

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/1399
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<b>Responsible Officer:</b>	Brittany Harrison
<b>Land to be developed (Address):</b>	Lot 1 DP 1104192, 62 Chisholm Avenue AVALON BEACH NSW 2107 Lot 2 DP 1104192, 60 Chisholm Avenue AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Construction of a carport including driveway access, inclinators and tree removal
<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>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Maia Josephine Witkamp Andrew Edward Herman Nada Louise Herman
<b>Applicant:</b>	Nada Louise Herman

<b>Application Lodged:</b>	08/09/2022
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	31/10/2022 to 28/11/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 435,000.00
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### EXECUTIVE SUMMARY

This Development Application seeks consent for the construction of a carport, driveway access, inclinators, and the removal of six (6) prescribed native trees.

The site is a listed State Heritage item and application, with the development being Integrated Development pursuant of the *Heritage Act 1977*. Accordingly, the proposal was referred to Heritage NSW, with General Terms of Approval being issued, subject to conditions.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the proposal including the removal of six (6) trees. Tree removal is a type of demolition under the Pittwater Local Environmental Plan 2014. As such, demolition associated with a heritage item is a form of Sensitive Development for the NBLPP to determine.

The subject site is also identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map), and as such, due to the impacts to native vegetation within the BV Map area has triggered entry into the NSW Biodiversity Offsets Scheme (BOS). Accordingly, a BDAR (Ecological Consultants Australia, updated April 2022) has been submitted with the application. Appropriate conditions have been recommended in relation to entry into the BOS.

The development application was initially notified for a period of fourteen (14) days, with only one (1) submission for support of the application being received. No objections or concerns were raised. The application was re-notified for an additional twenty-eight (28) days as stated within Council's Community Participation Plan and the *Environmental Planning and Assessment Act 1979* as it constituted nominated integrated development. No submissions were received.

Two sets of Amended Plans were received to address concerns relating to Stormwater and Heritage NSW, with the second amended plans forming the basis of this assessment. Formal re-notification was not required due to a reduction in environmental impacts.

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

## **PROPOSED DEVELOPMENT IN DETAIL**

This application seeks development consent for the construction of a carport including driveway access, inclinor and tree removal.

Specifically, the works consist of the following:

- Construction of a carport and turntable with storage area;
- New driveway works and installation of an inclinor;
- Extinguishment of existing easements and creation of new easements; and
- The removal of six (6) prescribed native trees to accommodate the proposed works and associated landscaping.

Under the provisions of *Division 4.8 Integrated Development* within the *Environmental Planning and Assessment Act 1979*, the proposal is identified as nominated integrated development under the *Heritage Act 1977*, as the proposed works impact a State Heritage Item known as 'Hy Brasil'. Accordingly, the proposal was referred to Heritage NSW for assessment who responded with the General Terms of Approval, subject to relevant conditions.

## **ASSESSMENT INTRODUCTION**

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the *Environmental Planning and Assessment Act 1979*, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the

- development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management

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

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

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot 1 DP 1104192 , 62 Chisholm Avenue AVALON BEACH NSW 2107</p> <p>Lot 2 DP 1104192 , 60 Chisholm Avenue AVALON BEACH NSW 2107</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of two (2) allotments located on the north-western side of Chisholm Avenue.</p> <p>The subject site is legally identified as Lot 1 &amp; Lot 2 in Deposited Plan 1104192, No. 60 and 62 Chisholm Avenue, Avalon Beach.</p> <p>The site is irregular in shape with Lot 1 providing a frontage of 56.795 metres and Lot 2 providing a frontage of 25.015 metres. The site has a total surveyed area of 8453m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living zone under the Pittwater Local Environmental Plan 2014. Lot 1 accommodates a stone and timber cottage 'Hy Brasil' which is of State Heritage significance and associated carport. Lot 2 accommodates a modern multi-storey dwelling house and swimming pool.</p> <p>The site consists of mostly native bushland, landscaped gardens and footpaths associated with the residences at 60-62 Chisholm Avenue.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p>

Adjoining and surrounding development is characterised by multi-storey dwelling houses of various architectural designs that complement the landscape setting.

Map:



## SITE HISTORY

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

### PLM2020/0268

A pre-lodgement meeting was held on 19 November 2020 to discuss a boundary adjustment and construction of a new carport and driveway at 60 & 62 Chisholm Avenue, Avalon Beach. The pre-lodgement notes referenced the plans prepared by Andy Lehman Design dated 16 October 2020.

The proposal was considered to be supportable subject to matters raised within the notes being satisfactorily addressed prior to the submission of a Development Application.

### DA2021/0508

Development Application for the construction of a driveway, carport and inclinor, including the extinguishment and creation of easements.

Withdrawn 24 December 2021.

### Current Application - History

The development application was initially notified for a period of fourteen (14) days and resulted in one (1) submission of support.

The application was identified as nominated integrated development due to the purposes of the Heritage Act 1977, and was referred to Heritage NSW. The application was re-notified for an additional twenty-eight (28) days as stated within Council's Community Participation Plan.

Council requested amended plans and additional information to address the following concerns:

- Tree 7 proposed to be removed in the arborist report; however, was inconsistent with the architectural and landscape plans. All relevant documentation needed amending to reflect consistency as requested by Heritage NSW.
- A draft plan prepared by a registered surveyor was requested detailing the existing easements, proposed easements and the easement to be extinguished as requested by Council's Development Engineer.
- Amendments to the Stormwater plans to align with the Northern Beaches Water Management for Development Policy as requested by Council's Development Engineer and Water Management Team.

#### First Set of Amended Plans

The first set of amended plans were received on 17 November 2022. Formal re-notification was not required due to a reduction in environmental impacts and clarification on various aspects of the proposal.

#### Second Set of Amended Plans

Council requested a second set of amended plans which were received on the 8 December 2022, to satisfactorily address concerns made by Heritage NSW and the following amendments were made:

- Pedestrian access provided from the existing stair, across the driveway and up new landscaped stairs to link with the existing landscaped paths to provide an acceptable heritage outcome.

Formal re-notification was not required due to a reduction in environmental impacts.

### **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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the requests made by NSW Heritage and Council's Water Management and Development Engineers.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<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>	<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>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

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

A Bush Fire Report was submitted with the application that included a certificate (prepared by Building Code & Bushfire Hazard Solutions Pty Limited, dated 19 May 2022) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 31/10/2022 to 28/11/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Ms Jane Elizabeth Pearce	52 Chisholm Avenue AVALON BEACH NSW 2107

One (1) submission was received which contained no objections, but rather reasons of support for the development. No further assessment on submissions is required.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><b><i>Supported, subject to conditions.</i></b></p> <p>The development application is for a proposed new driveway and carport, new inclinators and easement adjustment, as described and illustrated in the reports and plans. A Landscape Plan and an updated 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,</p>

Internal Referral Body	Comments
	<p>including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone. The site is a large block with predominantly locally native canopy trees and understorey native juvenile trees and native ferns of varying quality and condition, and landscape natural features such as rock outcrops. The site is also classified as Bush Fire Prone Land, and any new landscaping including selection and placement shall comply with the Asset Protection Zone Requirements of Planning for Bush Fire Protection 2019.</p> <p>The updated Arboricultural Impact Assessment assesses the proposed works impact to twenty-seven (27) locally native trees in proximity to the works, and recommends the removal of six (6) native trees impacted by the proposed development works, including 2 x Broad-leaved White Mahogany of high retention value, 1 group of Blueberry Ash of high retention value, 1 x Broad-leaved White Mahogany of moderate retention value, and 1 x Sydney Red Gum of moderate retention value. A total of thirteen (13) existing high retention value locally native canopy trees and seven (7) existing moderate retention value locally native canopy trees in proximity to the proposed development works are retained. Additionally other parts of the site support locally native canopy trees not impacted by the proposed development works.</p> <p>It is noted that the Broad-leaved White Mahogany of high retention value identified as tree 7 is located such that retention shall be achieved as the proposed driveway location is further away from this tree, as opposed to the previous withdrawn development application that resulted in impact to this tree and new walling works shall be supervised by a Project Arborist. Otherwise all other existing trees proposed for removal are unable to be retained by the proposed development works, where the trees are located within the footprint of the proposed carport, in close proximity to the carport, or within the proposed footprint of the driveway.</p> <p>Additional impacts are noted to existing tree 11 and tree 24 and the updated Arboricultural Impact Assessment nominates tree sensitive construction methods shall be undertaken and conditions shall be imposed for a Project Arborist to supervise works.</p> <p>The Landscape Plan retains the natural landscape setting with rock outcrops, canopy trees and bushland vegetation preserved, and the proposal in proximity of the proposed works includes tree replacement with two (2) tall canopy trees, thirty six (36) small native trees, and native understorey shrubs and groundcovers. Conditions shall be imposed on the selection of tree species to ensure relevance to the typical Pittwater Spotted Gum Forest plant association in the locality.</p> <p>Landscape Referral consider that tree removal is unavoidable based on the development proposal. Tree removal is within the Biodiversity Mapped area and as such removal of native vegetation from within the mapped areas will trigger the Biodiversity Offset Scheme and this</p>



Internal Referral Body	Comments
	<p>shall be considered by Council's Bushland and Biodiversity Referral, and any offset shall be as detailed within the submitted Biodiversity Development Assessment Report. It is noted that the Biodiversity Development Assessment Report concludes that the proposed development of the driveway and carport will have a direct impact approximate area of 0.05ha on the Pittwater Spotted Gum Forest association. The report provides support for the Landscape Plan with recommendations for tree species substitution and this shall be subject to imposed conditions.</p> <p>Landscape Referral raise no objections to the proposal subject to protection of existing natural landscape features and vegetation, and the completion of the landscape works.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported, subject to conditions.</b></p> <p>The proposal has been assessed against the following applicable biodiversity-related provisions:</p> <ul style="list-style-type: none"> <li>• Biodiversity Conservation Act 2016</li> <li>• Pittwater LEP cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP cl. B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor</li> <li>• SEPP (Resilience and Hazards) - Littoral Rainforest Proximity Area</li> </ul> <p>The subject site is identified on the NSW Biodiversity Values Map and as such, impact to any native vegetation within the BV Map area will trigger entry into the NSW Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). Accordingly, a BDAR (Ecological Consultants Australia, updated April 2022) has been submitted with the new DA.</p> <p>The proposal seeks to impact a total of 0.05ha of vegetation which is identified as Pittwater Spotted Gum Forest Endangered Ecological Community (EEC); this includes the proposed removal of six prescribed (i.e. protected under PDCP cl. B4.22) native trees. Mitigation measures are proposed in the submitted BDAR to minimise impacts to the EEC, threatened species and wildlife habitat, while the proposed residual impacts will result in an offset credit obligation of 1 ecosystem credit and 3 species credits.</p> <p>As the new carport is identified as a Class 10a (non-habitable structure) and is located more than 6m from any dwelling, the submitted bushfire assessment states that "it is therefore our opinion the proposed carport satisfies the requirements of PBP 2019 and AS3959 by means of the above and no additional provisions are applicable to the proposal".</p> <p>Minor amendments to the Landscape Plan are required to remove cultivated varieties of <i>Corymbia maculata</i>. No further issues are</p>

Internal Referral Body	Comments
	raised, subject to recommended impact mitigation measures.
NECC (Development Engineering)	<p><b><i>Supported, subject to conditions.</i></b></p> <p>The proposal includes the construction of a new garage and driveway, extinguishment of existing easements and creation of new easements. The new driveway alignment and traffic report are acceptable subject to conditions.</p> <p><u><i>Easements</i></u> The submitted architectural plans indicates the existing easements are to be extinguished and new easements created. However it is unclear which easements are proposed to be extinguished. The applicant shall provide a draft plan prepared by a registered surveyor detailing the existing easements, proposed easements and the easement to be extinguished. The type of easements to be created are to be shown on plan.</p> <p><u><i>Stormwater</i></u> The stormwater plan proposes to discharge to Chisholm Avenue via an OSD system. The proposed OSD volume appears low for an increase in 200m<sup>2</sup> of impervious area. the discharge to a rock gabion in the road reserve is not supported.</p> <p>The stormwater plan shall be amended to reflect the new alignment of the driveway. The plan must include calculations for the predeveloped and post developed flows. Details of the bypass flows and flows from the OSD are to be shown for all storms. It is recommended that the discharge be piped along the driveway to the dish drain in Chisholm Avenue.</p> <p>Additionally as the proposed driveway alignment is within No.62 (lot 1) an easement for drainage must be created.</p> <p><b>Additional Information Provided on 17/11/2022</b> The amended survey and stormwater plan have been reviewed. No objections to approval subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p><b><i>Supported, subject to conditions.</i></b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>• Relevant LEP and DCP clauses; and</li> <li>• Northern Beaches Water Management for Development Policy</li> </ul> <p>The site is identified as proximity area for littoral rainforest and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the littoral rainforest, or the quantity and quality of surface and ground water flows that it</p>

Internal Referral Body	Comments									
	<p>receives.</p> <p>A critical feature of the proposal is the amount of additional runoff that it would create, combined with the proximity of littoral rainforest downslope. This will be addressed in the water management referral.</p> <p>The proposal includes excavation and earthworks which must be appropriately managed to avoid impacts on the downstream environment. Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies relating to waterways, riparian areas, and groundwater.</p>									
NECC (Water Management)	<p><b>Supported, subject to conditions.</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WM Policy); and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>The applicant has provided additional information and made amendments to the design of the stormwater system to address water quality. On assessment, the proposal is now considered acceptable.</p>									
Strategic and Place Planning (Heritage Officer)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="background-color: #cccccc;">HERITAGE COMMENTS</th> </tr> <tr> <td>Discussion of reason for referral</td> </tr> <tr> <td><b>Supported, subject to conditions.</b></td> </tr> <tr> <td>The proposal has been referred to Heritage as the subject site is a state heritage item</td> </tr> <tr> <td><b>SHR #00079 - Hy Brasil</b></td> </tr> <tr> <th style="background-color: #cccccc;">Details of heritage items affected</th> </tr> <tr> <td>Details of the item as contained within the Heritage inventory is as follows:</td> </tr> <tr> <td><u>Statement of Significance</u> Hy Brasil is of State significance as one of three 'organic' houses designed by Alexander Stewart Jolly in Avalon. Hy Brasil with its simple construction of stone and timber and set in its native bushland setting represents Jolly's architecture and philosophy regarding the built form and its relationship to the natural Australian landscape. (Heritage Office)</td> </tr> <tr> <td><u>Physical Description</u> Hy-Brasil originally comprised a main living space with verandahs to the west and east facades and bedroom and kitchen to the south facade. Constructed of local rock faced sandstone. The house has been planned around a large central stone fireplace and the use of</td> </tr> </table>	HERITAGE COMMENTS	Discussion of reason for referral	<b>Supported, subject to conditions.</b>	The proposal has been referred to Heritage as the subject site is a state heritage item	<b>SHR #00079 - Hy Brasil</b>	Details of heritage items affected	Details of the item as contained within the Heritage inventory is as follows:	<u>Statement of Significance</u> Hy Brasil is of State significance as one of three 'organic' houses designed by Alexander Stewart Jolly in Avalon. Hy Brasil with its simple construction of stone and timber and set in its native bushland setting represents Jolly's architecture and philosophy regarding the built form and its relationship to the natural Australian landscape. (Heritage Office)	<u>Physical Description</u> Hy-Brasil originally comprised a main living space with verandahs to the west and east facades and bedroom and kitchen to the south facade. Constructed of local rock faced sandstone. The house has been planned around a large central stone fireplace and the use of
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Internal Referral Body	Comments		
	natural materials of stone and timber represents a distinct 'organic' design philosophy. Particular interest exists with the fireplace structure as the mantel consists of a three metre long stone slab.		
	<b>Other relevant heritage listings</b>		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	Yes	Hy Brasil is on the state register
	National Trust of Aust (NSW) Register	Yes	Hy Brasil is on the Trust's register
	RAIA Register of 20th Century Buildings of Significance		
	Other	N/A	
	<b>Consideration of Application</b>		
	<p>This application is for the creation of a new carport, driveway and inclinor at 60-62 Chisholm Avenue. It also involves the removal and creation of easements across both 60 and 62 Chisholm Avenue for storm water, access and encroachments. The proposal also includes the removal of 6 trees to enable the development. Hy Brasil itself is on 62 Chisholm Avenue while a newer dwelling is located on 60.</p> <p>As the works affect a State heritage item, the application is an Integrated DA under the Heritage Act 1977 and the proposal was referred to Heritage NSW for comment. Heritage NSW have responded with a General Terms of Approval and conditions for the proposal. These conditions should be applied any consent. Heritage notes that one condition is for an photographic archival recording of the site prior to works, Heritage requests that a copy of this recording also be provided to Northern Beaches Council for archival purposes.</p> <p>A Heritage Impact Statement from Kate Mountstephens Architecture and Heritage was submitted with the application. The HIS concludes that the works have been designed to minimise their impact upon the heritage item and the landscape by selecting an appropriate level of excavation, carport location, material choice and reducing the number of trees that would need to be removed. Heritage has reviewed this HIS and can support its conclusions.</p> <p>Therefore Heritage raises no objections to the proposal and requires one condition.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p>		

Internal Referral Body	Comments
	<p>Is a Conservation Management Plan (CMP) Required? No  Has a CMP been provided? No  Is a Heritage Impact Statement required? Yes  Has a Heritage Impact Statement been provided? Yes</p>
Traffic Engineer	<p><b><i>Supported, subject to conditions.</i></b></p> <p>The proposal is for the provision of off-street parking at No.60 Chisholm Avenue including the construction of a driveway and car turntable. The works will remove the need for property access to be provided via a right of way over No.62 Chisholm Avenue.</p> <p>The traffic report submitted to support the DA has been reviewed and demonstrates that the proposed driveway allows for forwards entry and exit to and from the proposed driveway by a B99 vehicles with cars parked opposite the driveway. It also demonstrates the proposed turntable will allow vehicles to turn around on site to exit in a forwards direction removing any need to reverse up or down the driveway.</p> <p>The proposed driveway will be 3.0m in width and therefore insufficient to cater for two vehicles to pass it and will be at a steep gradient of 25% for part of its length, the driveway will, however, only serve a single residence and it is therefore unlikely that two vehicles will need to pass each other. The presence of a turntable will however ensure that in the rare event that two vehicles meet they will both be travelling in a forwards direction so only one will need to reverse to allow the other to pass.</p> <p>There are no traffic engineering concerns with approval subject to conditions</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b><i>Supported, subject to conditions.</i></b></p> <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><b><i>Supported, subject to conditions.</i></b></p> <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>

External Referral Body	Comments
	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.
Nominated Integrated Development - Heritage NSW - Heritage Act 1977	<b>Supported, subject to conditions.</b> Heritage NSW have considered the nominated integrated development application, in accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979. The general terms of approval have been included within this assessment.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

### SEPP (Transport and Infrastructure) 2021

#### Ausgrid

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

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

#### Comment

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

**SEPP (Resilience and Hazards) 2021**

**Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

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

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

**Comment**

Council's Riparian Lands and Creeks, Biodiversity, Water Management and Landscape Officers have all reviewed the proposal and are in support of the application, subject to recommended conditions to ensure that the land in proximity to littoral rainforest are not significantly impacted upon.

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

**Chapter 4 – Remediation of Land**

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

**Pittwater Local Environmental Plan 2014**

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

**Principal Development Standards**

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Carport: 3.9m	-	Yes

**Compliance Assessment**

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### **Zone C4 Environmental Living**

The C4 - Environmental Living zone objectives are addressed below:

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

#### Comment

The proposal consists of a new carport, driveway, inclinator and landscape works that have been designed to complement the surrounding natural area, mitigate heritage impacts and enhance the aesthetic of the area. Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map), with the proposal seeking to impact a total of 0.05ha of vegetation, identified as Pittwater Spotted Gum Forest Endangered Ecological Community (EEC). Including the proposed removal of six prescribed (i.e. protected under PDCP cl. B4.22) native trees. As a result of this impact, the proposal has triggered entry into the NSW Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). A BDAR has been submitted, and includes mitigation measures to reduce the impacts to the EEC, threatened species and wildlife habitat of the area.

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

#### Comment

In addition to the above, recommended conditions of consent have been included by Council's Biodiversity, Riparian, Landscape and Water Management Officers to ensure that impacts to the ecological, heritage, scientific or aesthetic values of the site, are minimised.

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

#### Comment

The proposal includes a low scale development (i.e. carport) that utilises materials to aid in the integration of the immediate landform and landscape.

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

#### Comment



Councils Riparian, Biodiversity and Water Management Officers have reviewed the proposal and support the development subject to recommended conditions of consent to ensure that the impacts to the riparian and native wildlife corridors are also minimised. In addition, the submitted BDAR includes mitigation measures to reduce the impacts to the wildlife habitats located on site.

## **7.2 Earthworks**

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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

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

#### Comment

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality, with the proposal being reviewed by Riparian Lands, Development Engineers and Water Management Officers. Conditions of consent have been recommended to mitigate unacceptable disruption to drainage patterns.

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

#### Comment

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

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

#### Comment

The excavated material will be processed according to the Waste Management Plan for the development.

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

#### Comment

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

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

#### Comment

The excavated material will be processed according to the Waste Management Plan for the development.

### ***(f) the likelihood of disturbing relics***

#### Comment

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

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

#### Comment

The site is not located in the vicinity of any watercourse or drinking water catchment. The site is however, identified as close proximity to Littoral Rainforest, with recommended conditions being included by the Riparian Lands and Creeks Officers.

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

#### Comment

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

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

#### Comment

The proposed earthworks included within this development application have been assessed and approved by Heritage NSW. Relevant conditions have been included to mitigate any adverse impact on the NSW State Heritage Item 'Hy Brasil', located on Lot 1.

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

## **7.6 Biodiversity protection**

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

#### ***(a) whether the development is likely to have:***

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

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

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

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

#### Comment

The subject site is identified on the NSW Biodiversity Values Map and as such, due to the impacts to native vegetation within the BV Map area has triggered entry into the NSW Biodiversity Offsets Scheme (BOS). Accordingly, a BDAR (Ecological Consultants Australia, updated April 2022) has been submitted with the application.

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval, subject to recommended conditions. Biodiversity has noted that the proposal will impact a total of 0.05ha of vegetation which is identified as Pittwater Spotted Gum Forest Endangered Ecological Community (EEC). This impact includes the proposed removal of six (6) prescribed (i.e. protected under PDCP cl. B4.22) native trees. Mitigation measures have been included within the submitted BDAR, to mitigate impacts to the EEC, threatened species and wildlife habitat, with entry into the Biodiversity Offsets Schemes (BOS). The proposed residual impacts will result in an offset credit obligation of 1 ecosystem credit and 3 species credits.

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

Comment

The development has been assessed by Council's Biodiversity Team, who have recommended conditions of consent for appropriate measures of mitigating impacts caused by the development. As mentioned above, the submitted BDAR has also included mitigation measures.

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

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

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

Comment

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, it is considered that the proposed development has been designed, site and manages any significant adverse environmental impact, subject to recommended Conditions.

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m	Carport: 3.2m	50.8%	No
	South-eastern Boundary	Inclinor: 7.2m	-	Yes
Rear Building Line	6.5m	> 6.5m	-	Yes
Side Building Line	2.5m	3.3m - 5.1m	-	Yes
	North-eastern Boundary			
Building Envelope	1m	Stair: 1.2m	-	Yes
	South-western Boundary	Inclinor: 4.1m Carport: 4.7m		
Landscaped Area	3.5m	Within Envelope	-	Yes
	North-eastern Elevation			
Landscaped Area	3.5m	Within Envelope	-	Yes
	South-western Elevation			
Landscaped Area	60%	> 60%	-	Yes

Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	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	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

### Detailed Assessment

#### **B6.3 Off-Street Vehicle Parking Requirements**

Clause B6.3 Off-Street Vehicle Parking requires a minimum of two (2) parking spaces for a dwelling house.

The application proposes a carport that accommodates three (3) parking spaces.

Due to the narrow and steep nature of Chisholm Avenue, there is very limited availability for safe on-street parking, with the carport being positioned at the end of a curved 3 metres wide driveway that runs parallel with Chisholm Street that has been designed to all the retention of the significant rock outcrops and trees at the front of this site. The narrow width of the driveway together with its curved geometry relative to the street is such that a turntable is needed to allow vehicles to safely enter and exit the site in a forward direction. The resultant width of the area needed for the turntable provides a width that allows for 3 car spaces to be provided adjacent to it. Whilst the width of the carport and number of car spaces maybe able to be reduced to 2, it is considered that this would only be achievable through greater excavation and tree loss, as the driveway would need to be designed to be perpendicular to the front boundary and require vehicles to reserve out of the site onto the street which is not desirable, due to restricted site lines.

Furthermore, it is noted that there is a lack of available on street parking on Chisholm Road, with the additional car space considered to assist to lessen the demand for on street car parking.

It is therefore considered that the proposal meets the requirements and objectives of the control, allowing for functional parking and vehicle safety.

#### **B6.7 Transport and Traffic Management**

A condition has been recommended requiring the applicant to provide a Traffic Management Plan that shall be submitted to the Certifier prior to the issue of the Construction Certificate. This is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

#### **D1.5 Building colours and materials**

A materials schedule has been provided with this application. A suitable condition has also been recommended which requires that the the external colours and finishes to the materials being used consist of dark and earthy tones to ensure that the proposal harmonises with the natural environment. Both the Heritage Impact Statement prepared by Kate Mountstephens Architecture and Heritage and the Statement of Environmental Effects prepared by Boston Blyth Fleming Pty Ltd note that earthy tones are to be used.

In addition, a condition is recommended to ensure the proposed carport roof maintains a medium to dark range (BCA classification M and D) and that any roof with a metallic steel finish is not permitted in order to minimise solar reflections to neighbouring properties.

## D1.8 Front building line

### Description of Non-compliance

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

The proposed carport exhibits a front boundary setback of 3.2 metres representing non-compliance, with a variation of 50.8%. It is considered that despite the numerical extent of variation to the control of the DCP, that the variation is acceptable, due to the context of the site, its heritage significance and the presence of an endangered ecological community on site.

### Merit Consideration

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

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

#### Comment

The proposal includes a carport, inclinator and driveway works that will service a low-density residential house on Lot 2. The proposal is nominated integrated development and was assessed accordingly by Heritage NSW. The materials used for the works are considered acceptable, and will complement the natural environment, therefore achieving the desired future character of the Avalon Beach Locality. It is important to recognise that compliant setbacks, whilst achievable would have a greater impact on the natural land forms of the sensitive site and would also have a greater impact on the curtilage of the item.

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

#### Comment

Chisholm Avenue, is not a main road, and therefore this outcome does not apply.

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

#### Comment

The proposal includes the removal of various native trees, however the landscape plan retains the natural landscape setting in relation to rock outcrops, canopy trees and bushland vegetation, and the proposed tree replacement with two (2) tall canopy trees, thirty six (36) small native trees, and native shrubs and groundcovers. As the subject site is identified on the NSW Biodiversity Values Map any impact to native vegetation within the BV Map area will trigger entry into the NSW Biodiversity Offsets Scheme (BOS), the proposal was accompanied by a Biodiversity Development Assessment Report and has been reviewed by Councils Landscape and Biodiversity Officers. It is noted that a strictly compliant design would result in a greater environmental impact and tree loss, contrary to the DCP objective.

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

#### Comment

The proposal includes a turntable to achieve vehicle manoeuvring in a forward direction.

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

#### Comment

The carport has been designed and utilises materials to complement the surrounding natural environment and incorporates various landscaping elements, resulting in an attractive street frontage. Pedestrian amenity will be retained at an acceptable level due to the retention of the access stairway and new inclinator and pathway.

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

#### Comment

The front setbacks can be deemed variable along Chisholm Avenue, in relation to carports and garages that encroach the setback area. Due to the orientation, topography and irregular shape of the subject site, the design is considered acceptable in relation to the spatial characteristics of the existing urban environment within the immediate vicinity.

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

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

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2022**

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

A monetary contribution of \$4,350 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$435,000.

### **CONCLUSION**

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

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

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

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

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

## **PLANNING CONCLUSION**

This proposal, for the construction of a carport including driveway access, inclinators and tree removal, has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the removal of six (6) prescribed native trees, which impacts a State Heritage Item known as 'Hy Brasil'. The removal of trees is a type of demolition pursuant to the definition contained within the Pittwater Local Environmental Plan, hence meets the requirements for the determination by the NBLPP for Sensitive Development.

No concerns were raised in the one (1) received submission, which only addressed reasons for support.

The critical assessment issues included the removal of the prescribed native trees which are located within the Department of Planning and Environment's Biodiversity Values Map (BV Map). The proposal therefore triggered entry into the NSW Biodiversity Offsets Scheme (BOS), with the proposed impacts resulting in an offset credit obligation of 1 ecosystem credit and 3 species credits. Accordingly, a BDAR has been submitted with the proposal.

In addition, the proposal was referred to Heritage NSW, who responded with General Terms of Approval, subject to relevant conditions.

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

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



## RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2022/1399 for Construction of a carport including driveway access, inclinator and tree removal on land at Lot 1 DP 1104192, 62 Chisholm Avenue, AVALON BEACH, Lot 2 DP 1104192, 60 Chisholm Avenue, AVALON BEACH, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

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

##### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
SK00, Drawing Schedule/Materials	May 2022	Andy Lehman Design
SK01, Site/Roof/Analysis Plan	December 2022	Andy Lehman Design
SK02A, Car Parking Floor Plan	December 2022	Andy Lehman Design
SK03, South-East (Street) Elevation	May 2022	Andy Lehman Design
SK04, South-West Section/Inclinator Section	May 2022	Andy Lehman Design
SK05, North-East Elevation	May 2022	Andy Lehman Design
SK06, South-West Elevation	May 2022	Andy Lehman Design
SK07, Driveway Section	December 2022	Andy Lehman Design
SK08, Sediment Control & Waste Management Plan	December 2022	Andy Lehman Design
SK09, Excavation & Fill Plan	December 2022	Andy Lehman Design
SK10, Easements	December 2022	Andy Lehman Design

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Stormwater Management Design (Ref. 201206)	16 November 2022	Barrenjoey Consulting Engineers Pty Ltd.
SW1, Site Storm Water Management Plan	16 November 2022	Barrenjoey Consulting Engineers Pty Ltd.
SW2, Site Storm Water Management Detailing 1	16 November 2022	Barrenjoey Consulting Engineers Pty Ltd.
SW3, Site Storm Water Management Detailing 2	16 November 2022	Barrenjoey Consulting Engineers Pty Ltd.

<b>Reports / Documentation – All recommendations and requirements contained within:</b>
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<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Statement of Heritage Impact, for Development Application for New Carport and Driveway at Hy Brasil, 60 and 62 Chisholm Avenue, Avalon, Issue E	31 May 2022	Kate Mountstephens Architecture + Heritage
Biodiversity Development Assessment Report, Final A1	April 2022	Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands
Bushfire Assessment Statement (Ref. 210691)	19 May 2022	Building Code & Bushfire Hazard Solutions Pty Limited
Geotechnical Investigation (Ref. J3162)	4 March 2022	White Geotechnical Group
Geotechnical Addendum (Ref. J3162A)	6 May 2022	White Geotechnical Group
Arboricultural Impact Assessment, Revision 3	November 2022	Treeism Arboricultural Services
Traffic Report (Ref. 20071)	12 July 2022	Terraffic Pty Ltd

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA2, DA Landscape Plan, Revision C	November 2022	Volker Klemm Landscape Design

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	22 April 2021	Nada Herman

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

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

## 2. **Compliance with Other Department, Authority or Service Requirements**

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

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	20 September 2022
Heritage NSW	Heritage NSW Referral Response	8 December 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.

3. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the

footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

#### 4. **General Requirements**

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

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

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

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

system in sewerred areas or managed on-site in unsewerred 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.

5. **Traffic Management**

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

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

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

6. **Heritage NSW Conditions**

All work shall comply with the information contained within:

a. Architectural drawings, prepared by Andy Lehman Design as listed below:

<b>Project Name: Alterations and Additions at 60-62 CHISHOLM AVENUE NSW 2107 LOTS 1 &amp; 2 DP 1104192</b>			
<b>Dwg No.</b>	<b>Dwg Title.</b>	<b>Date</b>	<b>Rev.</b>
SK00	Drawing Schedule / Materials	May 2022	-
SK01	Site/Roof/Analysis Plan	December 2022	-
SK02	Car Parking Floor Plan	December 2022	-
SK03	South-East (Street) Elevation	May 2022	-
SK04	South-West Section/Inclinators Section	May 2022	-
SK05	North-East Elevation	May 2022	-
SK06	South-West Elevation	May 2022	-
SK07	Driveway Section	December 2022	-
SK08	Sediment Control & Waste Management Plan	May 2022	-

b. DA Landscape Plan prepared by Volker Klemm Landscape Design

<b>Project Name: Alterations and Additions at 60-62 CHISHOLM AVENUE NSW 2107 LOTS 1 &amp; 2 DP 1104192</b>			
<b>Dwg No.</b>	<b>Dwg Title.</b>	<b>Date</b>	<b>Rev.</b>

<b>Project Name: 60-62 CHISHOLM AVENUE NSW, Clareville</b>			
DA2	DA Landscape Plan	06/2022	A

c. Statement of Heritage Impact, for Development Application for New Carport and Driveway at Hy Brasil, 60 and 62 Chisholm Avenue, Avalon prepared by Kate Mountstephens, Issue E, dated 31 May 2022.

d. Arborist Report prepared by Treeism Aboricultural Services, dated May 2022.

**EXCEPT AS AMENDED** by the following general terms of approval:

**WORK NOT APPROVED**

2. Any further tree removal to satisfy the bushfire protection requirements not already included in the scope of works for this application are not approved. If such works are proposed later, the revised proposal will need to be referred to the Heritage Council for approval.

Reason: To avoid/minimise impact on the significant values of the item due to any additional works not documented.

**CONNECTION TO LANDSCAPE PATH TO THE ORIGINAL RESIDENCE OF HY BRASIL**

3. All approved plans, including the landscape plans, are to be amended to show the entrance path layout to the original residence at Hy Brasil in accordance with SK01, SK02 and SK07, dated December 2022. The amended plans are to be submitted with the section 60 application for approval by the NSW Heritage Council (or Delegate).

Reason: To avoid/mitigate impact on the landscape design described as being contributory to the significance of the item in the State heritage listing.

**EXOTIC VEGETATION**

4. The removal of significant exotic vegetation from the site is not approved.

Reason: To avoid/mitigate impact on the vegetation described as being supplementary to the native plantings in the State heritage listing of the item.

**HERITAGE CONSULTANT**

5. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

**SPECIALIST TRADESPERSONS**

6. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

**SITE PROTECTION**

7. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

#### **PHOTOGRAPHIC ARCHIVAL RECORDING**

8. A photographic archival recording of the areas that will undergo change as part of the proposed works must be prepared prior to the commencement of works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Planning and Environment.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

#### **UNEXPECTED FINDS**

9. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics or any other buried fabric such as works not identified in Statement of Heritage Impact, for Development Application for New Carport and Driveway at Hy Brasil, 60 and 62 Chisholm Avenue, Avalon prepared by Kate Mountstephens architecture+heritage dated 30 May 2022, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: All significant fabric within a State Heritage Register curtilage should be managed according to its significance. This is a standard condition to identify to the applicant how to proceed if historical archaeological relics, or other unexpected buried discoveries such as works are identified during the approved project/

#### **ABORIGINAL OBJECTS**

10. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the National Parks and Wildlife Act 1974. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.

Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

#### **COMPLIANCE**

11. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

#### **SECTION 60 APPLICATION**

12. An application under section 60 of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.



Reason: To meet legislative requirements.

## FEES / CHARGES / CONTRIBUTIONS

### 7. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$4,350.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$435,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### 8. **Security Bond**

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

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](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

### 9. **Pier Footing Design Near Trees to be Retained**

Pier footing structural layout plans for the external works including the inclinators lift and landing deck shall be developed in coordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture and a qualified Structural Engineer, with specific reference to the following existing trees:

tree 21 - Bloodwood, tree 21A - Broad-leaved White Mahogany, tree 22 - Bloodwood, tree 23 - Sydney Red Gum, and tree 24 - Bloodwood, as well as any other existing tree(s) determined on site by the Project Arborist to be potentially impacted by the proposed works.

The Arborist shall review, comment, recommend design revision as required and approve the pier footing layout to ensure the locations of piers will be manageable in terms of tree protection measures.

The Arborist shall submit certification to the Certifying Authority that the locations of the pier footings are accepted via the agreed pier footing structural layout plans prior to the issue of a Construction Certificate.

Reason: Tree protection.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical dated 4/3/2021 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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

All pre-construction measures specified in Section 10 of the submitted Biodiversity Development Assessment Report and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures is to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

12. **Preparation of a Tree Removal Protocol**

The Project Ecologist is to prepare a Tree Removal Protocol which includes the provision of (at a minimum):

- a pre-clearance survey
- direct supervision of tree removal
- protocol for rescue of fauna and relocation of log hollow sections onsite to provide fauna habitat

The Tree Removal Protocol must also include procedures for stop work and formal impact assessment in the event that threatened fauna species are found during the pre-clearance survey.

The Tree Removal Protocol is to be submitted to the Certifier prior to issue of Construction Certificate.

Reason: To protect native wildlife.

**13. Installation of Nest Boxes**

A minimum of two nest boxes suitable for microbat species are to be installed in retained trees on the site. Nest boxes must be attached in accordance with industry best practice (e.g. expandable tree sensitive methods).

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Principal Certifier prior to issue of the Construction Certificate.

**14. 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 Certifier must be copied into the notification email to confirm compliance.

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

**15. 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 Certifier prior to release of construction certification.

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

<b>Impacted Plant Community Type</b>	<b>TEC</b>	<b>Number of ecosystem credits</b>	<b>Containing HBT</b>	<b>IBRA sub-region</b>	<b>Plant community type(s) that can be used to offset the impacts from development</b>
1214 – Pittwater Spotted Gum Forest	Pittwater and Wagstaffe Spotted	1	YES	Pittwater, Cumberland, Sydney, Cataract, Wyong	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin

	Gum Forest in the Sydney Basin Bioregion		and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Bioregion This includes PCTs: 1214, 1589.
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Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

16. **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 1 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 1 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifier prior to release of construction certification.

Table 1 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	Containing HBT	IBRA sub-region	Approved variation plant community type (s) that be used to offset the impacts from development
1214 – Pittwater Spotted Gum Forest	1	YES	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo.  or  From a location within 100km of the impact site	Any PCT from Wet Sclerophyll Forests (Grassy subformation), Tier 3 or higher containing HBT (including artificial)

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

17. **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 1 must be retired to offset the impacts of 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 the Certifier prior to release of construction certification.

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

Impacted species credit species	Number of species credits	IBRA sub-region
<i>Chalinolobus dwyeri</i> – Large-eared Pied Bat	1	Any in NSW
<i>Diuris bracteata</i> – Diurus bracteata	1	Any in NSW
<i>Hygrocybe aurantipes</i> - Hygrocybe aurantipes	1	Any in NSW

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

18. **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 Table1 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 1 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifier prior to release of construction certification.

Table 1 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
<i>Chalinolobus dwyeri</i> – Large-eared Pied Bat	1	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo.  or  Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Vulnerable Fauna
<i>Diuris bracteata</i> – Diurus bracteata	1	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo.  or  Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Endangered Flora

<p><i>Hygrocybe aurantipes</i> - Hygrocybe aurantipes</p>	<p>1</p>	<p>Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo.</p> <p>or</p> <p>Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.</p>	<p>Vulnerable Fungi</p>
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Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

19. **Erosion and Sediment Control Plan**

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

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

20. **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 TfNSW 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.

21. **Stormwater Treatment Measures – Minor**

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

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

Reason: Protection of the receiving environment.

22. **Vehicle Mechanical Turntable**

The applicant is to provide information on the proposed vehicular turntable, operation details, maintenance plan, and contingency plan during a malfunction.

Details are to be provided to Council for approval and this requirement is to be reflected on the Construction Certificate plans. Details demonstrating compliance are to be reflected on the Construction Certificate plans and any supporting documentation for the endorsement of the Certifier prior to the release of the Construction Certificate.

Reason: To minimise vehicle conflicts on the driveway and ensure safe ingress/egress.

23. **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 Barrenjoey Consulting Engineers, job number 201206, drawing number SW1 to SW3, dated 16/11/2022. 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.

The drainage plans must address the following:

i. Stormwater shall be discharged along the driveway to the dish drain in Chisholm Avenue. Detailed drainage plans, including engineering certification, are to be submitted to the Principal Certifier 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.

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

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of vehicular crossing and associated works on the road reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. A vehicular crossing 3.6 meters wide to be constructed in accordance with concept plans by Andy Lehman Design, drawing number SK 02, dated November 2022 and council specifications.
2. Details of any retaining structures in the road reserve.
3. Demolition and reconstruction of the existing stone retaining wall bordering the existing Turn -Around zone.
4. Engineering long section on both edges of the proposed driveway.
5. Geotechnical Engineer to assess all proposed works including road works, retaining walls and the proposed demolition of the existing retaining wall. Form 2 shall be submitted.
6. Structural Engineer's certification for the design of all retaining walls.
7. A services plan indicating all services in the road reserve. Where any services are to be

adjusted as a result of the works, approval from the relevant service authority is to be provided.

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

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

25. **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 Certifier prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

26. **Photographic Archival Recording (Council Copy)**

A copy of the Photographic Archival Recording required by Heritage NSW is also to be provided to Council's Heritage Officer.

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

Reason: To provide a historical record of heritage significant works on the site for local archival purposes.

27. **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 Section 10 of the submitted Biodiversity Development Assessment Report.

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

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method 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 Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.



28. **Compliance with Standards**

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

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

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

29. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

30. **Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](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.

31. **Schedule of External Colours and Materials**

A schedule of external materials and colours are to be provided prior to the issuing of the construction certificate.

The external colours shall be of dark and earthy tones, with a medium to dark range.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To preserve the heritage character and significance of the Ruskin Rowe Heritage

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

32. **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. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist. Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

- i) all general tree protection recommendations and arboricultural tree sensitive excavation and construction works near all existing trees to be retained (trees 4, 5, and 7 to 24 inclusive),
- ii) works near existing tree 21, tree 21A, tree 22, tree 23, and tree 24 requiring pier location selection,
- iii) works as per Appendix 4 - Tree Protection Plan.

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.

**33. Tree Removal Within the Property**

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

- i) tree 1 - Sydney Red Gum, tree 2 and 6 - Broad-leaved White Mahogany, tree 3 - Old Man Banksia, and group 3A - Blueberry Ash.

Reason: To enable authorised building works.

**34. Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

Reason: To ensure Work zones are monitored and installed correctly.

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

### 35. Protection of Rock and Sites of Significance

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

### 36. 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,
- iii) all road reserve trees and vegetation.

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.

37. **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.

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

All 'during construction and demolition' measures specified in Section 10 of the submitted Biodiversity Development Assessment Report and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with 'during construction and demolition' measures is to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

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

Council proactively regulates construction sites for sediment management.

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

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

40. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

41. **Survey Certificate**

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

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

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

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

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

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

42. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

43. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier and/or Roads Authority.

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

44. **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.

45. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

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

### **46. Landscape Completion**

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

- i) new planting including selection and placement shall comply with Planning for Bushfire Protection 2019,
- ii) the nominated six *Corymbia* hybrids (*Corymbia* 'summer beauty' and *Corymbia* 'summer red') shall be replaced with two 2 x *Corymbia maculata*, 2 x *Eucalyptus umbra* and 2 x *Eucalyptus paniculata*.

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

### **47. 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 as listed in the Arboricultural Impact Assessment, including the following information:

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

Reason: Tree protection.

### **48. Compliance with Ecologist's Recommendations – Post Construction**

All post-construction measures specified in Section 10 of the submitted Biodiversity Development Assessment Report, the Biodiversity Management Plan (prepared prior to Construction Certificate) and these conditions of consent are to be initiated or completed prior to any Occupation Certificate. Compliance with this condition is to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

### **49. Tree Removal Protocol to be Certified as Completed**

The Project Ecologist is to provide written and photographic evidence of implementation and completion of the Tree Removal Protocol to the Principal Certifier prior to issue of Occupation Certificate.

Reason: To protect native wildlife.

### **50. 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 Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

51. **Waste Management Confirmation**

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

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

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to 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 by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

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

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

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 detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement 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 for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

53. **Retaining wall**

The retaining wall works in the road reserve shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Public and Private Safety

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

55. **Creation of Easements**

The Applicant shall create easements for Drainage, Right of Carriageway, Rights of Footway, Easement to Permit Encroaching Structure (under the provisions of Section 88B of the Conveyancing Act) generally in accordance with the plan by Clarke Dowdle & Associates, drawing title Plan Showing Proposed Easements, revision B, dated 27/10/2022.

The Applicant is to ensure all structures are located within the appropriate easement(s).

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

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

Reason: Statutory requirements of the Conveyancing Act 1919.

56. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

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

57. **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.



Reason: To maintain local environmental amenity.

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

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

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

Reason: Protection of the receiving environment.

59. **Inclinor (Noise)**

The inclinor must be installed and operated at times so as not to cause 'offensive noise'. The inclinor is not create any noise which exceeds over 5dB(A) above the ambient background noise levels when measured from any property boundary.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

60. **Colour of Inclinor**

The inclinor rail, carriage and balustrades are all to be finished in a medium to dark range colour of earthy tones. Details demonstrating compliance as to be submitted to the Principal Certifying Authority prior to the issuing of a construction certificate.

Reason: To reduce the visual impact of the development

61. **Parking Enclosure**

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.