

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2020/0274 |
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|-------------------------------------------|-------------------------------------------------------------|
| Responsible Officer: | Nick England |
| Land to be developed (Address): | Lot 1 DP 1205310, 67 Marine Parade AVALON BEACH NSW 2107 |
| Proposed Development: | Alterations and additions to a dwelling house |
| Zoning: | E4 Environmental Living |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Susan Elizabeth Root Matthew Keith Root |
| Applicant: | Susan Elizabeth Root Matthew Keith Root |

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|----------------------------------|-----------------------------------------|
| Application Lodged: | 18/03/2020 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 31/03/2020 to 14/04/2020 |
| Advertised: | Not Advertised |
| Submissions Received: | 5 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 405,713.00 |
|---------------------------------|---------------|

PROPOSED DEVELOPMENT IN DETAIL

The application involves significant alterations and additions to an existing dwelling house incorporating first floor additions to the existing house and extensions to the rear. The application was amended subsequent to lodgement, to reduce the height of the rear extensions and reduce the size of the living room window / glass wall on the south elevation.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.3 View Sharing

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

Pittwater 21 Development Control Plan - D1.11 Building envelope

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D1.20 Scenic Protection Category One Areas

SITE DESCRIPTION

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| Property Description: | Lot 1 DP 1205310 , 67 Marine Parade AVALON BEACH NSW 2107 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the eastern side of Marine Parade.</p> <p>The site is irregular in shape with a frontage of 21m along Marine Parade and a depth varying between 57 and 63m. The site has a surveyed area of 1,096m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a dwelling house.</p> <p>The site has a westerly aspect with significant rock outcrops and benching. The slope of the land is significant and varies as much as 18m between the front and rear boundaries. On the rear eastern boundary, the site adjoins coastal cliffs and foreshores.</p> <p>The eastern portion of the site contains significant native coastal vegetation.</p> <p>Adjoining and surrounding development is characterised by dwelling houses.</p> |

Map:



SITE HISTORY

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

DA2019/1007: Application for alterations and additions to an existing dwelling house. The application was withdrawn based on issues related to: biodiversity; view loss; building envelope; side setback; visual privacy; and landscaped open space.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration' | Comments |
|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions | <u>Division 8A</u> of the EP&A Regulation 2000 requires the consent |

| Section 4.15 Matters for Consideration' | Comments |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)</p> | <p>authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |

| Section 4.15 Matters for Consideration' | Comments |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is 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 and Bushfire Hazard Solutions, dated 27 February 2020) 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 31/03/2020 to 14/04/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

| Name: | Address: |
|-------------------------|----------------------------------------|
| Mr Michael Cooper | 18 Therry Street AVALON BEACH NSW 2107 |
| Mr Richard John Wiseman | 63 Marine Parade AVALON BEACH NSW 2107 |
| Withheld | AVALON BEACH NSW 2107 |
| Mrs Rowena Jane Wiseman | 63 Marine Parade AVALON BEACH NSW 2107 |
| Mrs Lyndall Anne Barry | 65 Marine Parade AVALON BEACH NSW 2107 |

A total of three (3) submissions were received during the notification period and the assessment period, from person/s at 3 nearby properties.

Subsequent to lodgement, the applicant provided amended plans on 21 July 2020. This was in response to Council's concerns with the impact of the original design in regard to privacy and visual impact.

As the amended design had a lesser environmental impact, the plans were not formally re-notified. As a

courtesy, the objectors were notified individually to advise that amended plans had been received and they were invited to provide a further response.

The following issues were raised in the submissions and each have been summarised and are addressed below:

- *The works proposed at the rear of the dwelling will have an adverse visual impact when viewed from No.40 Marine Parade and from Marine Parade generally. This relates to the two-storey structure protruding above the ridgeline of the adjoining coastal cliff / foreshore.*

Comment: This issue was relevant to the original proposal, where the rear master bedroom structure was of a height that significantly protruded above the adjoining ridgeline. The applicant has subsequently amended the proposal to provide a single-storey structure, which preserves the visual quality of the ridgeline. Hence, this is no longer a valid reason to refuse the application.

- *The proposed works will have an adverse visual impact when viewed from the southern elevation, due to its lengthy and continuous facade. Permitting a structure of this kind would represent an undesirable precedent for housing in the area.*

Comment: The proposed dwelling (as amended) has been designed to comply with the built form controls that apply to the southern boundary, with a minor exception to part of the side setback at the ground floor. The design reflects the steep, benched topography of the site and generally responds in an appropriate manner to this topography. In effect, the visual bulk and scale of the dwelling is reflective of the built controls in Council policies and the proposed dwelling does not represent significant non-compliances with the relevant controls.

However, given that the site is located in a Scenic Protection Area and a significant proportion of the works are situated in a prominent location on the site, its visual impact will be more severe than it would be on other adjoining sites where the topography is different. Hence, a condition of consent is recommended to ensure that: all parts of the proposed works are setback at least 2.5m from the southern boundary; and the proposed 1st floor of the living and dining area be lowered by 0.9m.

Subject to condition, there are no grounds to assume that a precedent would occur in the approval of the dwelling.

- *The proposed dwelling is not consistent with the objectives and controls of Council's policies.*

Comment: A detailed assessment of the variations to Council's policies are provided elsewhere in this report. In summary, the development will achieve the objectives of Council's policies, the numerical non-compliances proposed are relatively minor and refusal based on this not warranted.

- *The proposal will result in an unreasonable loss of views currently enjoyed from the No.65 Marine Parade.*

Comment: A detailed assessment of the potential loss of views are provided elsewhere in this report. In summary, the development will not result in an unreasonable loss of views to adjoining properties and refusal based on this issue is not warranted.

- *The proposal will result in an adverse loss of solar access to the property at No.65 Marine Parade.*

Comment: The proposal has since been amended to reduce the height of the works and hence the level of overshadowing on the adjoining property at No.65. Revised shadow diagrams were provided and they were considered an accurate representation of the likely shadows cast and will comply with Council's policies for solar access.

- *The proposal will result in an adverse loss of visual privacy to the property at No.65 Marine Parade.*

Comment: The amended proposal has addressed previous issues with a large glass roof / window on the southern elevation that would have had an adverse impact on the adjoining property at No.65 Marine Parade. The glass roof has been replaced with a smaller window that is unlikely to result in an adverse impact on the adjoining dwelling at No.65.

REFERRALS

| Internal Referral Body | Comments |
|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Landscape Officer | <p>The development application is for alterations and additions to the existing dwelling house, including driveway access, new ancillary facilities, tree removal and landscape works.</p> <p>Council's Landscape Referral staff have assessed the proposal against Pittwater Local Environment Plan clause E4 Environmental Living, and the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D1 Avalon Beach Locality</p> <p>The proposal in terms of landscape outcome is acceptable subject to conditions of consent to provide tree replacement and a planted screen to common boundaries to satisfy the relevant landscape controls, and subject to the requirements to ensure the protection of trees and vegetation in proximity to the development works.</p> <p>A Landscape Plan is provided with the development application in accordance with Council's Lodgement Requirements.</p> |
| NECC (Bushland and Biodiversity) | <p>The application has been assessed against the requirements of cl. 13 Development on land within the coastal environment area of State Environmental Planning Policy (Coastal Management) 2018 and P21 DCP 2014 Control B4.3 Flora and Fauna Habitat Enhancement Category 2 Land.</p> <p>The proposal will result in the removal of two trees that are located within the building footprint, however the mitigation measures proposed in the flora and fauna assessment, and site landscaping</p> |

| Internal Referral Body | Comments |
|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>should be included as part on any consent. It is concluded that the development is designed, sited and will be managed to minimise that impact to the integrity and resilience of the ecological environment, including native vegetation and fauna and their habitats.</p> |
| <p>NECC (Coast and Catchments)</p> | <p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consultant Pty. Ltd. dated March 2020 and Council accepts the assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>The subject site is also shown to be affected by Coastline Bluff/Cliff</p> |

| Internal Referral Body | Comments |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014. As such, the Geotechnical Risk Management Policy for Pittwater (Appendix 5, Pittwater 21 DCP) and the relevant B3.4 Coastline (Bluff) Hazard controls in P21 DCP will apply to new development of the site.</p> <p>Coastline Bluff Hazard Management</p> <p>An updated Geotechnical Report prepared by White Geotechnical Group dated 24 February 2020 along with the original Geotechnical Report prepared also by White Geotechnical Group dated 20 August 2019 assessing coastline (bluff)/ coastal cliff or slope instability has been submitted with the DA. The report assessed that the proposed extension will be at a horizontal distance of ~27m from the base of the sea cliff. The lowest elevation of the piers for the proposed extension is expected to be ~RL38.0 so are some 33m above the base of the cliff. Considering the large width of the rock platform, the large volume of armouring sandstone rubble at the cliff base, and distance and elevation to the proposed works, the current accepted predicted sea level rise for the next century is not expected to lead to significant undercutting that could impact the proposed works.</p> <p>As such, it is considered that the application does comply, subject to conditions, with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> |
| NECC (Development Engineering) | No objection to approval, subject to conditions as recommended. |
| Parks, reserves, beaches, foreshore | No issues with the proposal. |

| External Referral Body | Comments |
|----------------------------|------------------------------------------------------------------------------|
| Ausgrid: (SEPP Infra.) | Ausgrid raise no objection, subject to general conditions. |
| Aboriginal Heritage Office | The Aboriginal Heritage Office has no objection to the proposed development. |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

application hereunder.

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A354739_02 dated 7 March 2020). The BASIX Certificate indicates that the development will achieve the sustainability requirements of the SEPP.

SEPP (Infrastructure) 2007

Ausgrid

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

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

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

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

14 Development on land within the coastal use area

(1)

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform

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

Comment: The proposed works (as amended) will not generate any adverse visual impact on the adjoining coastal cliff / foreshore area or result in an adverse impact on the local natural environment or cultural heritage. As such, it is considered that the application does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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

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

Comment: The extent of the works proposed adjoining the coastal cliff / foreshore area are not likely to result in any increased level of risk to coastal hazards.

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 | 8.2m | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|----------------------------------------------------------|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 2.7 Demolition requires development consent | Yes |

| Clause | Compliance with Requirements |
|----------------------------------------------------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 5.9 Preservation of trees or vegetation | Yes |
| 5.9AA Trees or vegetation not prescribed by development control plan | Yes |
| 5.10 Heritage conservation | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.5 Coastal risk planning | Yes |
| 7.7 Geotechnical hazards | Yes |

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|---------------------|--------------|-----------------------------------------|--------------|----------|
| Front building line | 6.5m | 10.8m | N/A | Yes |
| Rear building line | 6.5m | 6.5m | N/A | Yes |
| Side building line | 2.5m (north) | 0.9m | 64 | No |
| | 1m (south) | Nil | 100 | No |
| Building envelope | 3.5m (north) | Breach of 9.8m (length) x 1.9m (height) | N/A | No |
| | 3.5m (south) | Within envelope | N/A | Yes |
| Landscaped area | 60% | 55% | 5 | No |

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

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|----------------------------------------------------------------------|------------------------------|-----------------------------|
| A4.1 Avalon Beach Locality | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B3.2 Bushfire Hazard | Yes | Yes |
| B3.4 Coastline (Bluff) Hazard | Yes | Yes |
| B4.3 Flora and Fauna Habitat Enhancement Category 2 Land | Yes | Yes |
| B4.22 Preservation of Trees and Bushland Vegetation | Yes | Yes |
| B5.8 Stormwater Management - Water Quality - Low Density Residential | Yes | Yes |
| B5.10 Stormwater Discharge into Public Drainage System | Yes | Yes |
| B5.11 Stormwater Discharge into Waterways and Coastal Areas | Yes | Yes |
| B5.13 Development on Waterfront Land | Yes | Yes |
| B6.3 Off-Street Vehicle Parking Requirements | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---------------------------------------------------------------------|------------------------------|-----------------------------|
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.2 Construction and Demolition - Erosion and Sediment Management | 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 |
| D1.1 Character as viewed from a public place | Yes | Yes |
| D1.5 Building colours and materials | Yes | Yes |
| D1.8 Front building line | Yes | Yes |
| D1.9 Side and rear building line | No | Yes |
| D1.11 Building envelope | No | Yes |
| D1.14 Landscaped Area - Environmentally Sensitive Land | No | Yes |
| D1.16 Fences - Flora and Fauna Conservation Areas | Yes | Yes |
| D1.17 Construction, Retaining walls, terracing and undercroft areas | Yes | Yes |
| D1.20 Scenic Protection Category One Areas | No | Yes |

Detailed Assessment

C1.3 View Sharing

Merit consideration

During notification, a submission was received from an adjoining property (No.65 Marine Parade) in regard to the loss of views from parts of this adjoining dwelling. This site had been inspected as part of the assessment of the previous application at No.67.

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

- *A reasonable sharing of views amongst dwellings.*

Comment:

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

1. Nature of the views affected

“The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly

than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The property at No.65 enjoys significant district views over Avalon to the south-west and west and north-west towards the Pittwater and its western foreshores.

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

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

Comment to Principle 2:

The views are enjoyed from a balcony off a living room on the west elevation of this dwelling. Views are enjoyed from a standing position. The water views are enjoyed across a side boundary with No.67. For the purposes of this assessment, it is worth considering that a consent has been recently granted to this dwelling (30 June 2020) to extend this balcony into a terrace that projects a further 3.3m to the west of the existing wall. This approval would have the effect of actually of potentially increasing, the water views to the north-west.

3. Extent of impact

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

Comment to Principle 3:

The proposed works will result in a small loss of water views to the north-west, when viewed from the existing balcony. The remaining views to the west and south-west will remain unchanged. In the context of the views available from the existing balcony, the general district views will be retained and up to half of the water views lost, however some views of Pittwater will remain. This loss is considered to be minor.

However, in the context of the recent consent granted to extend this balcony to a larger terrace, there will be an increase in the potential water views enjoyed from the property at No.65. Therefore, in the context of this consent, the potential loss is considered to be negligible.

4. Reasonableness of the proposal that is causing the impact

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

a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

The extent of the loss, as a proportion of the existing views enjoyed from this property, and any other property adjoining the site, is considered to be minor. The part of the proposed works that will result in these minor losses will comply with the relevant development standards and controls. The views lost are gained from a side boundary of the site. In addition, the recent consent on the adjoining property at No.65 will result in this property being able to access further water views to the north-west. Potentially this renders the loss as negligible and on other parts of the approved terraces provides further views to the property at No.65. Based on these circumstances, the extent of loss is considered reasonable and does not warrant refusal of the application.

In summary, the proposed works (as amended) will not result in any adverse loss of views from any adjoining property and will promote the sharing of views, consistent with this objective.

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

Comment:

The amendments made to the application, in particular the reduction in the height of the rear master bedroom structure to a single storey, will ensure that this objective is achieved.

- *Canopy trees take priority over views.*

Comment:

There will be significant loss of vegetation as a result of the proposed development, hence this objective has been achieved.

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

D1.9 Side and rear building line

Description of the Non-compliance

The side setbacks on the south and north boundary will, at certain points, represent a 64 to 100% variation with the control.

Consideration of the Outcomes of the control

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

Comment: Despite the extent of the variations, the proposed works will achieve the desired future character of the locality.

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

Comment: The bulk and scale of the proposed works (as amended) will not result in an adverse impact on the surrounding natural landscape and built environment. The non-compliances only exist on certain points of the works. If the side setbacks are assessed as an average, the setback on the north boundary is approximately 5.3m and 3.9m on the south boundary. These distances are more than adequate to satisfy the numerical requirements.

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

Comment: There will be no loss of any views currently enjoyed by adjoining private properties, or from the public domain, as a result of the proposed non-compliance.

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

Comment: As stated above, there will be no loss of any views currently enjoyed by adjoining private properties as a result of the proposed non-compliance.

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

Comment: There will be no loss in residential amenity as a result of the proposed non-compliance.

Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)

Comment: Sufficient landscaping is provided around the site to provide future opportunities for tree canopy and streetscape enhancement.

Flexibility in the siting of buildings and access. (En, S)

Comment: Full compliance with the side setback controls are not warranted under the circumstances.

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

Comment: There will be no loss of existing vegetation as a result of the proposed non-compliances.

A landscaped buffer between commercial and residential zones is achieved. (En, S)

Comment: Not relevant to the application.

Summary: Despite the variation to the side setback controls, the proposed works has demonstrated compliance with the Outcomes.

D1.11 Building envelope

Description of Non-compliance

The extent of the breach on the north (side) elevation is estimated at a length of 9.8m and a height of 1.9m.

Consideration of the Outcomes of the control

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

Comment: The amended design has demonstrated a built form that is consistent with this Outcome.

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

Comment: The location of the breach is on the lower slopes of the site, which is not vegetated. The proposal is hence consistent with this Outcome.

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

Comment: The breach occurs on the north elevation and is in a portion of the site well below the level of the adjoining dwelling at No.69 Marine Parade. The development is hence an appropriate response to the spatial characteristics of the existing natural environment.

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

Comment: As stated previously, the breach occurs on a part of the site that is not visually prominent from adjoining properties or the public domain. Hence, this Outcome is achieved.

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

Comment: There is unlikely to be any view loss from adjoining properties as a result of the breach on the northern elevation.

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

Comment: No adverse amenity impact is likely to adjoining properties as a result of the breach.

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

Comment: No vegetation removal is undertaken as a result of the breach.

Summary: Despite the non-compliance, the development has met the Outcomes of the control.

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance

55% of the site is set aside as landscaped open space. This is short of the 60% required for the E4 zone and represents a 5% variation with the control.

Consideration of the Outcomes of the control

Achieve the desired future character of the Locality. (S)

Comment: The proposed works have achieved the desired future character of the Avalon Beach locality.

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

Comment: The amended proposal has demonstrated an appropriate bulk and scale that is consistent with the surrounding landscape and built form.

A reasonable level of amenity and solar access is provided and maintained. (En, S)

Comment: The non-compliance will not result in any identifiable amenity impact to adjoining properties.

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

Comment: There will be some loss of existing vegetation to the rear of the site as a result of the extensions to the rear, however there will be adequate vegetation retained on the site to ensure this Outcome is achieved.

Conservation of natural vegetation and biodiversity. (En)

Comment: The land is situated in an area identified as having biodiversity potential (Habitat Enhancement Category 2 Land). Council's Biodiversity Officer has advised that the proposed works will not impede the land's ability to provide future biodiversity benefit.

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)

Comment: Adequate management of stormwater is provided.

To preserve and enhance the rural and bushland character of the area. (En, S)

Comment: The proposed works have been adequately sited to mitigate its impact on the adjoining coastal cliff / foreshore area.

Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management. (En, S)

Comment: As stated previously, adequate management of stormwater is provided.

Summary: The proposed works have demonstrated sufficient compliance with the Outcomes of the control.

D1.20 Scenic Protection Category One Areas

The property is located in a Scenic Protection Area Category One under Pittwater21 DCP. This requires all new development to minimise its visual impact on the natural environment when viewed from any waterway, road or public reserve.

Existing adjoining structures to the subject site are situated well back from the road reserve whilst not being sited in close proximity to the upper ridges. This mitigates their visual presence. By contrast, the proposal is located both in close proximity to the front and rear boundaries of the site, with a relatively long south elevation, which would make it visually very prominent.

Hence, a condition of consent is recommended to amend the development to restrict its visual impact on the Scenic Protection Area. The amendments recommended are:

- to ensure that all parts of the proposed works are located at minimum distance of 2.5m from the

- southern boundary; and
- the height of the 1st floor living / dining area is lowered by 0.9m.

These conditions are considered reasonable and will not substantially reduce the area of floor space proposed.

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 2019

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

A monetary contribution of \$4,057 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$405,713.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0274 for Alterations and additions to a dwelling house on land at Lot 1 DP 1205310, 67 Marine Parade, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|------------------------------------------------------------|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| DA3 | - | sketchArc |
| DA4 | - | sketchArc |
| DA5 | - | sketchArc |
| DA6 | - | sketchArc |
| DA7 | - | sketchArc |
| DA8 | - | sketchArc |
| DA9 | - | sketchArc |
| DA10 | - | sketchArc |
| DA11 | - | sketchArc |
| DA12 | - | sketchArc |
| DA13 | - | sketchArc |
| DA14 | - | sketchArc |
| DA15 | - | sketchArc |
| DA16 | - | sketchArc |
| DA17 | - | sketchArc |
| DA18 | - | sketchArc |

| Engineering Plans | | |
|--------------------------|---------------|--------------------|
| Drawing No. | Dated | Prepared By |
| Sheet - 1/B | 13 March 2020 | Taylor Consulting |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|-----------------------------------------------------------------------------------------|--------------|---------------------|
| Report Title / No. | Dated | Prepared By |
| BASIX Certificate A357439_02 | 7 March | Phil Brown Drafting |

| | | |
|-------------------------------------|----------------|-----------------------------------------------|
| | 2020 | |
| Geotechnical Risk Assessment J1879B | 20 August 2019 | White Geotechnical Group |
| Bushfire Assessment Report 190070 | 8 August 2018 | Building Code & Bushfire Hazard Solutions P/L |

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

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

| Landscape Plans | | |
|------------------------|------------------|--------------------|
| Drawing No. | Dated | Prepared By |
| L-01 of 4 Revision A | 18 February 2020 | serenesapes |
| L-02 of 4 Revision A | 18 February 2020 | serenesapes |
| L-03 of 4 Revision A | 18 February 2020 | serenesapes |
| L-04 of 4 Revision A | 18 February 2020 | serenesapes |

| Waste Management Plan | | |
|------------------------------|------------------|--------------------|
| Drawing No/Title. | Dated | Prepared By |
| - | 20 February 2020 | Vaughan Milligan |

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. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$4,057.13 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$405,713.00.

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

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

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

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

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

5. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group, dated 24 February 2020 & 20 August 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **Amendments to the approved plans**

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

(a) all works are to be setback a minimum distance of 2.5m from the southern boundary of the land adjoining No.65 Marine Parade; and

(b) the floor level of the 1st floor lounge / dining / kitchen area is to be lowered 0.9m, to ensure a height of RL41.98m and a corresponding 0.9m decrease in the total floor height above.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon the surrounding are of high scenic value.

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

On-site Stormwater Detention system can be designed and constructed in accordance with Northern Beaches Council's Clause B5.7 and B5.10 in PITTWATER DCP21.

Detailed drainage plans are to be prepared in accordance with Clause B5.10 of Pittwater DCP21, by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field. The drainage plans are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

9. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

10. **Coastal Bluff Engineering Assessment Implementation**

The advice and recommendations contained in the approved Geotechnical Risk Management Report prepared by White Geotechnical Group dated 20 August 2019 and updated on 24 February 2020 in support of the development application and must be incorporated as required

into construction plans and structural specifications for the development.

Reason: To ensure potential hazards associated with development on a Coastal Bluff are minimised

11. **Coastal Bluff Engineering Assessment Implementation**

All development or activities must be designed and constructed such that they will not increase the level of risk from coastal processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect coastal processes; they will not be adversely affected by coastal processes.

Reason: To ensure potential hazards associated with development on a Coastal Bluff are minimised

12. **Engineers Certification of Plans**

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

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

13. **Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland protection measures are carried out according to the conditions of consent.

The Project Ecologist will provide certification that conditions relating to the mitigation measures of the Flora and Fauna Report (Kingfisher Feb 2020) are carried out. The Project Ecologist will ensure that all conditions relating to the biodiversity management of the property are fully implemented.

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

- Practising member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016

Reason: To ensure bushland management.

14. **Compliance with Standards**

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

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

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

15. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Tree removal within the property**

In accordance with the Landscape Plan L-01 prepared by Serenespaces, a total of four existing trees impacted by development is granted approval for removal, including the following trees:

- T5 Blueberry Ash
- T6 Blueberry Ash
- T8 Old Man Banksia
- T9 Cheese Tree

All are subject to tree replacement within the site as conditioned.

Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

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

All pre-construction biodiversity-related measures specified in section 8.1 of the approved Flora and Fauna Assessment Report (Kingfisher Feb 2020) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist prior to issue of the Construction Certificate.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. **Maintenance of Road Reserve**

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

Reason: Public Safety.

19. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;

- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

20. Tree and vegetation protection

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

- i) all trees and vegetation within in accordance with the Landscape Plan L-01 prepared by Serenescapes, excluding exempt vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation, including T1, T2 and T3.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF minimum Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF minimum Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF minimum Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF minimum Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF minimum Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF minimum Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF minimum Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

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

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

21. **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 sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: preservation of significant environmental features.

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

All biodiversity-related measures are to be implemented during construction in accordance with section 8.1 of the approved Flora and Fauna Assessment Report (Kingfisher Feb 2020) and these conditions of consent.

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

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

23. **Native Vegetation Protection**

Guards or fences are to be provided around native vegetation as identified/ nominated on the approved plans. The guards or fences are to be installed prior to the commencement of any work on the site. No works, including utility installations (eg water, sewer, telephone, drainage), are to be undertaken within 4 metres of the trunk of any such trees. The tree guards shall be a minimum 1200mm high at least four (4) metres from the base of the nominated tree/s and constructed from timber posts and rails or posts and suitable plywood panels.

Reason: To protect and retain trees/the natural environment proposed for retention.

24. **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 Environment and Climate Change (DECC).

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 DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

25. **Landscape works completion**

Landscape works are to be implemented in accordance with the following requirements:

- i) screen planting to achieve a height of at least 3 metres at maturity shall be planted along the common boundaries as shown on the Landscape Plan L-02 and L-03,
- ii) screen planting proposed along the common boundaries shall be planted at a minimum 300mm pot container size and planted no more than 1 metre apart.

- iii) any existing vegetation along the common boundaries removed during works shall be replaced with screen planting as per i) and ii) above,
- iv) tree planting as shown on the Landscape Plan L-03 shall consist of 1 replacement Glochidion ferdinandi (Cheese Tree), 1 replacement Banksia serrata (Old Man Banksia) and 4 other trees in accordance with the Landscape Plan L-02,
- v) all tree planting shall installed at 75 litre pot container size and each trees shall be at least 5 metres from existing or approved building under construction, and at least 4 metres from any existing or proposed tree.

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

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

26. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

28. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

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

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures 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 and restriction.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user 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 disposal system is maintained to an appropriate operational standard.

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

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with section 8.1 of the approved Flora and Fauna Assessment Report (Kingfisher Feb 2020), and these conditions of consent.

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

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

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

30. **Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

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

31. **Control of Weeds**

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

Reason: Weed management.

32. **No Planting Environmental Weeds**

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

Reason: Weed management.

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

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

Reason: To protect Aboriginal Heritage.

34. **Dead or Injured Wildlife**

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

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

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

Signed



Nick England, Planner

The application is determined on 02/10/2020, under the delegated authority of:



Anna Williams, Manager Development Assessments