Section 7.1 (3) of the <i>Biodiversity Conservation Regulation 2017</i>, in relation to the biodiversity offsets scheme threshold states that if a proposed development involves the subdivision of land, the subdivision is taken to involve the clearing of native vegetation that, in the opinion of the relevant consent authority is required or likely to be required for the purposes for which the land is to be subdivided. Council believes that the clearing of native vegetation likely to be required for a residential subdivision, construction of at least nine dwelling, services, roads etc will be greater than that considered. It is unrealistic to rely on the avoidance and minimisation of impacts without any formal protection mechanism. In particular the ongoing protection of parts of the site, especially those directly adjoining proposed building envelopes, is considered to be unrealistic once new owners require areas for outdoor recreation, further alterations and additions etc or other 'operational' impacts.</p> <p>The area of EEC to be considered under the avoid, minimise, offset hierarchy should include Lot 2 of the Stage 1 subdivision, as well as portions of lots 2-5 (Stage 2) that have already been proposed. As some of the highest quality PSGF EEC on the site occurs within Lot 2 (Stage 1) It is recommended that a building envelope is provided for that lot so that the overall impacts to the EEC as a result of the Stage 1 subdivision, and any subsequent development, can be considered. It is also unclear why proposed Lot 10 (Stage 2) does not contain any conservation management areas as identified on other lots within the Stage 2 subdivision, as the biodiversity values should also contribute to the overall avoid and minimise strategy.</p> <p>In summary, the full extent of construction and operational impacts likely to be required is understated, and therefore the conclusions of the BDAR and the extent of residual impacts offset is not supported. As discussed, for areas on the site (Stage 1 and 2) where construction and operational impacts will be avoided, a suitable mechanism to permanently protect the EEC and threatened species habitat is required. The BMP proposed to manage the EEC areas must also be provided as part of an application.</p>
NECC (Coast and Catchments)	<p><b>Estuarine Risk Management</b></p> <p>The coastal engineer engaged by the applicant has independently derived an Estuarine Planning Level (EPL) of RL 3.2m AHD for the subdivision site at a distance 10.0m landward of the existing seawall. The coastal engineer considers that development on all of the allotments created would be at an acceptably low risk of damage from estuarine inundation and wave action for a design life of 100 years as long as the recommendations listed in Section 7 of the submitted Estuarine Risk Management Report are adopted as relevant. The proposed subdivision is therefore able to satisfy the relevant</p>

Internal Referral Body	Comments
	<p>requirements of the Estuarine Risk Management Policy and associated B3.10 Estuarine Hazard controls subject to conditions.</p> <p>Section 7 of the approved Estuarine Risk Management Report (Horton Coastal Engineering Pty Ltd, dated 10 December 2018) further recommends that the existing seawall is repaired at locations where it is currently in poor condition to rectify voids in the seawall face and to prevent migration of soil occurring through the wall. The necessary works should be completed before the subdivision certificate is issued and conditions to this effect have been included as a part of this assessment.</p> <p><b>State Environmental Planning Policy (Coastal Management) 2018 12 Development on land within the coastal vulnerability area</b></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 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 (CM SEPP)</i> 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)	The proposed development includes the subdivision of the existing 4 lots into 2 torrens title lots with one of the proposed lots

Internal Referral Body	Comments
	<p>accommodating the existing dwelling and boat shed and the other lot then being further subdivided into a community title subdivision comprising 9 residential lots and one community lot. The works include the construction of a common driveway from the frontage of the site in Cabarita Road which services all the proposed residential lots including the existing dwelling. There is an existing Council drainage line and easement burdening the site which is to be altered as part of the proposal. The proposal also includes the provision of a footpath along the frontage of the site.</p> <p>The assessment of the application has been undertaken and the following comments apply.</p> <p><u>Geotechnical Assessment</u> The submitted Geotechnical report includes forms 1 and 1A as required by Council's policy and the risk analysis undertaken has shown that the site and existing and proposed development can achieve the 'Acceptable Risk Management' criteria as required by Council's Policy.</p> <p><u>Stormwater Assessment</u> The Hydraulic design for the diversion of the Council stormwater trunk line has been reviewed and the proposed pipe size is insufficient and will need to be increased from the proposed 600mm diameter to 675mm and the necessary drainage easement also increased by 500mm to 2.5 metres. It is considered that these issues can be conditioned. The pipeline will need to be increased in capacity up to the seawall which will require a new outlet. This issue can also be conditioned. The new pipeline will impact a number of trees. A review of the tree assessment by 'Growing My Way Tree Services' indicates that some trees will need to be removed as part of the drainage works and some trees can remain with strict management controls during construction. The above requirement to increase the pipeline size and upgrade the existing line up to the seawall will impact one tree number 70A which will need to be removed. If this is a significant tree which must be retained, it is considered that the pipeline could be diverted to suit. This issue is to be addressed by the applicant's Arborist and Hydraulic consultant if the pipeline is to be diverted.</p> <p>The internal stormwater system design for the proposed subdivision has been reviewed and is satisfactory subject to conditions. The water quality for the development has been reviewed by Water Management who have provided conditions.</p> <p><u>Subdivision Assessment</u> The proposal requires 2 subdivision certificate applications in order to firstly create 2 lots from the existing 4 lots and then re-subdivide one of the newly created lots into the community title lot. A review of the plans, 88b instruments and management statements indicates that the proposal is satisfactory subject to conditions.</p> <p><u>Vehicular Access Assessment</u></p>

Internal Referral Body	Comments
	<p>The submitted engineering plans for the driveway access to the site has been reviewed and the proposed width of the driveway varies through the site. There is a narrow section on proposed Road 1 between chainage 114 and the truck turning bay which does not permit passing for two vehicles. This issue has been raised by Council's Traffic Engineer and must be addressed by the applicant.</p> <p>A review of the cross sections provided for the entry into the garages for the proposed dwellings indicates that the cross fall of the road exceeds 5% in a number of sections. It is considered that the design must include cross sections at a minimum of 5 metre chainages to ensure the cross fall of the proposed road does not exceed 5%. A revised long section to suit this requirement must also be provided for assessment.</p> <p>A typical section for the proposed pavement design must be provided by the Civil Engineer. The entire access road is to be reconstructed as part of the works including the sub-base. These works may impact upon the existing trees that are to remain and a review of these civil works must be undertaken by the applicant's Tree Consultant to ensure their recommendations can be achieved.</p> <p><u>Public Footpath Assessment</u></p> <p>The engineering plans indicate the provision of a footpath along the frontage of the site. These works have been recommended by Council's Traffic Engineer. There are a number of trees that may be impacted by these works however the applicant's Tree Consultant has not addressed the impact on the trees as a result of these works. The works will also require a barrier due to the curve in the road which will increase the width of the path and also may require a retaining wall to be constructed. It is considered that a typical detail for this work must be provided by the applicant's Engineer and the design reviewed by the Tree Consultant to assess the impact on the trees.</p> <p>Also the proposal includes the provision of a waste storage area within the community lot. There appears to be existing trees in this location which have not been assessed by the applicant's Tree Consultant.</p> <p>Development Engineers cannot support the application due to insufficient information to address clauses B6.1 and B6.2 of Council's DCP.</p> <p><b>Additional Information submitted 25/09/2019</b></p> <p>The applicant's Consulting Engineer has provided a revised sketch to demonstrate that the driveway grades into the proposed dwellings will comply with the cross-fall requirements. Council's Landscaping Officer has approved the proposal subject to conditions and as such the issues raised with respect to the impact of trees is resolved.</p> <p>The approval also provides comments and conditions with respect to</p>

Internal Referral Body	Comments
	<p>the footpath required in the public road reserve.</p> <p><b>Engineering Conclusion</b> Development Engineering raise no objection to approval, subject to conditions as recommended.</p>
NECC (Water Management)	<p>This application is recommended for approval with a number of conditions.</p> <p>Overall the approach to stormwater quality management is very good and satisfies the requirements of both Pittwater 21 DCP B5.9 and the <i>State Environmental Planning Policy (Coastal Management) 2018 - Div 3 Coastal Environment Area</i>. The individual property DAs have been conditioned to retain and maintain their boundary pits. None of the stormwater devices, including the stormwater tanks have high flow bypasses designed in, but analysis of the MUSIC model shows this has only a small impact on water quality outcomes. A change to the design of the bio-retention basin is required, incorporating a splitter in the upstream pit, spreading flows to all three basins, designed so that once the inlet to the first basin is at capacity, flows are directed to the second and then the third basin. The reason for this is to reduce high flow impacts on the first basin, including scour and higher levels of sediment. By splitting the flows, the maintenance load is spread evenly between all three basins, and aims to lengthen the period between required maintenance cleans. This reduces the cost of maintenance of the system for the properties under community title.</p> <p>Installation of the filter media and planting of the bio-retention must not be completed until development of the individual lots on the subdivision is 90 percent complete, or four years after the subdivision certificate is issued. A bond will be placed on this application to ensure this happens, as the dwellings on the individual lots are being constructed under separate development applications.</p> <p>The Community Management Statement must specifically list under the definition of 'Community Property' the stormwater system and all its parts ie. basins, GPT, filter baskets etc that will be maintained under community title, so that this is clear for the managing committee/agent. The statement must also include an operation and maintenance plan for the stormwater infrastructure, which could go in the Optional Matters section alongside the conservation area maintenance. This operation and maintenance plan must also be attached to the positive covenant for the common property.</p> <p>The Soil and Water Management Plan provided by NB Consulting Engineers meets requirements. The applicant is required to implement this plan and Section 5 of the Construction and Site Management Plan. Sediment and Erosion controls must be installed prior to any development on the entire site and maintained until all individual dwelling sites and complete and groundcover has been re-established.</p>

Internal Referral Body	Comments
	<p>Groundwater was not observed in test drills conducted by JK Geotechnics (Report 30/11/18) and therefore does not need to be considered.</p> <p>The existing pipe and outlet through the seawall into Pittwater is proposed to be used. If this changes because the seawall is replaced, the new outlet to Pittwater must be approved by Council.</p>
Road Reserve	No impact on existing Council road assets.
Traffic Engineer	<p><b><u>Original Comments:</u></b>  The proposal is for the subdivision of the lot into 10 lots with a shared private road. Each lot will comprise 1 single dwelling, a double garage and driveway space to accommodate 2 vehicles (Total of 4 vehicles on each site).</p> <p><b>Traffic:</b>  The introduction of 10 dwellings will result in 8-9 vehicle movements in the peak hour in accordance with RMS Guidelines. This is deemed to have a negligible impact on the network.</p> <p><b>Parking:</b>  Parking number provided onsite are deemed suitable.</p> <p><b>Pedestrian:</b>  The footpath along Cabarita Road shall be extended along the full frontage of the site and join to the nearest Bus Stop. The bus stop waiting area shall be made DDA compliant for safe use by all patrons. This shall be conditioned as part of any approval.</p> <p><b><u>Traffic comments in response to additional Information submitted 25/09/2019:</u></b>  Reviewing the development engineering conditions in response to the additional information provided by the applicant, the conditions provided in development engineering conditions cover the issues previously raised by the traffic team regarding provision of footpath, DDA compliant bus stop, driveway gradients, and installation of re-directive kerb or crash barrier.</p> <p>The proposal can be supported subject to further conditions on provision of turning area on the access road for the largest truck accessing the site, and provision of passing bay opportunities to enable vehicles to wait to one side whilst the truck maneuvers along the access road.</p> <p><b><u>Planning Comment</u></b>  The turning area has been nominally shown in the central area where there is ample space due to the junction of driveways. However, if it was located at the western extremity of the private road this may create significant design conflict with driveway access points and the OSD infrastructure. This issue is addressed by condition to any minor design adjustment can be appropriately accommodated to ensure</p>

Internal Referral Body	Comments
	compliance with acceptable standards.
Waste Officer	<p>Conditions</p> <ul style="list-style-type: none"> <li>The residential waste room is an acceptable size to accommodate bins for 11 dwellings for general waste and recycling bins, which 11 bins as detailed in appendix A. Storage for a minimum of 1 x 240L vegetation recycling bin per residential dwelling must also be provided.</li> <li>The Clean Up Waste Storage is adequate in size, however as per the Northern Beaches Council Waste Management Guidelines section 4.5 point c) the room is to be separate from the waste and recycling bin storage area. The entrance is through the garbage storage</li> </ul>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.
Aboriginal Heritage Office	The proposal was referred to the Aboriginal Heritage Office (AHO). No objection was raised subject to inclusion of the referral response conditions as recommended.
NSW Department of Planning (SEPP 71 - Coastal)	<p>The proposal was referred to the Departmental Referral pursuant to SEPP 71. 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.</p> <p>In summary the proposal is considered to be consistent with the aims and objectives of the SEPP, subject to conditions to address management of the foreshore area.</p>
Nominated Integrated Development – Department of Industry – Natural Resources Access Regulator (Controlled Activity Approval for works within 40m of watercourse)	The proposal was referred to the <i>Department of Primary Industries - Natural Resources Access Regulator</i> pursuant to the Water Management Act 2000. The department has provided General Terms of Approval (GTA) to be included with conditions of consent as 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 unreasonable risk of contamination. 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 continuing residential land use. All waste management including demolition / bulk excavation of material will be subject to NSW laws for OHS requirements and Australian Standards.

**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.

Other Service Infrastructure Authorities

The proposal was not required to be referred to the *Roads and Maritime Service* and no other service authority issues are raised pursuant to the SEPP.

**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
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#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies	
Minimum subdivision lot size: <b>Torrens Title Lot 1</b>	700 sqm	9,918 sqm	N/A	Yes	
<b>Torrens Title Lot 2</b>		2,741 sqm	N/A	Yes	
<b>Community Lots*</b> (Subdivision of Torrens Title Lot 1)					
Lot 1 (Access handle lot)				N/A	Yes
Lot 2		1,258 sqm	N/A	Yes	
Lot 3		973.8 sqm	N/A		
Lot 4		757.1 sqm	N/A	Yes	
Lot 5		752.4 sqm	N/A	Yes	
Lot 6		1098 sqm	N/A	Yes	
Lot 7		1324 sqm	N/A	Yes	
Lot 8	943.2 sqm	N/A	Yes		
Lot 9	954.5 sqm	N/A	Yes		
Lot 10	877.7 sqm	N/A	Yes		
(Lot 11) (for purpose of the whole site is a nominal residue Lot)	979.4 sqm	N/A	Yes		
	2,741 sqm		Yes		

\*Subject to final survey with subdivision certificate

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	Yes
4.1AA Minimum subdivision lot size for community title schemes	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	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
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

## Detailed Assessment

### **Zone E4 Environmental Living**

Consideration of the proposal with regard to consistency with the objectives of the Zone are:

- ***To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.***

Comment

The subdivision involves two components for the creation of the new lots.

Firstly a consolidation and Torrens Title subdivision of the existing lots that comprise the site to create two new Torrens Title Lots. Proposed Lot 2 will contain a dwelling house (existing), driveway area, a boat house, and outbuilding within one lot with minimal civil works and tree removal, thereby maintaining a low impact on the aesthetic value and ecology of this area of the site (being the north-eastern quarter). Scientific values are considered to be contained by considerations of the ecology and aesthetic elements of the site.

Secondly, the remaining site area of the Torrens Title subdivision (being Lot 1) will then be subdivided under Community Title to create 9 new house lots with one additional lot for private access / infrastructure to service the whole of the site.

A comprehensive assessment has been made of the environmental values of the site and the design has spaced and positioned the dwellings to minimise impacts on the ecology and aesthetic value of the site. This includes appropriate replacement tree planting and landscape management requirements. Conditions are recommended to ensure erosion and stormwater controls, foreshore management, tree conservation and construction management. Further to this each dwelling house application will have specific environmental conditions for that respective lot to address ecological and aesthetic values and maintain a long term low impact.

Therefore, the subdivision proposal is considered to be consistent with this objective, subject to conditions.

- ***To ensure that residential development does not have an adverse effect on those values.***

Comment:

The development does not have an adverse effect on the ecological, scientific and aesthetic values of the site by ensuring replacement tree planting and appropriate landscaping works, so that the buildings sit within a landscape coastal setting that is consistent with the pattern of surrounding development. Infrastructure services and engineering, and building works will be integrated into the environmental design (including building colours and materials) to maintain environmental site values, including management of stormwater, erosion control, tree protection and associated construction works.

Therefore, the subdivision proposal is considered to be consistent with this objective, subject to conditions.

- ***To provide for residential development of a low density and scale integrated with the landform and landscape.***

Comment:

The subdivision density complies with the low density controls for the zone, including requirements for the retention of landscape open space. The layout of the subdivision has been designed to respond to the existing land form features and environmental site constraints.

The proposed dwellings / building envelopes are setback well away from the foreshore and integrated with the surrounding trees (predominantly Pittwater Spotted Gum Forest) as much as practicable. Excavation is limited to enable the dwelling footprints, vehicle access, drainage management and landscaping works. Where trees are required to be removed suitable replacement trees will be provided to restore the long term tree canopy and landscape setting. Minimal landscape changes are proposed for the north-eastern quarter of the site where the existing dwelling will be retained on proposed Lot 2 (Torrens subdivision). The new dwelling house Lots adjoining Cabarita Road are provided with wide setbacks along the Cabarita Road frontage which assists to preserve the tree canopy and landscape character of the site. Landform changes for the proposed lots on the high side of the site is integrated within the central area where the landform has been previously disturbed and filled or excavated.

Therefore, the subdivision proposal is considered to be consistent with this objective, subject to conditions.

- ***To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.***

Comment:

The proposed lots fronting the foreshore have sufficient area to comply with the foreshore building line and enable the foreshore area to be retained with minimal change along the high water mark. Suitable conditions are included to enable the long term management to maintain a consistent foreshore interface, similar to the existing landscape.

Subdivision works will include the repair and restoration of the existing sandstone wall and stormwater outlet to reduce dilapidation and erosion. Landscape works will retain the grassy foreshore area with supplementary native planting to enhance the remnant Swamp Oak habitat. The site includes some minor representative types of Native Vegetation of the Sydney Metropolitan Area (NVSMA) which is considered within the broader landscape management. The proposal will phase site works which will assist in reducing the impacts of works to particular areas of the site, rather than the entire site at once, which assists to reduce impacts on wildlife and adjacent land.

Therefore, the subdivision proposal is considered to be consistent with this objective, subject to conditions.

## **5.7 Development below mean high water mark**

The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.

Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water)

## **7.8 Limited development on foreshore area**

*In deciding whether to grant consent for development **in the foreshore area**, the consent authority must consider whether and to what extent the development would encourage the following:*

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*

- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The site is currently held under private ownership with no common boundary to any parkland / reserves that might allow public access along the foreshore, apart from an approach by water. This situation is intended to be maintained, in that the private road is gated to identify the community title (private ownership) of the internal road. Private through access to the foreshore however is to be maintained via a walkway (stairs) located on the western side of the 'boat shed' / wharf area.

The waterway area in front of the site is not easily accessible by boat other than light watercraft due to shallow water and a sandbar that is partly exposed during low tide. The above DCP objectives have been considered in the context of the development proposal and appropriate conditions are recommended to address foreshore management. The line of the seawall is the most appropriate feature to protect as this structure is affected by stormwater runoff and is on a variable alignment to the existing foreshore lot boundary. A restriction on use area along the seawall (2m wide buffer) is recommended to reinforce the foreshore character in respect of the environmental conditions and natural processes near the mean high watermark.

Therefore, subject to conditions the proposal is consistent with the objectives and provisions of this part of the DCP.

### 7.10 Essential services

Consideration of the 'phasing' of works have been made with respect to services that are essential for the development and would need to be available or that adequate arrangements have been made to make them available when required for each new dwelling house including:

- the supply of water,
- the supply of electricity,
- the disposal and management of sewage,
- stormwater drainage or on-site conservation,
- suitable vehicular access.

Conditions are recommended to address the above requirement for the Torrens Title and Community Title subdivision and in co-ordination with the future housing construction.

### Pittwater 21 Development Control Plan

#### Built Form Controls

#### **Subdivision - Cabarita Road - Foreshore (Community residential) Lots 2, 3, 4, 5 and Lot 10**

Lot 1 is the Private Road / driveway access Lot for all lots within the subdivision. No lots have direct driveway access to Cabarita Road and must enter via the gated private access road.

<b>Built Form Control (ref Plan SK201)</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation*</b>	<b>Complies</b>
<b>Front building line</b>	6.5m (Setback area forms)	Lot 2 - 26.0m Lot 3 - 23.4m Lot 4 - 20.4m	N/A	Yes Yes Yes

	rear yard as dwellings are oriented toward the internal road)	Lot 5 - 11.6m Lot 10 - 10.6m		Yes Yes
<b>Rear building line</b> Lots 2 to 5 and Lot 10	6.5m (Lots face internal private road)	Lot 2 - 6.5m Lot 3 - 6.5m Lot 4 - 5.0m Lot 5 - 11.0m Lot 10 - 10.0m	N/A	Yes Yes No* Yes Yes
<b>Side setback building line</b> Either boundary 1.0m or 2.5m to the opposite boundary.	<b>East boundary</b>	Lot 2 - 1.0m Lot 3 - 1.0m Lot 4 - 1.0m Lot 5 - 1.0m Lot 10 - 2.5m (south east)	N/A	Yes Yes Yes Yes Yes
	<b>West boundary</b>	Lot 2 - 2.5m Lot 3 - 2.5m Lot 4 - 2.5m Lot 5 - 2.5m Lot 10 - 1.0m (north west)	N/A	Yes Yes Yes Yes Yes
Building Side Boundary Envelope*	3.5m <b>East boundary</b>	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	N/A	Yes
	3.5m <b>West boundary</b>	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	No change	Yes (Existing)
Landscaped area* (Reference Landscape Sheet 101, as indicative consideration)	60% (Area 1)	Lot 2 - 689 sqm (70%) Lot 3 - 506 sqm (66%) Lot 4 - 480 sqm (63%) Lot 5 - 757 sqm (68%) Lot 10 - 644 sqm (65%)	N/A	Yes Yes Yes Yes Yes
<b>Minimum Lot Frontage</b> width (at building line)	16.0 m	Lot 2 - 22.9m Lot 3 - 16.7m Lot 4 - 16.3m Lot 5 - 19.9m Lot 10 - 16.8m	N/A	Yes Yes Yes Yes Yes
<b>Minimum Lot Depth</b>	27.0m	Lot 2 - 43.2m Lot 3 - 44.6m Lot 4 - 45.6m Lot 5 - 39.9m Lot 10 - 42.6m	N/A	Yes Yes Yes Yes Yes

Minimum Building Envelope (Potential build area)	175 sqm	Complies for each Lot with more than 200 sqm area available for a large dwelling house and garage.	N/A	Yes
<b>Minimum Slope</b>	30%	Lot 2 - 22.0% Lot 3 - 26.0% Lot 4 - 26.8% Lot 5 - 27.6% Lot 10 - 21.1%	N/A	Yes Yes Yes Yes Yes

\*Refer to detail merit assessment and considerations of the building form within the respective development applications for each dwelling house.

\*\*

### Subdivision - Cabarita Road - Road Frontage Lots (Community residential) Lots 6, 7, 8 and 9

Lot 1 is the Private Road / driveway access Lot for all lots within the subdivision. Foreshore lots have no direct driveway access to Cabarita Road and must enter via the gated private access road.

Built Form Control (ref Plan SK201)	Requirement	Proposed	% Variation*	Complies
<b>Front building line*</b>	6.5m (*Does not technically apply as Lots front internal private road, with no frontage to Cabarita Road)	Lot 6 - 5.8m Lot 7 - 6.8m Lot 8 - 3.7m Lot 9 - 10.3m	N/A	Yes Yes Yes Yes
<b>Foreshore Building Setback</b>	15.0m	Lot 6 - 18.2m Lot 7 - 15.8m Lot 8 - 17.8m Lot 9 - 27.7m	N/A	Yes Yes Yes Yes
<b>Side Setback</b> building line Either boundary 1.0m or 2.5m to the opposite boundary.	<b>East boundary</b>	Lot 6 - 1.2m Lot 7 - 1.1m Lot 8 - 1.6m Lot 9 - 1.9m	N/A	Yes Yes Yes No*
	<b>West boundary</b>	Lot 6 - 5.7m Lot 7 - 6.8m Lot 8 - 3.7m Lot 9 - 1.0m	N/A	Yes Yes Yes Yes
Building Side Boundary Envelope*	<b>3.5m East boundary</b>	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	N/A	Refer to house DA's
	<b>3.5m West boundary</b>	Refer to detailed dwelling design for each	N/A	Refer to house

		new Lot (Dwelling construction not part subdivision DA)		DA's
<b>Landscaped area*</b> (Reference Landscape Sheet 101, as indicative consideration)	60% (Area 1)	Lot 2 - 689 sqm (70%) Lot 3 - 506 sqm (66%) Lot 4 - 480 sqm (63%) Lot 5 - 757 sqm (68%) Lot 10 - 644 sqm (65%)	N/A	Yes Yes Yes Yes Yes
<b>Minimum Lot Frontage</b> width (at building line)	16.0 m	Lot 2 - 22.9m Lot 3 - 16.7m Lot 4 - 16.3m Lot 5 - 19.9m Lot 10 - 16.8m	N/A	Yes Yes Yes Yes Yes
<b>Minimum Lot Depth</b>	27.0m	Lot 2 - 43.2m Lot 3 - 44.6m Lot 4 - 45.6m Lot 5 - 39.9m Lot 10 - 42.6m	N/A	Yes Yes Yes Yes Yes
Minimum Building Envelope (Potential build area)	175 sqm	Complies for each Lot with more than 200 sqm area available for a large dwelling house and garage.	N/A	Yes
<b>Minimum Slope</b>	30%	Lot 2 - 22.0% Lot 3 - 26.0% Lot 4 - 26.8% Lot 5 - 27.6% Lot 10 - 21.1%	N/A	Yes Yes Yes Yes Yes

\*Refer to detail merit assessment and considerations of the building form within the respective development applications for each dwelling house.

### Subdivision - Cabarita Road - Foreshore (Torrens Title) Lot 11

Lot 1 is the Private Road / driveway access Lot for all lots within the subdivision.

Built Form Control (ref Plan SK201)	Requirement	Proposed	% Variation*	Complies
<b>Front building line</b>	6.5m (No road frontage. Access is via a ROW through Community Lot 1	Dwelling house 15.6m Boat shed 1.0m Foreshore outbuilding 0.0m	N/A  No change (Existing) No change (Existing)	Yes  No (As approved) No (As approved)
<b>Rear building line</b>	6.5m	Lot 11 - 24m	N/A	Yes

Lot 11	(Lot accessed via internal private road)	internal road frontage (77.6m to Cabarita Road)		
Side building line Either boundary 1.0m or 2.5m to the opposite side boundary.	<b>East boundary</b>	Lot 11 - 2.2m Dwelling house 35.1m - Boat shed 1.5m - Foreshore outbuilding	N/A N/A N/A	Yes Yes Yes
	<b>West boundary</b>	Lot 11 - 23.2m Dwelling house 0.0m - Boat shed 41.0m - Foreshore outbuilding	N/A 100% N/A	Yes No* Yes
Building Side Boundary Envelope*	3.5m <b>East boundary</b>	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	No change	Yes
	3.5m <b>West boundary</b>	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	No change	Yes (Existing)
Landscaped area* (Reference Landscape Sheet 101, as indicative consideration)	60% (Area 1)	Lot 11 - 1,742sqm (63%)	N/A	Yes
Minimum Lot Frontage width (at building line)	16.0 m	Lot 11 - 32.6m	N/A	Yes
Minimum Lot Depth	27.0m	Lot 11 - 54.6m	N/A	Yes
Minimum Building Envelope (Potential build area)	175 sqm	Complies for Torrens Title Lot with more than 200 sqm area available for a large dwelling house and garage.	N/A	Yes
Minimum Slope	30%	27.3%	N/A	Yes

\*Refer to detail merit assessment and considerations of the building form within the respective development applications for each dwelling house.

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
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.10 Estuarine Hazard - Subdivision	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than 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
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.3 Subdivision - Transport and Traffic Management	Yes	Yes
C4.4 Subdivision - Public Roads, Footpath and Streetscape	No	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.11 Third Party Signage	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	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	Yes	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
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes
D15.18 Seawalls	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D15.22 Masterplan - Careel Bay	Yes	Yes

## Detailed Assessment

### **A4.1 Avalon Beach Locality**

#### **Context**

*"Until the early 1900s, Avalon Beach remained a tiny settlement of isolated farms and fishermen's cottages. Developer Arthur J Small sought to create a retreat similar to that of King Arthur at Avalon, Glastonbury, England, and in the early 1920s, land on the northern peninsula of the locality was subdivided, the Avalon Golf Course and Palm Grove Park established, and Norfolk Island Pines planted along the beachfront. Avalon Beach became a popular holiday destination. Early dwellings consisted of weekenders and holiday homes constructed of local rock, fibro and weatherboard. Residential development and permanent occupation of dwellings increased from the 1950s.*

*Since this time, the locality has developed into a predominantly low-density residential area, with dwellings built along valley floor, slopes, and ridges. The locality is characterised mainly by one and two-storey dwelling houses on 600-1,000 square metre allotments (some smaller blocks may exist), increasing to 950-1,600 square metres on the plateau and slopes, and up to 8,000 square metres in Ruskin Rowe. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes. The dominant feature of the Avalon Beach locality is houses setback from the street with low and no front fencing and vegetation used extensively to delineate boundary lines. Medium-density housing is located around the Avalon Beach Commercial Centre and neighbourhood retail centres.*

*The locality is serviced by the Avalon Commercial Centre at the intersection of Old Barrenjoey Road and Avalon Parade, and neighbourhood retail centres at the intersection of Hudson Parade and Hilltop Road, Elvina Avenue, North Avalon Road, and Careel Head Road. The locality also contains Avalon Primary School, Maria Regina Primary School, Barrenjoey High School, Avalon Surf Life Saving Club, Careel Bay Wetlands, and recreational facilities including Hitchcock Park, Avalon Golf Course, tennis courts, beaches, and several bushland reserves.*

*Houses, built structures, and vegetation in the vicinity of Cabarita Road, Chisholm Avenue, Hilltop Road, Palmgrove Road, Old Barrenjoey Road, Whale Beach Road, Avalon Golf Course, and Stapleton Park, indicative of early settlement in the locality, have been identified as heritage items. Land in Ruskin Rowe, primarily the subdivision pattern, domination of vegetation over built form, wildlife corridor and lack of fences, has been gazetted as a heritage conservation area.*

*The locality is characterised by steep slopes to the south, northwest, and east of Careel Bay, leading down to the valley floor. Due to the topography, some significant views can be obtained to the north, east and west. Conversely, the slopes and ridge tops of the locality are visually prominent.*

*Much of the indigenous vegetation has been retained, particularly where there are large areas of open space, and there are significant wildlife habitats and corridors within the locality. The locality is well serviced by areas of open space including several large parks or bushland areas as well as many smaller reserves. These areas vary greatly from structured golf courses and playing fields to beaches, headlands, and natural bushland (such as Angophora Reserve).*

*The natural features of the locality result in a high risk of bushfire, landslip, flood, coastal (bluff) hazard,*

and estuary wave action and tidal inundation.

*The major roads within the locality are Barrenjoey Road, Avalon Parade, and Hudson Parade. Barrenjoey Road is the primary access road to the northern suburbs of Pittwater. Many pedestrian links and pathways exist within the locality, including the Bicentennial Coastal Walkway on the headland."*

#### Comments on Avalon Beach Locality:

The proposal has been considered in the context of the Avalon Beach Locality including the adjacent W1 Natural Waterways zone. The site contains some historical development being fibro outbuildings and foreshore structures that are characteristic of the locality. The former main dwelling that existed on proposed Lot 1 has been removed, however the foreshore setback area will remain substantially the same and the majority of the tree canopy conserved to retain the landscape character. The proposed subdivision pattern is consistent with the surrounding lot sizes and the use of a private road / driveway access will retain a landscape buffer along Cabarita Road.

The spatial separation shown for future building footprints within the site will minimise view impacts and also enable the development layout and site works to be respond to the topography of the site. The proposal is consistent with the Avalon Beach Locality to ensure the conservation of significant native vegetation, maintain wildlife habitat and provide future development that desired character for the area.

#### **Desired Character**

*"The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.*

*Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.*

*Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses.*

*Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.*

*Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. Special front building line setbacks have been implemented along Avalon*

*Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.*

*The design, scale and treatment of future development within the Avalon Beach Village will reflect the 'seaside-village' character of older buildings within the centre, and reflect principles of good urban design. External materials and finishes shall be natural with smooth shiny surfaces avoided. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.*

*A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors. The natural landscape of Careel Bay, including seagrasses and mangroves, will be conserved. Heritage items and conservation areas indicative of early settlement in the locality will be conserved, including the early subdivision pattern of Ruskin Rowe.*

*Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities."*

#### Comment on Desired Character:

The proposal is consistent with the desired low density residential character of the area to maintain a landscaped setting with a dominant tree canopy with dwellings of one or two storey appearance. The subdivision demonstrates that future housing and the building envelopes proposed will ensure articulated building forms that address the desired character. Environmental outcomes of responding to the natural slope, site features, landscape setting, foreshore areas and hazards have been addressed by the subdivision design to accommodate future housing development of the land, subject to conditions.

In this regard the subdivision layout, including roadworks, drainage, landscape work, access, new pathways and infrastructure will be appropriately co-ordinated with the pattern of proposed housing on the site, consistent with Avalon Beach Locality statement.

#### **Hazards, Natural Environment and Heritage**

##### Hazards

*"The Avalon Beach Locality is affected by various hazards. Land affected in the Avalon Beach Locality is shown on the hazard maps held in the offices of Council.*

##### Natural Environment

*The Avalon Beach Locality includes vegetation areas, threatened species, or areas of natural environmental significance. Land affected in the Avalon Beach Locality is shown on the natural environment maps held in the offices of Council.*

##### Heritage

*The Avalon Beach Locality may include Heritage items and/or conservation areas. Land affected in the Avalon Beach Locality is shown on the Heritage Map held in the offices of Council.*

*For Careel Bay a preliminary identification of these matters for consideration are listed in the Careel*

*Bay Masterplan."*

### Comment on Hazards, Natural Environment and Heritage

The potential coastal, drainage and geotechnical hazards have been considered in the context of the engineering plans, environmental reports and subdivision design. The proposal will not create any unreasonable risks to the property or natural environment subject to conditions as recommended.

The proposal responds appropriately to the natural environment having identified key vegetation areas of significance, topography and providing a suitable management framework (including Biodiversity Management Plan and Community Management Statement) to address environmental impacts.

There are no heritage listed items on the site however the proposal will retain some historical development features of the site including some sandstone steps, the sandstone seawall, 'boatshed' and principal buildings within proposed Lot 2 (Torrens). The scenic landscape significance of Careel Bay will remain consistent with broad pattern of urban development surrounding the site, including housing style and landscape setting of the dispersed tree canopy.

### **Careel Bay MasterPlan**

#### Outcomes

- *"To achieve the desired future character of the Locality.*
- *Development addresses the issues identified in the Careel Bay Masterplan.*
- *A sense of place is provided by acknowledging the setting, history, landscaping and character and to give residents a sense of belonging and community pride.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment.*
- *To ensure that development adjacent to Careel Bay compliments the landscape character, public use and enjoyment of the Bay.*

#### Controls

- *Development is to appropriately address the issues identified in the Careel Bay Masterplan."*

#### Comments on Careel Bay MasterPlan:

- The proposal is considered to be consistent with requirements to respond to relevant issues under the Masterplan, including biodiversity conservation, foreshore protection, environmental controls and visual impacts of development.
- The development addresses the relevant issues identified in the Masterplan by maintaining landscape setbacks, delivery of new contemporary housing and appropriate to the coastal setting and urban pattern.
- The proposed development acknowledges the natural setting of the site, history and landscaping and character by retaining the tree canopy of significant forest trees and preservation of the foreshore features such as the sandstone retaining wall, boat house and ensuring a landscape setting. The use of a Community Title scheme enables a co-ordinated and integrated framework for the long term environmental management of the site.
- The development is considered to respond appropriately to the DFC reinforcing the natural features of the site and relating development work to the spatial characteristics of the wider surrounding built and natural environment. The use of a private access road that minimises changes along Cabarita Road by locating garage access areas along the central area of the site

and retaining a landscape buffer along the public road frontage.

### **B3.10 Estuarine Hazard - Subdivision**

The subdivision involves minimal works within the foreshore area and stormwater / seawall reinstatement work is designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties. In this regard each dwelling be located above the Estuarine Planning Level. In summary, the proposal will not unreasonably affect estuarine processes, subject to conditions.

A Section 88B notation under the *Conveyancing Act 1919* is also proposed to be placed on the title for the foreshore Community Title Lots 6,7,8 and 9 to allow access along the seawall in order to address inappropriate foreshore modification works and allow essential maintenance of this estuarine area.

### **B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)**

The proposal has been considered in the context of potential climate change impacts, namely sea level change impacts and stormwater discharge along the foreshore of the property over the life of the development and adaptive and integrated measures are recommended to be incorporated in the design of the project such that access to the foreshore is easily available to address impacts that are managed under the Community Title subdivision. This is achieved an easement for access along the foreshore seawall.

### **B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community**

The proposal has been given detailed consideration with regard to minimising and ensuring no unreasonable adverse impact on Pittwater Spotted Gum Endangered Ecological Community in accordance with relevant environmental assessment requirements. Council's Natural Environment Unit has assessed the proposal including future landscaping, construction impacts, biodiversity and the surrounding environment. Conditions are recommended to ensure the proposal is consistent with the objectives of this DCP requirement.

Development includes provisions to restore and/or regenerate Pittwater Spotted Gum Endangered Ecological Community and provide links between remnant forest areas of the site including forest recovery provisions.

Substantial areas of the tree canopy will be retained to ensure no unreasonable long term loss of canopy or trees and replacement planting is appropriate for the site's biodiversity and remnant habitat including wildlife corridors. Conditions of consent are also included to provide restrictive use easements where the most valuable forest areas of Pittwater Spotted Gum Endangered Ecological Community are to be retained.

The proposal has included reasonable residential limitations on the keeping domestic animals that may threaten wildlife habitat. This is achieved by the Community Management Statement.

The proposed fencing is integrated with the landscaping concept for the subdivision and the development proposes at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community) where appropriate.

The proposal includes works that will address any existing environmental weeds issues to be managed and to protect the biodiversity of areas of Pittwater Spotted Gum Endangered Ecological Community.

#### **B4.15 Saltmarsh Endangered Ecological Community**

The proposed development will not create an unreasonable long term impact on the saltmarsh vegetation along the foreshore area that is characterised by sandflats and a partial beach area along the northern boundary. The adjacent Swamp Oak ecological community has also been considered in the context of future landscaping works to ensure appropriate planting to enhance the natural foreshore area.

Stormwater, wastewater and other drainage is disposed of through the new stormwater outlet that is within the Careel Bay foreshore area which will be repaired as part of the site works.

The site does not have any significant mangrove areas invading saltmarsh vegetation, and therefore no removal of mangrove areas is proposed.

Any works or activities proposed within the foreshore building line will be appropriately managed by an easement along the foreshore area ensuring ease of access to maintain the seawall area and restrict works that may also adversely affect adjacent saltmarsh vegetation.

#### **B6.2 Internal Driveways**

Concept design details have been provided to ensure access gradients and turning areas will be achieved during construction. The applicant has included swept paths for HRV (NSW Fire & Rescue vehicle) to demonstrate appropriate access and turn-around areas for such vehicles (including delivery or maintenance vehicles). The private road entry gate only defines the boundary of the property boundary and is freely operable by a push-button control and does not lock out vehicle access. Subject to conditions the final detailed civil design levels are appropriately managed at construction certificate stage.

#### **C1.3 View Sharing**

Detailed consideration of view sharing impacts is provided for the individual development applications of each dwelling house where views are a subject of concern for that respective dwelling. The subdivision works will not require any structures (retaining walls, fencing or the like) that will cause unreasonable view impacts on adjacent land pursuant to view sharing considerations outlined within *Tenacity Consulting v Warringah Council NSW LEC 140*. The broad layout of the subdivision, including building envelope area, setbacks, landscaping and spatial separation of buildings has been considered in term of view sharing. No significant change to the subdivision layout is proposed to create new view corridors or relocate / amalgamate any Lots due to existing views.

The proposed changes to selected dwellings to reduce encroachments within setback areas and the like are concurred with and will assist to address the detailed view issues made under the individual dwelling house development applications.

#### **C1.4 Solar Access**

Detailed consideration of solar access impacts is provided for the individual development applications of each dwelling house. The subdivision works will not require any structures (retaining walls, fencing or the like) that will cause unreasonable overshadowing of adjacent land.

#### **C1.7 Private Open Space**

The subdivisions plans include sufficient detail to show the intended building footprint shape for each

dwelling on the proposed residential lots. In this regard, each dwelling design and lot area has sufficient private open space to enable compliance with this requirement. For the proposed subdivision the potential impacts of private open space areas within the pittwater spotted gum forest habitat and saltmarsh habitat has been considered. Conditions included to ensure the appropriate management and restriction on use within these zones where private open space area are also located.

Therefore, subject to conditions the subdivision has demonstrated that private open space areas for the dwellings will not have an unreasonable impact on the natural environment.

#### **C4.4 Subdivision - Public Roads, Footpath and Streetscape**

The site has a frontage of 91.0 metres to Cabarita Road with a narrow roadside verge and only a short section of existing footpath. On the western side of the proposed private road entry Cabarita Road is supported by a 1m to 2m high retaining wall and toward the eastern side of the site the verge narrows to 1.5m. Therefore, the construction of a 1.5m wide footpath along the entire frontage is not practicable where it would require a cantilevered pavement, tree removal or reconstruction of retaining walls that support the road. In this regard, a 1.2m footpath is more appropriate to provide a safe pedestrian area and link to the nearest alternate bus stop (east).

The construction of a suitable footpath extension has been assessed by Council's engineering, traffic and landscaping sections and suitable conditions recommended to address works within the road reserve and compliance with Australian Standards.

#### **C5.18 Public Road Reserve - Landscaping and Infrastructure**

The requirements of this controls seek landscaping outcomes (such as street trees) and the provision of infrastructures for footpaths, footpaths and the like.

The provisions of this clause under the DCP also contains the following considerations:

*"Where the landscaping or infrastructure in the public road reserve currently exists, the requirements of this control in respect to the specific landscaping or infrastructure item need not apply.*

*Where landscaping or infrastructure in the public road reserve is located in steep terrain, the landscaping and infrastructure requirements will be considered on merit."*

The frontage of the site along Cabarita Road has narrow sections and steep land along the western part of the site. Part of the frontage also contains a narrow footpath section, however the replacement of the kerbside footpath with a 1.5m wide concrete path would require substantial engineering works above an existing retaining wall and is likely to adversely affect at number of large trees due to the guardrail and pavement support. In consideration of this a 1.2m footpath would be more appropriate with a raised kerb (deflective safety kerb). Along the eastern side of the site along Cabarita Road frontage the nature strip is suitable for a new concrete path and the roadside and a bus stop is located close by.

In accordance with the objectives and requirements of this clause it is considered that the proposal is satisfactory subject to conditions. This would involve less infrastructure work within the road reserve in order to lessen adverse environmental impacts, particularly to trees along the frontage.

#### **D1.11 Building envelope**

The side boundary envelopes are assessed in detail under the following applications

Community Title Lots:

- 1 - Not applicable: Road access / driveway and services Lot.
- 2 - Refer to detailed design for DA2019/1990
- 3 - Refer to detailed design for DA2019/1991
- 4 - Refer to detailed design for DA2019/1992
- 5 - Refer to detailed design for DA2019/1998
- 6 - Refer to detailed design for DA2019/1993
- 7- Refer to detailed design for DA2019/1994
- 8 - Refer to detailed design for DA2019/1995
- 9 - Refer to detailed design for DA2019/1996
- 10 - Refer to detailed design for DA2019/1997

Torrens Title Lots:

Existing dwelling complies on proposed Lot 2 (also nominated as Community Title Lot 11).

The ground level building envelope (footprint areas) are compliant with the P21 DCP minimum area requirements for each lot.

### **D15.18 Seawalls**

The subdivision has been assessed to ensure minimal adverse impact on the water quality hydrodynamics of the estuary area in front of the site along the seawall. Conditions are recommended to ensure appropriate access is provided for along the foreshore and not obstructed by structures or landscaping that would inhibit the maintenance and existing environmental continuity of the seawall or land-water interface. This is to be achieved via a narrow right of access along the landward side of the seawall and up to the northern boundary within the Community title Lots 6,7,8, and 9.

### **D15.22 Masterplan - Careel Bay**

Careel Bay Masterplan has been considered in the assessment of this report, including the desired outcomes, subdivision requirements, issue of public interest and the objectives of the zone.

Subject to conditions the proposal is consistent with the Masterplan.

### **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 \$21,907 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,190,660.

### **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

The subdivision has been designed to concentrate the majority of works generally within areas of the site that are already substantial disturbed from previous development / use. Accordingly the proposed lot areas and dimensions have been designed to allow for generous building envelopes to accommodate appropriately designed dwelling that are suitable for the site and that will be able to satisfy the DCP and LEP building controls.

The spacious lot layout will ensure the proposal remains consistent with the DFC and the long term integrity of the natural environmental values of the site. Issues of stormwater, private road construction, service infrastructure, landscape protection, visual impact, erosion control, access and environmental amenity have been addressed by the design assessment and conditions. These issues are supported by recommendations within the detailed environmental assessment reports prepared by the applicant in support of the application. Other issues raised by public submissions (including those made under the separate house development application) have been considered in the context of the subdivision works and addressed by conditions where appropriate for the subdivision.

The assessment of this application has identified a number of special site elements under the broader environmental matters considered. The site has some important natural features including areas of remnant Pittwater Spotted Gum Forest (PSGF), Swamp Oak Forest and foreshore areas. In this regard, restrictive easements are proposed to assist in the long term conservation and management of these areas, in a manner that is appropriate to the future development for housing on the site. Additional issues associated with site works near or within the road reserve have been addressed so that there will be no unnecessary clearing of trees along the road frontage, in order to maintain a landscape buffer to Cabarita Road. Sufficient details have also been provided by the applicant to ensure appropriate outcomes with the construction phase for civil works are managed to avoid any unreasonable impacts on surrounding residents as detailed within the recommended conditions of consent and application documents / reports.

Subject to conditions Council's Roads, Traffic and Waste engineers are satisfied with the subdivision proposal including the co-ordination of work between Torrens Title and Community Subdivision. Council's Natural Environment Units have provided suitable conditions to ensure appropriate mechanisms are available during works and for the long term by restrictions on title and a community management statement to manage conservation of remnant natural landscape values of the site.

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

**RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2018/1989 for Land subdivision of 4 Lots into 2 Torrens Title Lots to create 9 Community Title residential Lots with 1 Community Title access Lot, including landscaping, roadworks, services infrastructure and ancillary site works on land at 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, Lot 9 DP 629464, 104 Cabarita Road, AVALON BEACH, subject to the conditions printed below:

**DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

1. **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

<b>Subdivision Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Administration Sheets 1 to 2	Received October 2019	Paul Barry Byrne Surveyor
Proposed Torrens Title Subdivision Plan Proposed Lot 1 and Lot 2 (Sheet 1 of 1)	Received October 2019	Paul Barry Byrne Surveyor
<b>Community Title Subdivision of Proposed Lot 1 - Endorsed with Council's stamp</b>		
Administration Sheets 1 to 3	Received October 2019	Paul Barry Byrne Surveyor
Proposed Community Title Subdivision Location Diagram Proposed Community Scheme (Sheet 1 of 3)	Received October 2019	Paul Barry Byrne Surveyor
Proposed Community Title Subdivision Detail Plan Proposed Community Scheme (Sheet 2 of 3)	Received October 2019	Paul Barry Byrne Surveyor
Proposed Community Title Subdivision Neighbourhood Property Plan Proposed Community Scheme (Sheet 3 of 3)	Received October 2019	Paul Barry Byrne Surveyor

A002 B Building Footprint Plan*	September 2019	Mark Hurcum Design Practice
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\*Concept outlines, subject to separate development approvals for Community Lots 2 to 10.

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Pr</b>
SK06 Council Footpath Concept	20.6.2019	NE
C01 to C06 Road and Driveway Access (Sheets 1 to 6)	28.11.2018	NE
C07 to C13 Longitudinal Sections (Sheets 1 to 7)	28.11.2018	NE
D01 Site Stormwater Drainage	6.12.2018	NE
D02 Catchment Plan	6.12.2018	NE
D03 Stormwater Drainage Notes	6.11.2018	NE
D04 Stormwater Drainage Details Sheet 1	6.11.2018	NE
D05 Stormwater Drainage Details Sheet 5	6.11.2018	NE
D06 Soil and Water Management Plan	6.12.2018	NE
D07 Soil and Water Management Sheet 1	4.12.2018	NE
D08 Soil and Water Management Sheet 2	4.12.2018	NE
B01 Road and Driveway Access Plan	15.11.2018	NE
B02 Road and Driveway Access Plan	15.11.2018	NE
B03 Road and Driveway Access Plan	15.11.2018	NE

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Draft Section 88B Subdivision (Terms of easements / restrictions / covenants intended)	Received 19.12.2018	Applicant
Community Management Statement 2952260_3	12.12.2018	Applicant
Biodiversity Management Plan - Maintenance Manual	5.4.2019	GIS Environmental Consultants
Biodiversity Management Plan - Sheet 1 (Part 1a) - Ecological Works During Construction	5.4.2019	GIS Environmental Consultants
Biodiversity Management Plan - Sheet 2 (Part 1a) - Ecological Works During Construction (Including Attachment A and B)	5.4.2019	GIS Environmental Consultants
Biodiversity Management Plan - Lot 2 (Part 1b) - Ecological Works During Construction	5.4.2019	GIS Environmental Consultants
Geotechnical Risk Assessment 31842BMrpt Rev2	30.11.2018	JK Geotechniks
Biodiversity Development Assessment Report		GIS Environmental Consultants

Recommendations Section 7.3 and 7.4		
Estuarine Risk Management Report Recommendations Section 7	10.12.2018	Horton Coastal Engineering
Staging Detail for Project Ecology Works	12.9.2019	GIS Environmental Consultants

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
SK2019 A/P1 Foreshore Access Stairs and Boatshed Plan Detail	September 2019	Mark Hurcum Design Practice
Sht 101 Landscape Masterplan	28.11.2018	Jamie King Landscape Architect
Sht 111 Landscape Masterplan	28.11.2018	Jamie King Landscape Architect
Sht 112 Landscape Masterplan	28.11.2018	Jamie King Landscape Architect
Sht 113 Landscape Masterplan	28.11.2018	Jamie King Landscape Architect
Sht 402 Landscape Masterplan Materials Palette	28.11.2018	Jamie King Landscape Architect
Sht 101 Landscape Masterplan Plant Palette	28.11.2018	Jamie King Landscape Architect

<b>Construction and Waste Management Plans</b>		
<b>Document / Plan No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Construction and Site Management Plan	November 2018	Applicant
Construction Traffic Management Plan 152-17 (CTMP)	November 2018	Urban Research and Planning
Waste Management Plan*	Received 19.12.2018	Mark Hurcum Design Practice
SK208 Removed Canopy	November 2018	Mark Hurcum Design Practice
SK209 Replacement Canopy Plan	November 2018	Mark Hurcum Design Practice
SK210 Waste Management Site Plan*	November 2018	Mark Hurcum Design Practice
SK211 / B Waste Storage Area*	15.7.2019	Mark Hurcum Design Practice
A004 Demolition Plan	November 2018	Mark Hurcum Design Practice
A005 / B Site Plan	September 2019	Mark Hurcum Design Practice

A006 / B Driveway Plan	September 2019	Mark Hurcum Design Practice
A007 Site Services Plan	November 2018	Mark Hurcum Design Practice

\*Refer to conditions for changes required by conditions for the construction certificate.

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
Aboriginal Heritage Office	Referral Response Aboriginal Heritage Office	14.1.2019
Natural Resources Access Regulator	General Terms of Approval (Water Management Act 2000)	6.5.2019

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) Where applicable to the subdivision, 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) Where applicable to the subdivision, 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 Subdivision 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.

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

## 5. **Policy Controls**

### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$21,906.60 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 \$2,190,660.00.

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](http://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](http://www.northernbeaches.nsw.gov.au)).

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

## 7. **Construction, Excavation and Associated Works Bond (Drainage)**

A Bond of \$100,000 as security against any damage or failure to complete the construction of

Stormwater drainage works that reverts to Council's care and control as part of this consent.

Reason: Protection of Council's Infrastructure

8. **Construction, Excavation and Associated Works Bond (Crossing / Kerb)**

A Bond of \$30,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

Reason: Protection of Council's Infrastructure

9. **Construction, Excavation and Associated Works Bond (Maintenance for civil works)**

The developer/applicant must lodge with Council a Maintenance Bond of \$10,000 for the construction of drainage infrastructure works. The Maintenance Bond will only be refunded on completion of the six month Maintenance Period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion and may be exchanged for the works bond.

Reason: To ensure adequate protection of Council infrastructure.

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

10. **Public Road Reserve Landscaping and Infrastructure**

Details are to be provided to demonstrate the following road reserve landscaping and infrastructure requirements will be completed as part of the proposed roadworks:

i) The footpath is to include a design for access to both existing bus stops. The design must include the proposed undergrounding of the existing electrical lines to ensure there is no conflict with any retaining structures or trees.

ii) A 1.2m wide footpath, for the full width of the road reserve and extended to the existing bus stop fronting No. 110 Cabarita Road is required in accordance with Council specifications. Detailed design documents shall be provided indicating the nature of construction, surface finish, and proposed levels, to ensure protection of the existing trees located within the road reserve, identified as T18, T164, and T167.

iii) Pier footing construction techniques within the tree protection zone shall be applied in the vicinity of existing trees as determined by a AQZ level 5 arborist with qualifications in horticulture/arboriculture.

iv) A Arboricultural Impact Assessment shall be submitted as part of the Construction Certificate indicating suitable locations for pier footings.

vi) All remaining areas within the road reserve shall be turfed with Couch species (weed free) and finished with an even grade to a maximum 4% grade.

vii) All work within the road reserve is subject to a Section 139 approval (Roads Act 1993) being made from Council.

Reason: To enable the long term retention of the desired streetscape amenity.

11. **Stormwater Disposal**

Stormwater from the site shall be disposed of to the existing piped Council drainage system burdening the site in accordance with Northern Beaches Council's Pittwater 21 DCP 2014 Clause B5.10.

A certificate of compliance and drainage plans are to be provided to the Certifying Authority with the Construction Certificate application by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field for the drainage system.

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 development.

12. **Geotechnical Report Recommendations 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, Report Number 31842BMrpt 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 for the Community Title Subdivision.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **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 *Roads and Maritime Service* 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.

14. **Amendments to the Approved Plans**

The following additional positive covenants are to be shown on the subdivision plans:

Foreshore Protection - Easement

A) An easement, variable width, between the between mean high watermark boundary and 2.0 metres (m) from the landward side of the the existing sandstone sea wall is to be provided. The easement is to be freely accessible from proposed Lot 1 Community Lot (boat storage area) across Community Lots 6, 7, 8 & 9, benefiting Community Title Lot 1. The terms of the easement shall limit fencing, landfill, boat ramps and works that would hinder access to maintaining ease of access and maintenance of the sandstone seawall.

Reason: Access, maintenance and protection of the seawall from stormwater erosion and sea level impacts.

Environmental Protection Area

B) An easement for restriction on use is to be provided for the "Environment Protection Area" (1125 square metres) as outlined on Figure 1.5 of the *Conservation Management and Landscape Area*, drawn by GIS Consultants, dated 29.11.2018. The terms of the easement shall limit the construction of domestic structures (including any exempt and complying development) land filling, excavation or the removal of any native trees that is not in accordance with the conditions of this development consent.

Reason: Conservation of Pittwater and Wagstaff Spotted Gum Forest from key threatening processes.

#### Restricted Development Area

C) An restricted development zone (for PSGF conservation EEC) of approximately 595 square metres, is to be provided generally south of the existing 'boatshed building' within Proposed Lot 2 (Torrens Title) and generally between the proposed foreshore access pathway and the existing principal dwelling on Proposed Lot 2 (Torrens title). The terms of the easement shall limit the construction of domestic structures / buildings without the required development consent where required by Council. Council shall be empowered to vary or amend the terms of the development restriction.

Reason: Conservation of remnant Pittwater and Wagstaff Spotted Gum Forest within the subject land.

#### 15. **Service Infrastructure**

Details of provisions to comply with service infrastructure requirements are to be provided to accompany the Construction Certificate plans for roadworks within Community Lot 1, including *NSW Guidelines for fire hydrants for minor residential development*, services for electricity, water, gas and telecommunications, as applicable.

Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate for road works within Community Lot 1.

Reason: Integration of essential services during construction.

#### 16. **Submission of Engineering Plans**

Engineering plans including specifications and details of the internal driveway, utility services, inter-allotment drainage system and the stormwater quality treatment system which are to be generally in accordance with the civil design approved with the Development Application, Pittwater 21 DCP 2014, Council's specification for engineering works - AUS-SPEC #1 and any relevant service authority guidelines are to be submitted to the Certifying Authority with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with the above requirements.

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

Reason: To ensure compliance with Council's specification for engineering works.

#### 17. **Sydney Water (Fire Hydrant System)**

Subdivisions involving the creation of private roads are to be serviced with fire hydrant systems to ensure that coverage of no less than 90 metres is maintained to all areas of the

development.

(Note: The fire hydrants are to be installed in accordance with all relevant Australian Standards and the requirements of the Sydney Water Authority and the NSW Fire Brigades.)

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

Reason: NSW Fire Brigades Requirement.

18. **Submission Roads Act Application for Civil Works in the Public Road**

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of the footpath including any retaining walls through the nature strip, kerb and gutter with a suitable designed barrier and/or deflective kerb and the driveway crossing which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and Pittwater 21 DCP 2014. The plans and details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the field, confirming that the plans/details comply with the above requirements.

The design must include the following information:

1. 1.2 metre wide footpath at the back of the kerb along the frontage of the site and up to the existing bus stop fronting No. 110 Cabarita Road to the east of the frontage.
2. Kerb and Gutter reconstruction along the frontage of the site. The design shall include some form of deflection to prevent vehicles mounting along the curved section and include any pedestrian barrier as required.
3. Any pier and beam or retaining wall details for the proposed footpath construction.
4. Concrete access path from the bin area to the proposed footpath.
5. 6 metre wide driveway crossing.
6. A *Disability Discrimination Act* compliant bus stop.

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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure works in the road reserve are designed in accordance with Council's specifications.

19. **Vehicle Driveway Gradients**

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

Reason: To ensure suitable vehicular access to private property.

20. **Utilities Services**

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Certifying

Authority that

- (a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development; and
- (b) Evidence that notification has been received from a utility provider that requirements for the development can be provided.

Reason: To ensure that services can be provided as required by this Consent

21. **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.

22. **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.

23. **Construction Management Program**

An application for Traffic Management Plan is to be submitted to Council for approval. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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 in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community

24. **Design of the bio-retention basin**

The design of the bio-retention basin must be revised to incorporate a splitter in the upstream pit that spreads upstream flows to all three basins.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate. Certification is to be provided by a suitably

qualified and experienced Water Engineer.

Reason: To reduce the necessity for frequent maintenance of the basin.

25. **Stormwater Drainage Application**

A Stormwater drainage application under Section 68 of the Local Government Act 1993 is to be submitted to Council for the proposed trunk drainage system within the site. The submission is to include four (4) copies of Civil Engineering plans, specifications and details of the drainage system which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The design is to include the following:-

1. The minimum pipe size of the drainage system is to be 675mm diameter.
2. The pipeline is to be Concrete Rubber Ring Jointed with a minimum Class of 3.
3. All pipe joints are to include bulk heads.
4. Where the outlet is to be replaced the design is to be in accordance with the design principles in Controlled Activities on Waterfront Land: Guideline for outlet structures on waterfront land (NSW Office of Water, July 2012)
5. Pit details for cast insitu style pits.
6. A drainage easement 2.5 metres wide centrally placed over the new drainage line.

The form can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/stormwater-drainage-approval/4022-stormwater-drainage-approval.pdf>

The fee associated with the assessment and approval of the application is to be in accordance with 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 appropriate provision for disposal and Maintenance Stormwater management and compliance with the BASIX requirements, arising from the development.

26. **Tree Protection Plan**

a) Tree Protection Plan prepared by a AQZ Level 5 Arborist with qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority prior to the release of the Construction Certificate for civil works for the community title subdivision documenting the following:

- i) layout of the development and location of all trees identified for retention,
- ii) location of tree protection fencing, ground and trunk protection in accordance with AS2470-2009,
- iii) general tree protection measures

b) The identified Environmental Protection Area as indicated within the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants shall be fenced with 1.8m high standard chain wire construction fencing at the commencement of works and shall remain in place until all landscape works are complete. The only works permitted within the fencing area is approved tree removal and canopy tree planting. The Arborist shall determine the alignment of the protection fencing in consideration of site gradients, setbacks from existing

trees, and a setback to facilitate future lot development.

c) Any existing tree proposed for retention between the protection fencing and the future lot development footprint, if unable to be included within the fencing, shall be protected by trunk and ground protection measures in accordance with AS2470-2009.

d) Certification shall be provided to the Certifying Authority prior to Construction Certificate that the Tree Protection Plan addresses all tree protection measures to ensure the preservation of the existing trees nominated for retention.

e) The proposed canopy tree planting within the Environmental Protection Area shall be undertaken under the supervision of an Arborist or Ecologist.

f) Tree protection measures identified on the Tree Protection Plan are to be in place prior to commencement of works.

Reason: to retain and protect significant planting on the site.

27. **Restricted Development Area**

Prior to the issue of the Construction certificate for the community title works, the extent of the Restricted Development area (for conservation purposes of remnant PSGF Endangered Ecological Community) within proposed Lot 2 (Torrens - Stage 1 subdivision) must be surveyed and marked on a Plan.

The survey must be undertaken by a registered surveyor and Plan prepared to the satisfaction of Council's Manager Bushland & Biodiversity.

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

Reason: Bushland Protection.

28. **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 (DACNECPCC1)

29. **Like for like credit retirement conditions - Species credit retirement conditions**

Prior to issue of the relevant construction certificate the class and number of species credits in Table 3 must be retired to offset the impacts of development.

The requirement to retire credits outlined in Table 3 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 3 requirements must be provided to the Manager Bushland & Biodiversity of Northern Beaches Council prior to release of construction certification.

**Table 3 Species credits required to be retired – like for like**

Impacted species credit species	Number of species credits	IBRA sub-region
Chalinolobus dwyeri/ Large-eared Pied Bat	11	Pittwater
Myotis macropus/ Southern Myotis	7	Pittwater
Syzygium paniculatum / Magenta Lilly Pilly	2	Pittwater

**Reason:** To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme

30. **Variation rule credit retirement conditions - Species credit retirement conditions**  
Prior to issue of the relevant construction certificate the class and number of species credits in Table 4 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 4 requirements is to be provided to the Manager Bushland & Biodiversity of Northern Beaches Council prior to release of construction certification.

**Table 4 Species credits required to be retired – variation rules**

Impacted species credit species	Number of species credits	IBRA sub-region
Chalinolobus dwyeri/ Large-eared Pied Bat	11	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo.
Myotis macropus/ Southern Myotis	7	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo.
Syzygium paniculatum/ Magenta Lilly Pilly	2	Pittwater

**Reason:** To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme

31. **Notification of determination to which the Biodiversity Offset Scheme applies**

The applicant, or Project Ecologist on behalf of the applicant, must download and complete the “Biodiversity Offsets Scheme – Notification of Determination” form.

The completed form and attachments, including a copy of the determination and any conditions of approval, must be emailed to NSW DPIE <bam.support@environment.nsw.gov.au>. The Department arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council's Manager Bushland & Biodiversity and the Principal Certifying Authority must be copied into the notification email to confirm compliance.

Reason: To ensure the NSW Department of Planning, Industry and Environment are notified of determinations where the Biodiversity Offsets Scheme applies, and Council are notified for compliance.

32. **Like for like credit retirement conditions - Ecosystem credit retirement conditions**

Prior to issue of the relevant construction certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland & Biodiversity of Northern Beaches Council prior to release of construction certification.

**Table 1 Ecosystem credits required to be retired – like for like**

<b>Impacted Plant Community Type</b>	<b>TEC</b>	<b>Number of ecosystem credits</b>	<b>Conta HBT</b>
1214-Spotted Gum - Grey Ironbark open forest in the Pittwater and Wagstaffe area, Sydney Basin Bioregion	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	7	YES

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

33. **Variation rule credit retirement conditions - Ecosystem credit retirement conditions**

Prior to issue of the relevant construction certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 2 requirements is to be provided to the Manager Bushland & Biodiversity of Northern Beaches Council prior to release of construction certification.

**Table 2 Ecosystem credits required to be retired – variation rules**

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Approved variation plant community type(s) that be used to offset the impacts from development
1214-Spotted Gum - Grey Ironbark open forest in the Pittwater and Wagstaffe area, Sydney Basin Bioregion	7	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo.  or  From a location within 100km of the impact site	Any PCT from Wet Sclerophyll Forests (Grassy subformation), Tier 3 or higher, containing HBT (including artificial)

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme

**34. Estuarine Hazard Design Requirements**

The following applies to all development:

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes; they will not reduce access to or diminish the amenity of adjoining public foreshore land.

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

**35. Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of RL 3.2m AHD has been independently derived for the subject site as outlined in the approved Estuarine Risk Management Report, prepared by Horton Coastal Engineering Pty Ltd dated 10 December 2018, and shall be applied to all development proposed below this level as follows:

- All structural elements below RL 3.2m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above RL 3.2m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below RL 3.2m AHD.

Reason: To ensure aspects of the development that may be affected by estuarine processes are built at the appropriate level.

**36. Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the approved Estuarine Risk

Management Report prepared by Horton Coastal Engineering Pty Ltd, dated 10 December 2018, including the recommendation to repair the existing seawall to rectify voids and prevent migration of soil through the wall, and these recommendations are to be incorporated into construction plans and engineering specifications as necessary.

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

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

37. **Structural Engineering Design for the Repair of the Existing Seawall**

Structural engineering design for the repair of the existing seawall shall be prepared by a civil or structural engineer, with input as necessary from a specialist coastal engineer who is a registered engineer with chartered professional status and coastal engineering as a core competency, to ensure that the repaired seawall is able to withstand likely loadings and wave impact/over-topping forces for its intended design life.

Reason: To ensure that structural engineering design and specifications are prepared by appropriately qualified professionals

38. **Engineers Certification of Structural Engineering Plans**

The structural design for the seawall repairs shall be prepared by and each plan/sheet signed by, a registered professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure structural engineering design and specifications are prepared by an appropriately qualified professional

39. **Project Ecologist**

A 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/find-a-consultant/>) OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016 (<https://customer.lmhc.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.

40. **Implementation of Biodiversity Management Plan**

All requirements in the Biodiversity Management Plan (GIS Environmental dated 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.

41. **Native Vegetation Protection Covenant**

Areas of retained native vegetation and trees and are to be protected, conserved, rehabilitated and managed through the use of a Section 88B (Conveyancing Act 1919) Instrument in which Northern Beaches Council shall be named as the sole authority to release or modify the restriction.

The instrument is to be written and registered on the title so that the owners are bound to manage and protect the areas in perpetuity according to

- the area mapped on Lots 2 - 5 as Environment Protection Area in Figure 1.5 of the Biodiversity Development Assessment Report (GIS Environmental) prepared for the approved development.

The draft instrument is to be acceptable to Council prior to the issue of the Construction Certificate and lodgement with the NSW Department of Lands.

Reason: To protect native vegetation proposed for retention in accordance with relevant Natural Environment LEP/DCP controls.

42. **Amend Biodiversity Management Plan**

The Biodiversity Management Plan Parts 1 & 2 and Ongoing Maintenance Manual, submitted in conjunction with the approved Development Application and as amended by these conditions of consent, is to be amended to include the Environment Protection Area.

The BMPs are to be amended and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

43. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards where works are applicable.

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. (DACPLC02)

44. **Construction Traffic Management Plan.**

As a result of the site constraints, limited vehicle access and parking, the submitted Construction Traffic Management Plan (CTMP) and report shall reviewed by an RMS accredited person and submitted to and approved by the certifying Certifying authority Authority prior to issue of the Construction Certificate for any civil works for the Community Title subdivision.

The CTMP must be revised address following (where not already included):-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements

on how various stages of construction will be undertaken;

- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and

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

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

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a

manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.  
(DACTRCPC1)

45. **Submission of Engineering Plans**

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of:

- Footpath Construction along the site frontage connecting to the nearest Bus Stop toward the south-east.
- Upgrade of the Bus Stop to the south-east to be DDA compliant.

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the community title subdivision.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval.

Note: This condition does not require footpath construction to the west (refer to condition 1) in order to minimize tree removal impacts that would occur along the supporting road frontage infrastructure / retaining wall.

Reason: To ensure compliance with Council's specification for engineering works.  
(DACTRCPC2)

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

46. **Project Arborist**

A Project Arborist with AQZ Level 5 qualification in horticulture/arboriculture is to be appointed to provide tree protection measures recommendations on site to any subdivision works in the vicinity of the following trees that are proposed for retention by the Tree Assessment and Development Impact Report prepared by *Growing My Way* and the *Biodiversity Development Assessment Report* prepared by GIS Environmental Consultants, including trees numbered as follows:

- 1, 2, 3D, 3E, 3F, 3G, 3H, 4, 4B, 7C, 7D, 7F, 8, 11, 11B, 20, 21A, 27, 27A, 31, 36, 40, 41, 45, 46, 47, 49, 54, 55, 56, 61, 62C, 66, 69A, 69E, 69i, 70A, 82A, 89K, 90A, 90B, 91, 92, 95, 96, 97, 100, 101, 102, 102A, 103, 104, 104A, 104D, 104E, 118, 119, 119B, 128C, 129, 130, 130B, 131, 133, 134B, 139B, 140, and the following cabbage tree palms UN1, UN3 and UN4,
- all existing trees proposed for retention within the 'Environmental Protection Area', as nominated in the *Biodiversity Development Assessment Report* prepared by GIS Environmental Consultants.

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

Note: The Project Arborist 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.

47. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

48. **Approved Tree Removal**

Approval is granted for the removal of the following existing trees as assessed by the *Tree Assessment and Development Impact Report* prepared by Growing My Way and the *Biodiversity Development Assessment Report* prepared by GIS Environmental Consultants, as follows:

- 3, 3b, 3c, 7g, 22, 22B, 22C, and 22E, 44, 47A, 67A, 67B, 69C, 69D, 71C, 84B, 86, 89F, 90, 92A, 93, 94, 94A, 94B, 95A, 95B, 95C, 103, 116, 117, 118A, 138, 139, stag 1, and stag 2.
- all existing trees proposed for removal within the Environmental Protection Area, as nominated in the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants.
- all Exempt Species including: 1b, 3i, 5b, 22A, 49D, 62, UN, 68B, 69, 70B, 71, 71B, group of 91A to E, 91F, 101B, UN5, the numerous Phoenix palms, and the two large clumps of *Strelitzia nicolai*; and
- all priority weed species under the Biosecurity Act and shall be removed to prevent its spread, including UN2 and 7G (African Olive).

Reason: Assessed tree removal works.

49. **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.

50. **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

51. **Progress Certification (Road & Subdivision)**

Written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Principal Certifying Authority for the following stages of works.

- (a) Silt and sediment control facilities
  - (b) Laying of stormwater pipes and construction of pits
  - (c) Proof Roll - AUSPEC Standard
  - (d) Sub-grade trimmed and compacted \*\*
  - (e) Base-course laid and compacted \*\*
  - (f) Kerb and gutter construction
  - (g) Pavement
  - (h) Landscaping and vegetation
  - (i) Clean-up of site, and of adjoining Council roadway and drainage system.
  - (j) All layers of the road formation are to be proof rolled to Council's satisfaction
- (\*\*To be tested by a recognised N.A.T.A. approved laboratory).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works

52. **Civil Works Supervision**

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority

Reason: To ensure compliance of civil works with Council's specification for engineering works.

53. **Notification of Inspections for Public Drainage and Road Works**

Council's Development Engineer is to be given 48 hours notice when the works for the trunk drainage line and works within the road reserve reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter, footpath and driveway crossing
- (e) Subgrade level / basecourse level / subbase
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of

Council and receipt of the required certification.

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

54. **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

55. **Vehicle Crossings**

The provision of one vehicle crossing 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and specifications. 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.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

56. **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.

57. **Excavation and Erosion Control**

The following measures shall be implemented in the sequence given below, to minimise soil erosion:

Approved runoff and erosion controls shall be installed before site vegetation is cleared (other than that associated with the construction of the controls). These shall be as shown on an ESCP approved by council. Topsoil shall be stripped only from approved areas and stockpiled for re-use during site rehabilitation and landscaping. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, waters, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned. All stockpiled materials are to be retained within the property boundaries. Uncontaminated runoff shall be intercepted up-site and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised. Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, or other sediment escaping from the site or entering any downstream drainage easements or waters. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to conform to the specifications and standards quoted and to any conditions of approval of those measures. Measures shall be applied, to the satisfaction of council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development. Measures required in permits issued under the Rivers and Foreshores Improvement Act shall be

implemented. This Act requires that people obtain approval for any proposed excavation or fill in or within 40 metres of a watercourse. Permits should be sought from the Department of Natural Resources.

Reason: To minimise soil erosion

58. **Safety Fencing of Excavation and/or demolition**

The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

Reason: To ensure private and public safety

59. **Temporary Sediment**

Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

Reason: To reduce erosion and prevent sediment runoff into public assets

60. **Maintenance of Sediment**

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

61. **Erosion and Sedimentation Responsibilities**

Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.

Reason: To ensure sediment and erosion controls comply with standards

62. **Site Entry Access way**

An all-weather access way at the front of the property consisting of 50-75 millimetres (mm) aggregate or similar material at a minimum thickness of 200mm and 15 metres long laid over geotechnical fabric is to be constructed prior to commencement of works and maintenance over the works period.

Reason: To reduce sediment being taken offsite

63. **Cleaning of Vehicles Leaving Site**

Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

Reason: To reduce sediment being taken offsite

64. **Noise and Vibration**

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations

Reason: To ensure the amenity of the surrounding area for residents

65. **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

66. **Site filling - Virgin Excavated Natural Material (VENM)**

Where site fill material is necessary, fill materials must:

1. be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997
2. be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.
3. Certification is to be provided to the Principal Certifying Authority by a N.A.T.A. approved laboratory.

Reason: To ensure protection of the natural environment

67. **Soil and Water Management Plan Implementation**

All site drainage and sediment and erosion control works and measures as described in the Soil and Water Management Plan, the Construction and Site Management Plan and any other pollution controls as required by these conditions must be implemented prior to commencement of any work at the site and maintained until all development activities, including those for individual dwellings, have been completed and the site is sufficiently stabilised.

Reason: Protection of the receiving environment

68. **Tree and Vegetation Protection**

The following tree and vegetation protection requirements are to be satisfied:

- a) Existing trees and vegetation shall be retained as listed in the Tree Assessment and Development Impact Report prepared by Growing My Way and the *Biodiversity Development Assessment Report* prepared by GIS Environmental Consultants, as follows:
  - i) all trees and vegetation within the site, nominated for retention identified below in item v), excluding exempt trees under the relevant planning instruments of legislation (unless conditioned otherwise),
  - ii) all other trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation,
  - iv) exempt tree number 61: Hills Weeping Fig located within Lot 6 shall be retained,
  - v) the following existing trees shall be retained:
    - o 1, 2, 3D, 3E, 3F, 3G, 3H, 4, 4B, 7C, 7D, 7F, 8, 11, 11B, 20, 21A, 27, 27A, 31, 36, 40, 41, 45, 46, 47, 49, 54, 55, 56, 61, 62C, 66, 69A, 69E, 69i, 70A, 82A, 89K, 90A, 90B, 91, 92, 95, 96, 97, 100, 101, 102, 102A, 103, 104, 104A, 104D, 104E, 118, 119, 119B, 128C, 129, 130, 130B, 131, 133, 134B, 139B, 140, and the following cabbage tree palms UN1, UN3 and UN4,

- all existing trees proposed for retention within the Environmental Protection Area, as nominated in the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants.

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, including the provision of temporary fencing and ground protection to protect existing trees within 5 metres of development,
- ii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) 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,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) 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,
- x) 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,
- xi) 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.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

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

#### 69. **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.

70. **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.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls (DACNEEDW1)

71. **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

72. **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.

Reason: To protect native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNEEDW2)

73. **Traffic Management**

Traffic management procedures and systems must be in place and practiced during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Consent Authority.

Reason: To ensure pedestrian safety and continued efficient network operation. (DACTREDW1)

74. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan prepared by *Mark Hurcum Design Practice* dated 12.12.2018

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

75. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.  
(DACWTE02)

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

76. **Maintenance of Tree Planting**

Tree planting works shall be maintained for a minimum period of 12 months following practical completion. If any tree required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme.

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

77. **Environmental and priority Weed Control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: preservation of environmental amenity.

78. **Maintenance of Stormwater Quality System**

The stormwater quality system must be maintained at all times in accordance with the Stormwater Quality Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Reason: Protection of the receiving environment.

79. **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](http://www.pittwater.nsw.gov.au/environment/noxious_weeds)

**Reason:** Weed management.

80. **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.

81. **Aboriginal Heritage**

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.

82. **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 in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016

83. **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

84. **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

85. **Existing Outbuildings**

The existing outbuildings identified as the "Boatshed", adjacent two-storey fibro building and "Careel Chale", shown on the survey plans are not to be used as habitable dwellings without any lawful development consent for residential use.

Reason: Prevent unauthorized use of outbuildings for habitable purposes. (DACPLGOG1)

86. **Emergency Access**

The private road access (Community Lot 1, including associated vehicle rights of way) shall be maintained to enable immediate access through the entry gates and appropriate access for *NSW Fire and Rescue* or other emergency vehicles at all times, and ensure such vehicles can enter and leave the site in a forward direction.

Reason: Requirements in accordance with *NSW Guidelines for Emergency Vehicle Access* (DACPLGOG2)

**CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE**

87. **Certification of Council Drainage Works and Works as Executed Data within Private Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 68 approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage plan) certified by a registered surveyor in relation to boundaries and/or relevant easements prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' within the subject site, shall be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance of drainage works with Council's specification for engineering

works.

88. **Certification of Civil Works and Works as Executed Data on Council Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance of works with Council's specification for engineering works.

89. **Provision of Services for Subdivision**

The applicant is to ensure all services including, water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots

90. **Right of Carriageway**

A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument to include all vehicular access and manoeuvring areas. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919

91. **Restriction as to User for Vehicular Access**

A restriction as to user shall be incorporated in the title of Lots 2, 3, 4 and 5 of the community title subdivision that shall preclude those lots from utilising their frontage for vehicular traffic except for the section created as a Right of Carriageway. The wording of the restriction of use is to be prepared by a surveyor, with terms acceptable to Council.

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

Reason: To ensure compliance with Council policy for vehicular access.

92. **Certification of Stormwater Management System (New Subdivision)**

A Certificate is to be submitted by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Principal Certifying Authority that the stormwater management system has been constructed in accordance with the plans nominated on the Development Consent and relevant conditions of Development Consent. The Subdivision Certificate will not be released until this certification has been submitted and the Principal Certifying Authority has confirmed that this condition has been satisfied.

Reason: To ensure the Stormwater Management System has been built to the appropriate standards.

93. **Stormwater Drainage and Utility Services Plan**

A plan of subdivision identifying the location of water, gas, telephone, electricity and stormwater drainage in relation to boundaries and/or relevant easements, prepared by a registered surveyor is to be submitted to Council. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that services have been provided with appropriate easements as required by the Conveyancing Act 1919

94. **Survey Plan - Construction Identification**

A declaration by a registered surveyor shall be provided to Council as evidence that all construction has been effected within the appropriate property, easement boundaries and rights of carriageway. This shall be in the form of a copy of the final subdivision or easement plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the surveyor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure accurate location of buildings, access and services

95. **Sydney Water Compliance Certification**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

96. **Easement for Drainage**

An easement for drainage (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision the accompanying 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919

97. **Easement to Drain Water - Channel/Floodways**

An easement to drain water 2.5 metres wide in favour of Council centrally located over the trunk drainage line traversing the site. The easement is to be detailed on the final plan of subdivision.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior

to the issue of the Subdivision Certificate.

Reason: To identify Council drainage infrastructure on the property title.

98. **Easement for Services**

An easement for services (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure all utility services are located within the appropriate easement(s).

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919

99. **Electrical Substations**

The applicant shall dedicate the land required for an electricity sub-station as a public road, if requested by the energy authority. The dedication is to be detailed on the final plan of subdivision, to be submitted to Council with the application for a Subdivision Certificate.

Reason: To comply with statutory requirements of the energy authority

00. **Internal Driveway Compliance Certification**

The internal driveways must be certified by a qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Private Certifying Authority that the internal driveway has been constructed in accordance with the approved plans and relevant conditions of Development Consent.

Reason: To ensure internal driveways are constructed to standard specifications.

01. **Subdivision Certificate Applications**

The proposed subdivision is phased (staged) in two parts. The first stage / phase involves the subdivision of existing lots 8 and 9 in D.P.629464 and Lots 14 and 15 in D.P.858130 to create two lots. The second stage / phase involves the re-subdivision of lot 1 created in stage 1 into a Community Title subdivision creating 10 lots.

Stage / Phase 1 Application

The applicant shall submit a completed Subdivision Certificate form, a final plan of subdivision, administration sheet and associated 88b instrument prepared in accordance with the requirements of the Conveyancing Act 1919. Four copies of the final plan of subdivision and two copies of the administration sheet and 88b instrument are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks.

The fee payable is to be in accordance with Council's fees and charges.

Stage / Phase 2 Application

The applicant shall provide evidence of the creation of the subdivision certificate application for Stage 1.

The applicant shall submit a completed Subdivision Certificate form, a final plan of subdivision, administration sheet and associated 88b instrument and community management statement prepared in accordance with the requirements of the *Conveyancing Act 1919* and *Community Land Management Act 1989*. Four copies of the final plan of subdivision and two copies of the administration sheet, 88b instrument and community management statement are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks.

The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the *Conveyancing Act 1919* and *Community Land Management Act 1989*.

02. **Geotechnical Certification Prior to Subdivision Certificate**

Prior to issue of the Subdivision 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.

03. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Quality System**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater quality system in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Quality Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater quality system, restricting any alteration to system.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements, (available from Council), at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification of the stormwater quality system is not carried out without Council's approval.

04. **Certification for the Installation of Stormwater Quality Management System**

A certificate from a Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER-3) must be provided, stating that the stormwater quality management system has been installed in accordance with the plans prepared by NB Consulting Engineers.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the

Subdivision Certificate.

Reason: Protection of the receiving environment

05. **Works as Executed Drawings - Stormwater Quality System**

Works as Executed Drawings for the stormwater quality system must be prepared.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.

Reason: Protection of the receiving environment

06. **Stormwater Quality Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater quality system remains effective.

The Plan must contain the following:

- a) Maintenance schedule of all stormwater quality treatment devices
- b) Identification of maintenance and management responsibilities
- c) Maintenance requirements for establishment period
- d) Routine maintenance requirements
- e) Inspection and maintenance record and reporting
- f) Funding arrangements for the maintenance of all stormwater quality treatment devices
- g) Vegetation species list associated with each type of vegetated stormwater treatment device
- h) Waste management and disposal
- i) Traffic control measures (if required)
- j) Maintenance and emergency contact information
- k) Renewal, decommissioning and replacement timelines and activities of all stormwater quality treatment devices
- l) Work Health and Safety requirements

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.

Reason: Protection of the receiving environment

07. **Community Management Statement**

The Community Management Statement must specifically list under the definition of 'Community Property' the stormwater system and all its parts ie. basins, GPT, filter baskets etc that will be maintained under community title. The statement must also include an operation and maintenance plan for the stormwater infrastructure.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

08. **Completion of bio-retention basin(s)**

Installation of filter media and planting of the bio-retention basin(s) (series of three basins on common property) must not be completed until one of the following is met: construction on the individual lots of the subdivision is 90 percent complete, or four years after the subdivision certificate is issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority for approval. Certification is to be provided by a suitably qualified and experienced Water Engineer.

The applicant is to lodge a bond with Council of \$150,000 as security to ensure the basin is completed as designed under this approval and its conditions. Details demonstrating payment of the bond are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Protection of bio-retention basin(s)/water quality infrastructure from the impacts of sediment.

09. **Title Encumbrances**

All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Northern Beaches Council as the sole authority empowered to release or modify. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate

Reason: To ensure proper management of land

10. **Garbage and Recycling Facilities**

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management with the following requirements:

- Space for one (1) Northern Beaches Council green, red, blue and yellow waste bin per dwelling is to be provided within the bin holding facility. The bin room is to be sufficiently sized for construction as required.
- The bulk waste "cleanup waste" shown on the approved plans is to be a separate room to the bin storage.
- Suitable landscape screen planting shall be provided to substantially screen to bin room and any adjacent service 'kiosk' from the road.
- All internal walls of the storage area shall be rendered to a smooth surface, covered at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.
- Prior to the issue of the Community Subdivision Certificate the Neighbourhood / Community Management Statement shall include wording in relation to the provision of waste services in accordance with Council's standard requirements (available from Warringah Council).

Reason: Waste servicing

11. **Retained Vegetation**

Prior to the issue of the Community Title Subdivision Certificate, a report prepared by an AQF Level 5 Arborist with qualifications in horticulture/arboriculture, 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 subdivision works, 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 vegeta

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

## 12. **Subdivision Tree Planting**

Canopy tree planting prior to the issue of a Subdivision Certificate shall be completed in accordance with the tree planting recommendations of the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants, under section 5.2.2, including:

- i) 50 canopy trees (20 *Corymbia maculata*, 10 *Eucalyptus paniculata*, 10 *Eucalyptus umbra* and 10 *Eucalyptus punctata*) to be planted in canopy gaps in the Environmental Protection Area for for screening planting in the Native Revegetation Area, at 150mm pot size under the direction of an Arborist or Ecologist,

- ii) a double row of screen planting tree is to be planted along the western boundary of Lot 5. The first row is to consist of 7 *Elaeocarpus reticulatus* in 75 litre pots planted at 4m centres. The second row in this screening is to consist of 9 *Ceratopetalum apetalum* in 75litres planted at 3m centres,

- iii) the second screening planting area is on the western side of the main access driveway to screen the rear of the house on Lot 2 from the cars entering the site. The screen is to consist of a row of 7 *Elaeocarpus reticulatus* in 75 litre pots planted at 3m centres,

Prior to the issue of an Community Title Subdivision Certificate, a report prepared by an Arborist or Ecologist shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any site instructions.

Note: This tree planting is separate to the tree planting proposals within the landscape areas as indicated on the Landscape Plans for each Lot developments, which is not part of this subdivision application.

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

## 13. **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 the Community Subdivision certificate.

Reason: Weed management and biosecurity

## 14. **Post Construction Certification by Coastal Engineer**

Post construction certification that all recommended works as relevant, including the seawall repairs, have been constructed in accordance with the intent of the approved Estuarine Risk Management Report (Horton Coastal Engineering Pty Ltd, 10/12/2018) shall be prepared and signed by a specialist coastal engineer, with coastal engineering as a core competency who is a registered professional engineer with chartered professional status (CP Eng), and shall be submitted to Council prior to the issue of the subdivision certificate.

Reason: To ensure development achieves the acceptable risk management criteria for estuarine tidal inundation and wave action defined in P21 DCP (DACNEHPS1)

15. **Compliance with Ecologist Recommendations**

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 the Community Subdivision Certificate

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

16. **Draft Community Management Statement**

The draft Community Management Statement (CMS) must define the specific Lots to which it applies and whether any particular lots are all Parts of the CMS or only a specific part / section for the final subdivision plans. The Schedule plans to accompany the CMS are to be updated to correlate with any changes required by condition of consent.

Reason: Consistency between environmental site management details and the approved plans. (DACPLHPS1)

17. **Public Domain Works**

The applicant is to construct all public domain works, in accordance with the Council Approved Stamped plans. Works are to be installed by the developer at no cost to Council. Works are to be completed prior to the issue of the community title subdivision certificate.

All necessary compliance certificates are to be submitted to Council for review, prior to approving the works. Upon completion of the works, the applicant shall engage Council to attend the site to review the works and provide final sign off.

Final sign off from Council is required prior to the issue of the Community Title Subdivision Certificate pursuant to the *Roads Act 1993*.

Reason: To ensure works are constructed to an acceptable level for hand-over to the road authority (DACPLHPS2)

18. **Provision of Turning Head within Access Road**

The internal access road design shall incorporate an appropriately located turning head within the site to the satisfaction of Council Engineers. A swept path analysis demonstrating the largest truck accessing the site will be able to make the maneuver at the turning area is to be provided to Council for approval prior to the issue of the Community Title subdivision certificate.

Reason: To provide a safe environment within the internal driveway (DACTRHPS1)

19. **Provision of Passing Opportunities**

The provided plans indicate inadequate widths for passing when a truck is utilizing the access road. Passing bay opportunities shall be provided within the access road to enable vehicles to wait to one side whilst the truck maneuvers along the access road.

Details demonstrating compliance are to be provided to Council with the plans for the Community

Title subdivision certificate.

Reason: To prevent reversing within the access road and improve safety (DACTRHPS2)