

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/2624
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<b>Responsible Officer:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 55 DP 24563, 122 Riverview Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Construction of a dwelling house
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	William Lachlan Ian Macdonald Franca Macdonald
<b>Applicant:</b>	Interlock Construction Australia Pty Ltd

<b>Application Lodged:</b>	14/01/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	27/01/2022 to 10/02/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	3
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Deferred Commencement Approval

<b>Estimated Cost of Works:</b>	\$ 948,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

Development application for the construction of a new detached dwelling house. The dwelling comprises;

#### Lower ground floor (RL46.00)

- Three bedrooms,
- Bathroom,
- Ensuite,
- WIR.

#### Ground floor (RL49.50 - 50.22)

- Attached double garage,
- Dining, living and kitchen,
- Bedroom/study,
- Laundry,
- Bathroom,
- Front and rear decks.

The current proposal seeks to remove an additional four (4) trees to facilitate the relocation of the garage and driveway crossover. This is in addition to the five (5) tree approved for removal under DA2017/1369.

### **Amended plans**

Following a preliminary review of the application Council raised concern with the proposal's impacts on biodiversity and privacy. Amended plans and additional information was received on 22 March 2022, which included a Biodiversity Development Assessment Report (BDAR) and external fixed screening to the lower ground floor bedroom windows. The *Northern Beaches Community Participation Plan* refers to re-notification not being required for amendments where the "*changes result in a lesser or reduction of environmental impacts*". It is considered that the proposed amendments result in a reduction of environmental impacts. The amended plans were uploaded to Council's website on 22 March 2022. The amended plans and additional information have been used to complete the assessment of this proposal.

### **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 - 5.21 Flood planning

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

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

Pittwater 21 Development Control Plan - D1.11 Building envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 55 DP 24563 , 122 Riverview Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Riverview Road, Avalon Beach. The site is bisected by an access road known as Trappers Way.</p> <p>The site is irregular in shape with a frontage of 34.44m along Riverview Road. The site has a surveyed area of 1,781.1m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living zone and contains a two-storey dwelling house within the eastern portion of the site.</p> <p>The site slopes approximately 24m from north-east to southwest and contains significant vegetation.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by low density residential dwellings.</p>

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

### N0578/16

Application for Subdivision was withdrawn by the applicant on 16 May 2017, in response to Council's

concerns with:

- Stormwater management,
- Tree removal and impact upon the natural environment;
- Inconsistency with clause B2.2 of P21 DCP; and
- Non-compliance with the minimum landscaped area stipulated by clause D1.14 of P21 DCP.

#### **DA2017/1369**

Development application for the subdivision of one (1) lot into two (2), demolition of existing garages and construction of a new dwelling and a carport. This application was approved under delegation on 10 January 2019.

#### **Mod2019/0206**

Modification of Development Consent DA2017/1369, including an additional condition to allow for works on the site to be carried out in stages.

#### **PLM2021/0212**

Pre-lodgement meeting for the construction of a new dwelling house including a swimming pool within Lot 81 of an approved subdivision held on 7 September 2021. In summary, the application was not supported in its original form and the following amendments were suggested;

- *deletion of the proposed swimming pool and increase to the front building line to be a minimum of 6.5m to any wall of the proposed dwelling house, with the exception of minor encroachments of up to 1.2m for uncovered decks and balconies attached to the dwelling house;*
- *reduction to the extent of non-compliance with the prescribed building envelope on the north-western elevation to be a minor breach only; and*
- *increase in the provision of landscaped area to be fully compliant with the 60% requirement, which can be achieved by deleting the proposed swimming pool.*

#### **SC2021/0024**

Subdivision certificate for Torrens Titles Subdivision creating one (1) lot into two (2). This application was approved on 11 January 2022.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.



Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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 allow Council to request additional information. No additional information was requested in this case.</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> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>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.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 27/01/2022 to 10/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mr David Henry Lyall	54 Trappers Way AVALON BEACH NSW 2107
Mr Geoffrey Russell Smith	56 Trappers Way AVALON BEACH NSW 2107
Mr D Lyall	54 Trappers Way AVALON BEACH NSW 2107

Two individual submissions were received during the formal notification process with one being in support.

The following issues were raised in the submission:

- **Trappers Way access,**
- **Construction impacts,**
- **Project representatives.**

The above issues are addressed as follows:

- **Trappers Way access**

The submissions raised concern that the proposal will hinder access to Trappers Way from Riverview Road.

Comment:

The proposal does not seek to alter access to Trappers Way from Riverview Road. In addition, imposed conditions will ensure that the adjoining right of carriageway maintains access throughout all stages of construction and that no materials are to be stored on it.

- **Construction impacts**

Concern is raised from the adjoining site known as No. 120 Riverview Road that the works will potentially damage existing services and that assurances should be imposed in the event of any damages.

Comment:

Imposed conditions will require the approved plans to be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. In addition, the proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These

recommendations will be included as a condition of consent. Overall, it is considered that suitable conditions have been imposed to ensure the protection of existing services and that the development is constructed in accordance with the relevant requirements.

- **Project representatives**

The submissions have suggested that given the complexity of the subject development project representatives should discuss '*matters of mutual interest*' with neighbouring stakeholders.

Comment:

The proposal's public exhibition and consultation period has been carried out in accordance with the *Northern Beaches Community Participation Plan*. Given that these notification requirements have been fulfilled by the applicant, further consultation is not required. It must be noted that the works will be overseen by the Principal Certifying Authority (PCA), who's details will be released at the issue of the Construction Certificate.

This matter does not warrant the refusal of this application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for the construction of a new dwelling and associated works as described and illustrated in the reports and plans. The property is part of an approved subdivision under development consent DA2017/1369, and the development application proposes to modify the dwelling layout as approved. A Landscape Plan and an Arboricultural Impact Assessment accompany the application and are assessed as part of this Landscape Referral.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D1 Avalon Locality</li> </ul> <p>The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone.</p> <p>The dwelling garage and driveway location for this development application alters from the indicative layouts of the subdivision development consent, and this impacts upon four existing native trees located within the proposed footprint of the garage and driveway. Five existing native trees (identified as tree numbers T4, T5, T6, T7 and T13) were approved for removal under the subdivision development consent and these still are required for removal under</p>

Internal Referral Body	Comments
	<p>this development application, and do not require further reference in this referral response.</p> <p>Of consideration as to whether removal of the additional native trees is supported or otherwise is the proposal to retain and protect a large number of locally native canopy trees within the property typically of the Pittwater Spotted Gum Forest, including three Spotted Gums (tree numbers T16, T21 and T22), one Forest Oak (tree number T15), two Grey Ironbark (tree numbers T8 and T20), and one Sydney Red Gum (tree number T18). The retention of these trees, along with additional landscape planting, satisfies the landscape objectives of the C4 zone and the DCP landscape controls of B4.22 and C1.1.</p> <p>It is considered that should the development application be approved by the assessing officer, the proposed location of the garage and driveway will require the removal of the four existing trees under this application.</p> <p>The impact to biodiversity shall be the subject of the Natural Environment Referral Response - Biodiversity.</p> <p>The Landscape Plan includes native tree replacement including tall canopy trees and smaller trees, shrub and low planting, with all planting nominated as native, and at least 80% of the planting is native vegetation listed in the Pittwater Spotted Gum Endangered Ecological Community, and no concern is raised subject to imposed conditions, including the requirement to install one of the tall canopy trees within the lawn frontage area along Riverview Road forward of the existing tree T5 required for removal, as a replacement for canopy tree planting in such location, and that replacement native trees are distributed throughout the property, rather than as shown on the Landscape Plan all under existing canopy trees.</p> <p>To accommodate the proposed development works the Arboricultural Impact Assessment recommends the removal of the following native trees: T9 Forest Oak (moderate significance), T10 Rough Barked Apple (moderate significance), T11 Spotted Gum (low significance), and T12 Spotted Gum (moderate to high significance).</p> <p>Should the application be approved by Planning, Landscape Referral raise no concerns, subject to conditions, with the Landscape Plan and the Arboricultural Impact Assessment, and provide conditions of consent to be imposed.</p>
NECC (Bushland and Biodiversity)	<p><b>Updated Biodiversity Referral (25 March 2022)</b></p> <p>These referral comments are based upon the following additional information:</p> <ul style="list-style-type: none"> <li>• Biodiversity Development Assessment Report (BDAR) - Ecological Consultants Australia, dated March 2022</li> <li>• Letter - Interlock Constructions, dated 14 March 2022</li> </ul>



Internal Referral Body	Comments
	<p>The additional information provides adequate justification (relating to traffic safety and retention of a protective bund around Tree 8) for the proposed relocation of the garage and driveway, and resultant removal of an additional four trees. In addition, the submitted BDAR has addressed minimum submission requirements and determines that the residual impacts of the new proposal will result in a credit obligation of one (1) ecosystem credit for Pittwater Spotted Gum Forest EEC and one (1) species credit for Large-eared Pied Bat (<i>Chalinolobus dwyeri</i>). Subject to compliance with the BDAR's recommendations (including proposed replacement planting and weed control measures), in addition to consent conditions recommended by the Landscape referrals group, the proposal is supported.</p> <p><b>Original Biodiversity Referral (25 February 2022)</b> The proposal as submitted cannot be supported due to insufficient information and apparent inconsistency with local planning controls.</p> <p>The following biodiversity-related provisions apply to the site:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016 (BC Act)</li> <li>• Pittwater LEP 2014 Clause 7.6 (Biodiversity Protection)</li> <li>• Pittwater 21 DCP 2014 Clause B4.4 (Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor)</li> <li>• Pittwater 21 DCP 2014 Clause B4.7 (Pittwater Spotted Gum Forest – Endangered Ecological Community)</li> <li>• SEPP (Coastal Management) 2018 - Clause 13 Development on land within the coastal environment area</li> </ul> <p><b>NSW Biodiversity Conservation Act 2016 (BC Act)</b> As per written and verbal pre-lodgement advice provided by Council in October 2021, the site is identified on the Department of Planning and Environment's (DPE) Biodiversity Values (BV) Map. Impact to native vegetation identified on the BV Map triggers entry into the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). Specific pre-lodgement advice provided to the applicant is as follows:</p> <p><i>"As the site is located within DPIE's BV Map, the applicant will be required to engage an Accredited Assessor under the BAM (<a href="https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor">https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor</a>) to determine whether a Biodiversity Development Assessment Report (BDAR) is required.</i></p> <p><i>If the Accredited Assessor determines that a <b>BDAR is NOT required</b>, a concise letter report should be submitted within the DA explaining why the BAM does not apply.</i></p>

Internal Referral Body	Comments
	<p><i>If the Accredited Assessor determines that a BDAR is required, the BDAR should demonstrate what measures have been taken to avoid and minimise before offsetting of vegetation is applied. Council may not support the proposal, unless minimisation of impacts is clearly demonstrated in accordance with the BAM. The BDAR must address the Serious and Irreversible Impact (SAIL) guidelines for the candidate SAIL Pittwater Spotted Gum Forest EEC, and any other applicable SAIL candidates. Advice provided to Council by DPIE is that "The approval authority must not grant approval if they determine the proposal is likely to have a serious and irreversible impact on biodiversity values". In addition to the BC Act, the BDAR must also address the requirements of relevant State Environmental Planning Policies, and the Commonwealth Environment Protection Biodiversity Conservation Act 1999 (EPBC Act).</i></p> <p><i>A BDAR submitted with the DA must be finalised and signed by the Accredited Assessor within 14 days of the DA lodgement date in accordance with 6.15 of the Biodiversity Conservation Act 2016. The assessor is requested to add Northern Beaches Council as a case party to the BAM assessment in BOAMS and submit the case to the consent authority in BOAMS prior to the lodgement of the DA (per DPIE's Release notes – Consent Authority user access to BOAMS, March 2020). This will assist assessment of the DA and allow Council's Biodiversity Officers to view the BAM Calculator and electronically approve credit requirements."</i></p> <p>Contrary to this advice, the submitted "Ecological Letter" (Kingfisher Urban Ecology, 14 December 2021) submitted with the DA does not address whether the proposal triggers the requirement for a BDAR. However, it is evident from the submitted plans that the proposal will require removal of native trees within the BV Map area and that <b>a BDAR therefore is required</b>. In accordance with the NSW BC Act, the current proposal cannot be assessed without a BDAR.</p> <p><b>Local Planning Controls</b></p> <p>As per written pre-lodgement advice, "any proposal to remove existing trees of moderate to high retention value will not be supported by Council if an alternative design arrangement is available, as assessed by Council". It is unclear why the garage and driveway have been proposed for relocation from the existing approved location (now proposed to accommodate a deck), at the expense of an additional four locally native trees. Further information to justify the removal of Trees 9, 10, 11, and 12 is required in order to assess consistency with PLEP Clause 7.6 and DCP Clause B4.7.</p> <p><b>Conclusion</b></p> <p>The proposed removal of native trees identified on the NSW Biodiversity Values Maps triggers entry into the NSW Biodiversity Offsets Scheme and as such, requires submission of a Biodiversity Development Assessment Report (BDAR) prepared by an accredited assessor. In addition, the extent of additional tree removal proposed appears to be unjustified and inconsistent with local biodiversity</p>

Internal Referral Body	Comments
	<p>controls.</p> <p>The applicant may wish to consider redesigning the proposal to avoid any removal of native trees above what is already approved. This is likely to avoid the requirement for a BDAR (assuming no other prescribed impacts) and demonstrate greater consistency with local controls.</p>
NECC (Development Engineering)	<p>The proposal relies upon the creation of the proposed allotment. Council's records indicate that the subdivision certificate has been issued however the lot has yet to be created. As such any approval will need to be subject to the evidence of the creation of the lot prior to activation of the consent.</p> <p>The submitted stormwater management plan is satisfactory. The proposed driveway access is also satisfactory. The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>Development Engineers support the proposal, subject to a deferred commencement condition as outlined above and model conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and

LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1228573S dated 21 December 2021).

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

<b>Commitment</b>	<b>Required Target</b>	<b>Proposed</b>
<b>Water</b>	40	41
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	50	52

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

### **SEPP (Infrastructure) 2007**

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

**SEPP (Coastal Management) 2018**

The site is identified within the Coastal Environment Area and Coastal Use Area pursuant to the SEPP (Coastal Management) 2018. Accordingly, the proposed development is considered against Clauses 13, 14 and 15 of this Policy as follows:

**13 Development on land within the coastal environment area**

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
  - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*
  - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
  - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
  - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The proposed development's impact upon flora and fauna has been considered by Council's Bushland and Biodiversity Department and found to be acceptable, subject to conditions. It is noted that the works require the removal of nine (9) trees - of low to high landscape significance - to accommodate the proposed dwelling. However, this is found to be acceptable by Council's Landscape Officer. The subject site does not adjoin the foreshore and will not hinder access to or along the foreshore nor will the works impact the use of the waterway. In addition, the subject site is not classified as a heritage item or within the vicinity of a heritage item.



Based on the above factors, Council is satisfied that the proposal is designed, sited and will be managed to avoid an adverse impact upon the matters referred to in Clause 13.

#### **14 Development on land within the coastal use area**

(1)

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

#### Comment:

As noted above, the proposed development will not prevent access to or along the foreshore. The built form is well-articulated and the overall bulk and scale of the dwelling generally consistent with the scale of development established along the eastern side of Riverview Road. In this regard, the proposal will not detract from the scenic quality of the area and will maintain an appropriate visual relationship with the surrounding built environment. The immediate locality is devoid built and environmental heritage items and therefore, the proposal will not detract from the heritage values of the locality.

Based on the above factors, Council is satisfied that the proposal is designed, sited and will be managed to avoid an adverse impact upon the matters referred to in Clause 14.

#### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

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

#### Comment:

Council is satisfied that the proposed development has been adequately designed to respond to the environmental constraints of the site, such that it can be stated that the proposed development is not likely to cause increased risk of coastal hazards within the locality.

#### Concluding Remarks

Based off the above assessment, it is concluded that the proposed development demonstrates consistency with the relevant matters prescribed within the SEPP (Coastal Management) 2018.

## Pittwater Local Environmental Plan 2014

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

### Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	7.2m	Yes

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### 5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Comment:

The subject site contains a small flood prone area located within the front building setback that is classified as a medium flood risk precinct. However, a Flood Management Report will not be required as the development is not affected by the Flood Planning Area.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) *the intended design and scale of buildings resulting from the development,*
- (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment:

The subject development is located outside of the Flood Planning Area. In this regard, Council is satisfied that the development is consistent with the objectives of this clause and the matters raised in points (a) - (e).

## 7.6 Biodiversity protection

Council's Biodiversity Officer concluded that the proposal can be undertaken without significant or serious and irreversible impacts to local biodiversity, subject to recommended conditions of consent.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.9m (Front decks) 8.7m (Dwelling)	N/A	Yes
Rear building line	6.5m	9.7m (Rear deck) 14.8m (Dwelling)	N/A	Yes
Side building line	2.5m - North	1.0m (Lower ground floor) 2.9m (Ground floor)	60%	<b>No</b>
	1.0m - South	4.9m (Garage)	N/A	Yes
Building envelope	3.5m - North	Outside envelope	65.7%	<b>No</b>
	3.5m - South	Within envelope	N/A	Yes
Landscaped area	60% (578.5sqm)	60.1% (579sqm)	N/A	Yes

### 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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
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
C1.23 Eaves	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

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

Please refer to the comments prepared by Council's Landscape Officer and Biodiversity Officer for further information related to the tree removal.

In summary, subject to compliance with recommended conditions adherence with the landscape plan and replacement tree planting the application is seen to meet the outcomes of this clause and is supported on merit.

#### **D1.9 Side and rear building line**

#### Description of non-compliance

The control requires structures to be setback 2.5m from at least one side boundary and 1.0m to the

other side.

The proposed lower ground floor is set back 1.0m from the northern side boundary, representing a 60% variation to the 2.5m setback requirement.

#### Merit consideration

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

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

#### Comment:

The proposed dwelling is consistent with the desired future character of the Avalon Locality.

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

#### Comment:

The proposed non-compliance occurs on the lower ground level, which is relatively low-lying and has been effectively integrated within the landform to minimise site disturbance, which in conjunction with the built form's articulated design is considered to minimise the bulk and scale of the development. In addition, the proposal exceeds the landscaped area requirements of P21DCP, which will assist in moderating the built form, when viewed from nearby public and private spaces.

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

#### Comment:

The proposal will not result in the loss of views.

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

#### Comment:

The proposed works are appropriately sited in relation to the existing dwelling and will not result in the loss of any views. In addition, the proposal provides a compliant landscape setting.

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

#### Comment:

The proposed northern elevation contains eight (8) windows on the lower ground level, which are attached to bedrooms. In addition, the windows have a sill height of 1.5m above the FFL and all include external timber batten screening (70mm spacing). Further, the front balcony's angled design limits opportunities of overlooking the northern side boundary into No. 124 Riverview Road's front yard. In this regard, the proposal will maintain reasonable privacy between buildings. The solar impacts of this proposal are detailed within the submitted shadow diagrams, which demonstrate compliance with Part C1.4 Solar Access of P21DCP. Overall, no



unreasonable amenity impacts are considered likely to arise as a result of the proposed development.

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

Comment:

The proposal provides a compliant landscape setting and includes a landscape design for the site that will enhance the natural features. In addition, the proposed works are appropriately sited from the front boundary.

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

Comment:

No unreasonable amenity impacts are likely to arise as a result of the siting buildings and reasonable site access is proposed.

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

Comment:

It is acknowledged that the works require the removal of nine (9) trees - of low to high landscape significance - to accommodate the proposed dwelling. However, this is found to be acceptable by Council's Landscape Officer. Additional replacement planting has been proposed and imposed as a condition of consent to ensure the built form appears secondary to landscaping. The built form will be sufficiently screened and softened as a result.

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

Comment:

The subject site is located within, and is surrounded by, residential zones, therefore, this outcome is not applicable.

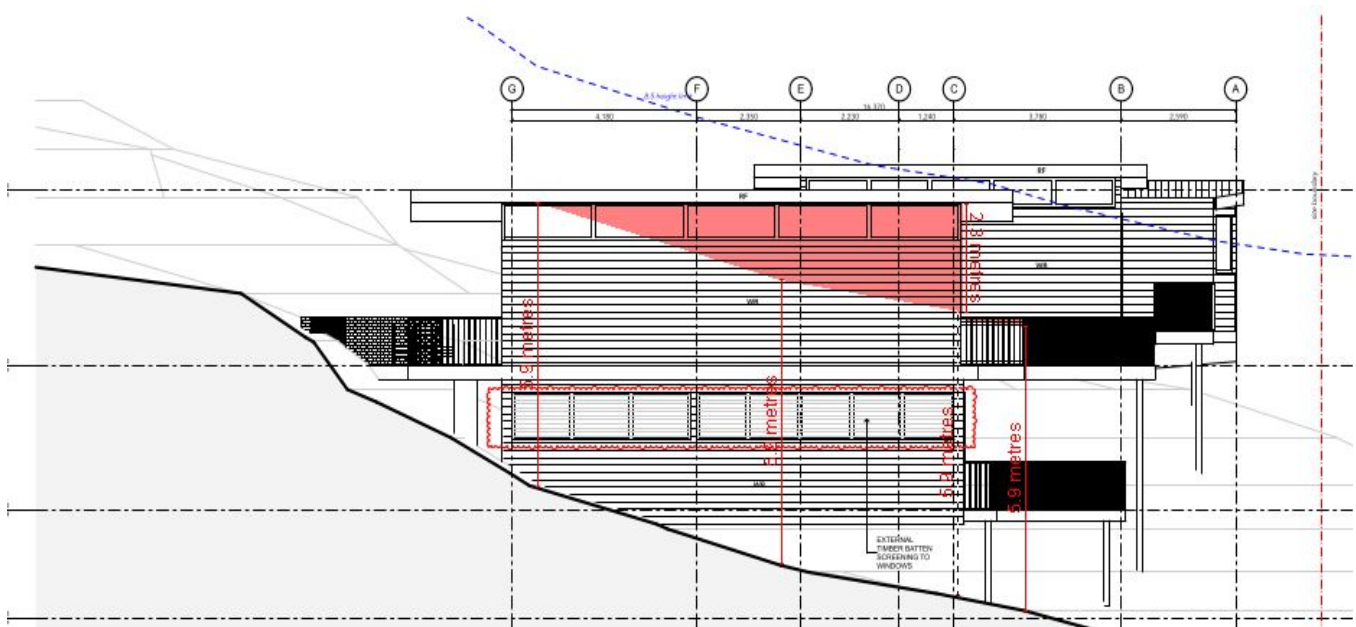
Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported,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

## **D1.11 Building envelope**

### Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries, but permits a variation to that envelope where the building footprint is situated on a slope of 16.7 degrees or more, which is relevant to the subject site.

The proposed development encroaches into the prescribed building envelope along the northern elevation. This variation is represented in red within figure 1 below.



**Figure 1 - Proposed building envelope non-compliance on northern elevation.**

#### Merit consideration

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

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

#### Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality.

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

#### Comment:

The proposed dwelling involves a compliant building that remains below the height of surrounding canopy tree. In this regard, the development is compatible with the locality's established building scale and density. Overall, the works as a whole improve the streetscape.

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

#### Comment:

The proposal's pole style design sensitively integrates the dwelling within the landform and landscape. The proposed and required landscaping that surrounds the dwelling will assist in reducing the impact of the built form and softening the appearance of the dwelling when viewed from the street and surrounding properties. The proposal is sited and designed to minimise site disturbance and reasonably maintain the natural features of the site.

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

Comment:

The proposal incorporates various design elements and varied setbacks to provide visual breaks along the northern elevation. Overall, the proportions of the encroaching elements are not considered to be unreasonably scaled or bulky.

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

Comment:

The proposal will not result in the loss of views.

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

Comment:

The proposal has been appropriately sited to maintain reasonable neighbouring amenity. In addition, the solar impacts of this proposal are detailed within the submitted shadow diagrams, which demonstrate compliance with Part C1.4 Solar Access of P21DCP.

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

Comment:

The proposal exceeds the landscaped area requirements of P21DCP, which will assist in moderating the built form, when viewed from nearby public and private spaces.

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

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2021**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$9,480 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$948,000.

## CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## RECOMMENDATION

### DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A Regulation 2000 to DA2021/2624 for Construction of a dwelling house on land at Lot 55 DP 24563, 122 Riverview Road, AVALON BEACH, subject to the conditions printed below:

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

## DEFERRED COMMENCEMENT CONDITIONS

### 1. Deferred Commencement

- The lots approved under Development Consent DA2017/1369 and as modified by

Mod2019/0206 are to be registered with NSW Land Registry Services. Evidence that the lots have been registered with NSW Land Registry Services is to be provided to Council in order to activate this consent.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

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

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 2. **Approved Plans and Supporting Documentation**

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

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A001 - Site plan	14 March 2022	Interlock
A110 - Roof plan	14 March 2022	Interlock
A051 - Excavation plan	14 March 2022	Interlock
A100 - Ground floor plan	14 March 2022	Interlock
A101 - Lower ground floor plan	14 March 2022	Interlock
A102 - Sub floor plan	14 March 2022	Interlock
A105 - Parking plan	14 March 2022	Interlock
A200 - Elevation	14 March 2022	Interlock
A201 - Elevation	14 March 2022	Interlock
A300 - Sections	14 March 2022	Interlock
PL01 - External Materials Schedule	03 December 2021	Interlock

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
D01 - Issue A	02 December 2021	NB Consulting Engineers
D02 - Issue A	02 December 2021	NB Consulting Engineers
D03 - Issue A	02 December 2021	NB Consulting Engineers
D04 - Issue A	02 December 2021	NB Consulting Engineers
D05 - Issue A	02 December	NB Consulting



	2021	Engineers
D06 - Issue A	02 December 2021	NB Consulting Engineers
D07 - Issue A	02 December 2021	NB Consulting Engineers

<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>
Arborist Report	22 December 2021	Landscape Matrix Pty Ltd
Biodiversity Development Assessment Report	March 2022	Ecological Consultants Australia Pty Ltd
Geotechnical Report	19 November 2021	White Geotechnical Group Pty Ltd

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

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA01 - Rev B	December 2021	Volker Klemm Landscape Design

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	03 December 2021	Troy Newman

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

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

### 3. **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:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Response Ausgrid Referral	21 February 2022
Aboriginal Heritage Office	Response AHO Referral	24 January 2022

(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 departments, authorities or bodies.

#### 4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.

- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that

occurs on Council's property.

- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## **FEES / CHARGES / CONTRIBUTIONS**

### **6. Policy Controls**

#### **Northern Beaches 7.12 Contributions Plan 2021**

A monetary contribution of \$9,480.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$948,000.00.

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 2021 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.

### **7. Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment)



is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the 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.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 19 November 2021 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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### **9. No Clearing of Vegetation**

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

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

Reason: To protect native vegetation.

### **10. 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 the LMBC Service Centre [bam.support@environment.nsw.gov.au](mailto:bam.support@environment.nsw.gov.au). The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council's Manager Bushland and Biodiversity and the 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.

11. **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 and Biodiversity of Northern Beaches Council and to the Certifying Authority prior to release of construction certification.

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

Impacted Plant Community Type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1214-Pittwater Spotted Gum Forest	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	1	Y	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Pittwater and Wagstaffe Spotted Gum Forest in Sydney Basin Bioregion. This includes PCTs: 1214, 1589.

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

12. **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 and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 2 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	Contains
1214-Pittwater Spotted Gum Forest	1	YES

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

13. **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 and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

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

Impacted species credit	Number of species credits	IBRA sub-region
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species		
Chalinolobus dwyeri / Large-eared Pied Bat	1	Any in NSW

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

14. **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 and Biodiversity of Northern Beaches Council and the Certifying Authority 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	Approved variation species credit species that can be used to offset the impacts from development
Chalinolobus dwyeri / Large-eared Pied Bat	1	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or Any IBRA sub-region that is within 100 kilometers of the outer edge of the impacted site.	Fauna

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

15. **Compliance with approved BDAR impact mitigation measures – Prior to Construction**

Section 10 of the approved BDAR identifies mitigation measures which must be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Certifying Authority and Council prior to issue of Construction Certificate.

Reason: To achieve compliance with the approved BDAR.

16. **Traffic Management and Control**

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

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

17. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by NB Consulting Engineers, drawing number 210394 D01, D02, D03, D04, D05, D06 and D07 Issue A, dated 2/12/21. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

18. **Elevated Parking Facility Design**

The Applicant shall submit a Structural Engineers' design and certificate for the elevated parking facility in accordance with the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls.

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

Reason: Safety and Compliance with this consent

19. **Structural Adequacy and Excavation Work**

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

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

Reason: To provide public and private safety.

20. **Engagement of Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the approved BDAR.

The Project Ecologist must be a Biodiversity Assessment Method Accredited Assessor under

the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor> )

Evidence of engagement of the Project Ecologist is to be provided to the Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

21. **Restriction on Use of Land - Building Footprint**

The Restriction on Use of Land and accompanying Section 88B instrument burdening Lot 81 are to be amended to restrict building on Lot 81 to the building area shown on the approved plans under DA2021/2624. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure consistency with the approved plans.

22. **Compliance with Standards**

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

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

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

23. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

24. **Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

25. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree



protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment, and any condition as imposed.

The Project Arborist shall be in attendance and supervise works as listed in the Arboricultural Impact Assessment as well as works as listed below:

- i) tree protection fencing to existing trees retained,
- ii) supervision during construction with trunk and ground protection installed prior to commencement of works for tree numbers T8, T15 and T20,
- iii) supervision of any excavation works for isolated piers in the vicinity of existing tree numbers T2, T3, T8, T14, T15, and T16.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

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

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

## 26. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) T9 - Forest Oak , T10 - Rough Barked Apple, T11 and T12 - Spotted Gum.
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

## 27. **Compliance with approved BDAR impact mitigation measures – During Construction**

Section 10 of the approved BDAR identifies mitigation measures which must be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented during construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to keep details of compliance, including written and

photographic evidence.

Reason: To ensure compliance with the approved BDAR.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 28. Tree and Vegetation Protection

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

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation, (#)
  - ii) all trees and vegetation located on adjoining properties, including T2 Sydney Red Gum, T17 and T19 Spotted Gum
  - iii) all road reserve trees and vegetation.
- (#) existing trees within the property retained and protected include: T1 Monterey Pine; T3 Weeping Bottlebrush; T8 and T20 Grey Ironbark; T14 Spotted Gum; T15 Forest Oak; T16, T21, and T22 Spotted Gum; and T18 Sydney Red Gum.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

29. **Road Reserve**

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

Reason: Public safety.

30. **Survey Certificate**

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

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

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

31. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

32. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

33. **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 Roads 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.

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

### 34. **Landscape Completion**

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

- i) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings and other existing or proposed trees, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) at least one replacement Spotted Gum (*Corymbia maculata*) shall be positioned as a direct replacement for the removal of T5 within landscape area in close proximity, in the lawn area within a prepared bed,
- iv) all other planting shall be installed in accordance with the Plant List including nominated quantities and pot container sizes,
- v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

### 35. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: Tree protection.

### 36. **Protection of Habitat Features**

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

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

issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

37. **Fauna and Tree Hollow Relocation**

The Project Ecologist is to certify in writing that:

- a) any fauna that was displaced or disturbed during tree clearing and/or construction works was safely and appropriately relocated; and
- b) any tree hollows were salvaged from trees by the project arborist and placed within areas of retained native vegetation on the site.

Written certification of compliance is to be prepared by the Project Ecologist and provided to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect native wildlife.

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

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

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

39. **Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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

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

40. **Compliance with approved BDAR impact mitigation measures – Occupation Construction**

Section 10 of the approved BDAR identifies impact mitigation measures which must be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented immediately after construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Principal Certifying Authority and Councils Bushland Manager prior to issue of Occupation Certificate.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

41. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

42. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and Hydraulic Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment with the NSW Land Registry Services. 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.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

43. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls.

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

Reason: Compliance with this consent.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

45. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of



planting.

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

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

Reason: To maintain local environmental amenity.

46. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

47. **Compliance with approved BDAR impact mitigation measures – Post Construction/Ongoing**

Section 10 of the approved BDAR identifies mitigation measures which must be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to Councils Manager of Bushland as per the mitigation table.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

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

**Signed**



**Kye Miles, Planner**

The application is determined on 13/04/2022, under the delegated authority of:



**Claire Ryan, Acting Development Assessment Manager**