

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0457
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<b>Responsible Officer:</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot A DP 383227, 4 Irrubel Road NEWPORT NSW 2106
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a swimming pool
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	David Mills Regina Cornelia Mills Roki Vaughn Mills
<b>Applicant:</b>	David Mills Regina Cornelia Mills

<b>Application lodged:</b>	08/05/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	10/06/2019 to 24/06/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 600,000.00
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### ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral

to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	Lot A DP 383227 , 4 Irrubel Road NEWPORT NSW 2106
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Irrubel Road.</p> <p>The site is regular in shape with a frontage of 32.6mm along Irrubel Road, a frontage of 33.1m to Nullaburra Road and a depth of 32.6m. The site has a surveyed area of 1126m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single storey dwelling house, detached carport and garage.</p> <p>The site slopes from the north-west corner towards the street on the south-east frontage.</p> <p>The site has a number of mature native canopy trees which are in close proximity to the dwelling. Low lying shrubs and lawn make up the remaining landscape open space.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by detached single, double and three storey dwelling houses.</p>

Map:



Section 4.15 Matters for Consideration'	Comments
draft environmental planning instrument	
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;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>
Section 4.15 (1) (b) – the likely impacts of the	(i) <b>Environmental Impact</b>

Section 4.15 Matters for Consideration'	Comments
development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:
Mrs Mary Josephine Musgrave	3 Wallumatta Road NEWPORT NSW 2106
Mrs Kristina Leigh Moss	PO Box 950 MONA VALE NSW 1660

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

- *When making good the carport and garage, I ask that the section of our timber fence on the northern side of these buildings be relocated to the survey boundary line. At the moment it*



*encroaches onto 3 Wallumatta Road by 500mm.*

- *The proposed development will have an impact upon solar access to 6 Irrubel Road.*
- *The proposed development will have an impact upon the privacy to 6 Irrubel Road.*
- *The proposed development will impact upon the ocean view of 6 Irrubel Road.*

The matters raised within the submissions are addressed as follows:

- *Timber fence boundary alignment*

Comment: The proposed development does not proposed to make change to any boundary fencing. However, the submitted survey plan indicates that the boundary fencing (as existing) encroaches on to the adjoining property. A condition of consent is recommended to rectify the existing boundary fence encroachment.

- *Solar Access*

Comment: In accordance with the requirements of the Pittwater DCP, detailed shadow diagrams have been submitted with the application demonstrating the impact of the proposed building between 9am and 3pm on 21 June. The proposed development will have a minor overshadowing impact upon the western adjoining property at 9am, however, will have no impact during the afternoon period. The adjoining property will retain solar access in accordance with the requirements of the Pittwater DCP. The western property is elevated above the subject land, therefore will retain the sunlight currently enjoyed to the windows between 9am and 3pm. Overall, the proposed development is not considered to present an unreasonable impact upon solar access and is compliant with the controls.

- *Privacy impacts*

Comment: A detailed discussion against the control C1.5 Visual Privacy is contained later in this report. Overall, the proposed development is not considered to present an unreasonable impact upon the privacy of the adjoining properties with the two storey portion of building containing a small bedroom only with a large void within the portion closest to the shared boundary.

- *View impact*

Comment: A detailed discussion against the control C1.3 View Sharing is contained later in this report. Following this assessment, the proposal is found to be of a reasonable size and scale and consistent with the outcomes of the controls, therefore, the impact upon views is acceptable when considered against the planning principles established in the land and environment court judgement *Tenacity Consulting v Warringah Shire Council*.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application seeks approval for alterations and additions of the existing dwelling including extensions, new decks/terraces, new hydrotherapy spa pool, alterations to the carport and garage.</p> <p>The proposal in terms of landscape outcome is acceptable subject to the protection of existing trees and vegetation, and the completion of</p>

Internal Referral Body	Comments
	<p>landscaping.</p> <p>A arboricultural impact assessment report dated 3/03/2019, and updated 8/08/2019 is submitted with the application satisfying the DA Lodgement Requirements, subject to conditions. Existing trees in close proximity to the development works are rated with a High landscape significance and shall be managed during the site works. A root investigation carried out in the vicinity of the existing T3 Spotted Gum found the existance of roots less than 20mm in diameter north of T3, supporting the location of the proposed terrace in this area, and recommednations are made to delete the terrace south of T3 to reduce impact to the Spotted Gum. The root investigation carried out in the vicinity of the existing Spotted Gums identified as T4, T5, T6 and T7 found the existance of roots less than 20mm in diameter, and these pier locations shall be utilised for the proposed deck works.</p> <p>No landscape plan is submitted with the application. Landscape information is presented by way of a materials plan indicating a selection of trees, shrubs and paving materials to be utilised. The Site Plan indicates new tree planting along the boundary to the extent of the new building aditiions and terrace / spa pool. Landscape conditions shall be imposed to ensure the planting privacy visual relief along the boundary.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D10 Newport Locality</p>
NECC (Bushland and Biodiversity)	<p><b>Updated comments 12/08/2019</b></p> <p>The applicant has provided an Addendum Report to the Arboricultural Impact Assessment (Complete Arborcare, 08/08/2019) and a Raft Slab and Footing Plan (GZ Consulting Engineers 19/07/2019). The Addendum Report satisfies the requirements as per Section 3.3.4 TPZ encroachment Considerations AS4970-2009.</p> <p>The Addendum Report includes further assessment of impacts to T3 resulting from the proposed paved terraces and deck pier impacts to T4 - T7, including proposed pier root investigation. The Arborist has recommended the deletion of the paved terrace to the south of T3, and replace with <i>"make good existing retaining wall where necessary and maintain existing ground levels during soft landscaping within TPZ's (T2 &amp; T3) of trees to be retained."</i> The location of the proposed retained wall north of T3 was investigated via a hand-dug trench. Only woody and non-woody roots &lt;20mm in diameter were observed within the top 300mm of the trench, hence the Arborist expects no adverse impacts resulting from the proposed retaining wall. All five proposed deck pier locations were hand dug to investigate for roots and <i>"No woody roots &gt;20mm in diameter were found during the investigative</i></p>

Internal Referral Body	Comments
	<p>excavation". The Arborist has provided recommendations for stepping stone / pathway and soft landscaping within the TPZ of trees to be retained.</p> <p>As per the Arborist recommendations, the western paved terrace, south of T3, is to be deleted from the proposal plans which will be conditioned as part of the consent.</p> <p>Council's Natural Environment - Biodiversity section supports the application, subject to conditions.</p> <p><b>Original comments 19/06/2019</b> This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.6 Wildlife corridors.</p> <p>The proposal is for the alterations and additions of the existing dwelling including extensions, new decks/terraces, new hydrotherapy pool, alterations to the carport and garage. The site contains 7 <i>Corymbia maculata</i> Spotted Gum trees, none are proposed for removal, however 5 will incur major encroachments into their Tree Protection Zones (TPZ) and some encroachment into the Structural Root Zones (SRZ).</p> <p>The submitted Arboricultural Impact Assessment report (Complete Arborcare - authored by Colin Curtis, dated 3/3/2019), whilst broadly detailing the level of encroachment of subject site trees, does not adequately consider nor demonstrate how the proposal can be supported (as per Section 3.3.4 TPZ encroachment Considerations AS4970-2009).</p> <p>The Arboricultural Report states <i>major</i> encroachment (as per AS4970-2009) is proposed for trees numbered T3,T4,T5,T6 &amp; T7. Works are also proposed within the SRZ of these trees, the suggested broad statement to carry out root mapping on these trees is inadequate. Indiscriminate root mapping on T3-T7 cannot occur without detriment to the trees.</p> <p>Consideration of tree sensitive construction measures (such as cantilevered/suspended slabs for the proposed terracing around T3) and specific documented investigative hand excavation of proposed pier location sites in relation to trees T4-T7 for the deck piers - to be directly supervised or undertaken by minimally qualified AQF Level 5 Arboriculturist, discussion on methods of installation for proposed pathways, stepping stones and landscaping features within the TPZ of trees to be retained is required.</p> <p>Council's Natural Environment - Biodiversity section cannot complete its assessment until further information, detailed above, is provided to gain a thorough understanding of the impacts on trees to be retained.</p>
NECC (Development Engineering)	No Development Engineering objection subject to conditions.



External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## 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. A339958\_02 dated 8 July 2019).

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

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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

supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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

**Pittwater Local Environmental Plan 2014**

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.7m	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
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	10.7m	N/A	Yes
	3.25m (Secondary street frontage)	5.3m (New deck) *Note - Existing deck off living is existing to be refurbished.	N/A	No
Rear building line	6.5m	5.8m	10.7%	No
Side building line	1m	9.8m	N/A	Yes
Building envelope	3.5m	Within	N/A	Yes
	3.5m	Within	N/A	Yes

Landscaped area	60%	57%/642sqm *With variation clause 692sqm/61.5%	N/A	No *Variation clause has been applied.
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**\*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
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

## Detailed Assessment

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

#### Merit consideration

The development is considered against the underlying Objectives 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:

A site inspection was conducted in the presence of the home owner to ascertain the views currently obtained from the site 6 Irrubel Road.

The views which will be affected from 6 Irrubel Road are water views comprising of the ocean horizon towards the east. The view is a partial view of the ocean which is obscured by canopy trees on the adjoining site and beyond. The view is currently obtained over the roof of the existing dwelling upon 4 Irrubel Road.



Figure 1 - View currently obtained from ground floor dining area.



Figure 2 - Views currently obtained from ground floor living area.





Figure 3- View upper floor bedroom (left). View upper floor study (right)

## 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 obtained over the side (eastern) boundary of the affected property (6 Irrubel Place) and are obtained from the ground floor living room, dining room, kitchen and rear living room. The views are also obtained on the upper floor bedrooms and study on the eastern side of the dwelling. The partial ocean views is also obtained from the rear yard and terrace area adjacent to the pool over the side (eastern) boundary.

## 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 majority of the ocean view as currently obtained from the ground floor living areas will be impacted as a result of the proposal. A view corridor will be retained between the new gable roof form and the new two storey addition. The view from the upper floor bedrooms and study will be partially impacted, with a portion of the ocean view retained over the proposed roof form and through the corridor between the of the new gable roof and two storey addition. Given the majority of views from the ground floor are impacted, the impact can be described as moderate given the existing obscured nature of the views.

#### **4. Reasonableness of the proposal that is causing the impact**

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

#### Comment to Principle 4:

The proposed development comprises of improvements, alterations and alterations to an existing dwelling which largely maintains the single storey character of the dwelling with an additional length of two storey building positioned in an east-west configuration. The development has been positioned on the site to retain the existing canopy trees and make use of the existing building footprint. The maximum height of the two storey built form is 6.7m (over the existing ground level) which is well below the maximum permissible 8.5m height limit. The remaining single storey portion of the dwelling maintains a height between 5.2m and 6m and is well within the height limit. The proposal makes use of the existing setback alignment to the eastern and southern boundary, with the placement of the two storey portion within the area of the existing carport. The placement is considered a logical extension of the dwelling within this area which is clear of any constraints and the two storey built form is orientated east-west as to limit the length of visible wall and roof.

Overall, the proposal is considered to be quite reasonable and modest in regards to the height, scale and overall building bulk. The proposal sensitively relates the the existing canopy trees throughout the site. Given the views are currently enjoyed over the side boundary are over an existing single storey dwelling with a flat roof, the impacted view is considered highly difficult to protect given the reasonable development options of 4 Irrubel Road. For this reason, the impact upon views is considered to be acceptable and the view sharing outcome to be reasonable in the circumstances.

- *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:

There will be no unreasonable impact upon views from public places towards the water or beach.

- *Canopy trees take priority over views.*

Comment:

Canopy trees are retained as a result of the development and trees are not proposed to be retained to facilitate further views.

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

### **C1.5 Visual Privacy**

The privacy of the adjoining properties are considered in regards to the proposed two storey building. The proposed two storey building contains a bedroom upon the upper floor to the most eastern extent of the building, with the western extent consisting of a void. Whilst the external face of the new building is setback 5.8m to the western boundary, the area of the bedroom internal of the new building is setback 11m. This separation is considered sufficient to limit direct views and overlooking between properties. Further, the use of the room (bedroom) is not considered to give rise to unreasonable overlooking impacts (as opposed to a high occupancy area such as a living room, study or kitchen).

Views from the balcony upon the northern elevation are limited by the existing garage and carport over the northern boundary. The balcony is a minor feature off the bedroom which will not give rise to unreasonable overlooking impacts due to the position and shallow depth (1.4m depth).

The remainder of the proposed windows are upon the ground floor of the dwelling which will not present an adverse privacy impact upon the adjoining properties.

### **D10.8 Side and rear building line (excluding Newport Commercial Centre)**

The proposed rear setback to the new dwelling addition is 5.8m. It is noted that this matches the existing dwelling alignment and is non-compliant with the numerical control at present.

The DCP allows for variations to the setback controls to be considered for alterations and additions where the existing setback alignment is maintained and the outcomes of the control are achieved. In this case, the existing alignment to the western boundary is maintained for the new built form as part of the alterations and additions.

Consideration against the outcomes of the control are below:

*Outcome 1) To achieve the desired future character of the Locality.*

Comment: The proposed development is in keeping with the desired future character consisting of a dwelling house within a landscaped setting.

*Outcome 2) The bulk and scale of the built form is minimised.*

Comment: The building is well below the maximum height limit and within building envelope. The built form has a high level of architectural interest and integrates with the site.

*Outcome 3) Equitable preservation of views and vistas to and/or from public/private places.*

Comment: The proposed has demonstrated a reasonable view sharing outcomes and the minor rear setback non-compliance does not have a direct impact upon views.

*Outcome 4) To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment: The proposal is consistent with the principle of view sharing, as discussed in detail elsewhere within this report.

*Outcome 5) To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

Comment: The submitted shadow diagrams demonstrate the adjoining properties will receive an appropriate amount of solar access. The buildings are sited and designed in a way to maintain privacy.

*Outcome 6) Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment: Mature trees are retained throughout the site and integrated into the design.

*Outcome 7) Flexibility in the siting of buildings and access.*

Comment: The proposed buildings are considered to be located in an appropriate way on the site and in relation to the site constraints.

*Outcome 8) Vegetation is retained and enhanced to visually reduce the built form.*

Comment: The mature canopy trees on the site are retained.

*Outcome 9) To ensure a landscaped buffer between commercial and residential zones is established.*

Comment: Not applicable to the site.

The proposed development is found to be consistent with the outcomes of the Pittwater DCP and the variation is therefore supported in this circumstance.

### **D10.13 Landscaped Area - Environmentally Sensitive Land**

The landscaped open space for the site is calculated as 642sqm or 57% of the site area. The requirement is for 60% of the site to consist of soft landscaped area.

The Pittwater DCP allows for a maximum 6% of the site area comprising of outdoor areas (decks, pergolas and the like) to count towards LOS in considering a variation to the control. The site has a timber deck of 50sqm which when counted towards the total LOS will make for 692sqm or 61.5% LOS.

The development is considered to be consistent with the outcomes of the control as canopy tree planting has been retained and integrated into the built form, good spatial separation is provided between the proposed development and adjoining site which reduces the impact of the development and bulk and scale has been minimised for the site.

Therefore, the minor variation to landscape open space is able to be supported as permitted by the variation clause within the DCP.



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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

A monetary contribution of \$6,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$600,000.

## **CONCLUSION**

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

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

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2019/0457 for Alterations and additions to a dwelling house including a swimming pool on land at Lot A DP 383227, 4 Irrubel Road,



NEWPORT, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
001 - Erosion, Sediment and Waste Plan	8 May 2019	Peter Stutchbury Architecture
002 - Materials Palette	8 May 2019	Peter Stutchbury Architecture
003 - Site Plan - Revision 1	12 February 2019	Peter Stutchbury Architecture
102 - Demolition Plan	8 May 2019	Peter Stutchbury Architecture
103 - Ground Floor Plan - Revision 2	8 July 2019	Peter Stutchbury Architecture
104 - First Floor Plan - Revision 2	8 July 2019	Peter Stutchbury Architecture
105 - Roof Plan and Demolition - Revision 2	8 July 2019	Peter Stutchbury Architecture
201 - Elevations North and East - Revision 2	8 July 2019	Peter Stutchbury Architecture
202 - Elevations South and West - Revision 2	8 July 2019	Peter Stutchbury Architecture
301 - Section A	8 May 2019	Peter Stutchbury Architecture

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
2019-V-15/H01	7 May 2019	JCL Development Solutions
2019-V-15/H02	7 May 2019	JCL Development Solutions
2019-V-15/H03	7 May 2019	JCL Development Solutions
2019-V-15/H03	7 May 2019	JCL Development Solutions

**Reports / Documentation – All recommendations and requirements contained**

<b>within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No.A339958_02	8 July 2019	Peter Stutchbury Architecture
Addendum Report to Arboricultural Impact Assessment	8 August 2019	Complete Arborcare
Arboricultural Impact Assessment	3 March 2019	Complete Arborcare
Report on Geotechnical Site Investigation, 2019-028	20 March 2019	Crozier Geotechnical Consultants

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

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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer

management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by

Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

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

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

## **FEES / CHARGES / CONTRIBUTIONS**

### **4. Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$6,000.00 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 2019. The monetary contribution is based on a development cost of \$600,000.00.

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

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

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

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

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

### **5. 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 to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.



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

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

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

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

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

### **6. Amendments to the approved plans**

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

- The proposed 'terrace' upon the western side of the dwelling shall be deleted from the plans. Instead, in accordance with the recommendations of the report titled '*Addendum Report to the Arboricultural Impact Assessment (Complete Arborcare, 08/08/2019)*' this area shall 'make good existing retaining wall where necessary and maintain existing ground levels during soft landscaping within TPZ's (T2 & T3) of trees to be retained'.

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 surrounding land.

### **7. On-site Stormwater Detention Compliance**

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's PITTWATER DCP21, and the concept drawing by JCL Development Solutions, drawing number 2019-V-15/HO1 to HO4 dated 07/05/19. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

### **8. Soil and Water Management Program**

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

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

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

### **9. Deck pier footing design**

The structural engineer shall submit to the Certifying Authority and to a AQZ level 5 qualified Arborist a pier footing construction plan for the eastern deck extension in the vicinity of the existing Spotted Gum trees identified as T4 to T7, that is in accordance with tree root investigations as referenced in the Addendum Report to Arboricultural Impact Assessment conducted by Complete Arborcare, and the Raft Slab & Footing Plan prepared by GZ Consulting Engineers.

The final pier footing locations for construction shall be certified by the Arborist as in accordance with the recommendations of the Addendum Report to Arboricultural Impact Assessment. Certification from the Arborist shall be submitted to the Certifying Authority.

Any request to change the pier footing locations shall be subject to selection of locations as approved by a AQZ level 5 qualified Arborist, and any and all changes shall be subject to site investigation verified by photographs and reports, and issued to the Certifying Authority.

**10. Engage a Project Arborist**

A Project Arborist with a minimum of AQF Level 5 is to be appointed for the duration of the works. The Project Arborist is to implement pre-construction tree protection measures in accordance with the Arboricultural Impact Assessment report (Complete Arborcare, 3/3/2019) and as amended by Addendum Report to the Arboricultural Impact Assessment (Complete Arborcare, 08/08/2019).

Evidence demonstrating Project Arborist engagement is to be provided to the Principal Certifying Authority prior to the issue of Construction Certificate.

**Reason: Tree protection in accordance with relevant Natural Environment LEP/DCP controls.**

**11. 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.

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

**12. 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.

**13. 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)] and
- 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.
- 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.

**14. Tree protection measures**

An Arborist with AQZ Level 5 qualifications in arboriculture/horticulture shall be engaged to provide tree protection measures in accordance with the Arboricultural Impact Assessment dated 3.03/2019 and the Addendum Report dated 8/08/2019 prepared by Complete Arborcare, and in accordance with Australian Standard 4970- 2009 Protection of Trees on Development Sites, as follows:

- site attendance, inspection and certification of tree protection measures within the tree protection zone, and pier footing locations, during all stages of works for existing trees identified as trees T4, T5, T6, and T7 (all Spotted Gums),
- site attendance, inspection and certification of tree protection measures within the tree protection zone of tree T2 and T3 (both Spotted Gums).

The tree protection measures and fencing 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.

Additionally, the Certifying Authority or a Project Arborist AQZ Level 5 must ensure that:

- i) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and
- ii) 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.

The Arborist shall provide the Certifying Authority with certification details that the tree protection measures are in place at the commencement of works.

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.

Reason: to ensure tree protection is provided and maintained.

**15. Tree and vegetation protection - General**

a) Existing trees and vegetation shall be retained and protected as identified in the Arboricultural Impact Assessment dated 3.03/2019 and the Addendum Report dated 8/08/2019 prepared by Complete Arborcare, including:

- i) all trees and vegetation within the site not approved for removal, 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.

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 Level 5 Arborist,

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

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

**16. Compliance with Arborist's Recommendations – During Construction**

All tree protection measures to be implemented during construction, as specified in the Arboricultural Impact Assessment report (Complete Arborcare, 3/3/2019) and as amended by Addendum Report to the Arboricultural Impact Assessment (Complete Arborcare, 08/08/2019) and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with these measures is to be certified by the project arborist in writing, including photographic evidence, and details submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

**Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.**

**17. No Material Storage within 5m/calculated Tree Protection Zone (TPZ)**

No storage of building materials or building waste, excavated fill or topsoil storage is to occur within 5m or the notional TPZ of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas. Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

**Reason:** To protect and retain trees proposed for retention.

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

**18. Landscape works**

Landscaping is to be implemented inclusive of the following requirements:

- i) the documented terrace located south of existing tree T3 is to be deleted and replaced with making good the existing retaining wall where necessary and maintaining existing ground levels during soft landscaping within the tree protection zones of existing trees T2 & T3,
- ii) all tree planting as indicated on the Site Plan drawing 003 are to be installed at 75 litre container size,
- iii) all tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight as described in the clause, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views.

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 plan and inclusive of any conditions of consent.

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

**19. Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQZ 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 on site and on adjoining properties, as a result of the proposed development, 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 sites.

**20. An Application Authorisation of Legal Documentation Required for Onsite Detention**

An Application Authorisation of Legal Documentation Required for Onsite Detention together with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

**21. Registration of Encumbrances for On-site Stormwater Detention**

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 any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

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



A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant 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 NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

**23. Compliance with Arborist's Recommendations – During and Post-construction**

All tree protection measures to be implemented, as specified in the Arboricultural Impact Assessment report (Complete Arborcare, 3/3/2019) and as amended by Addendum Report to the Arboricultural Impact Assessment (Complete Arborcare, 08/08/2019) and these conditions of consent are to be implemented at the appropriate stage of development.

Completion of arborist requirements and satisfactory establishment/initiation of post-construction measures is to be certified by the consulting arborist and details submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

**Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.**

**24. Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

## 25. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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.

(b) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(c) All signage shall be located in a prominent position within the pool area.

Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To protect human life. (DACPLF10)

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

## 26. **Landscape maintenance**

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

Landscape works shall be maintained for a minimum period of 12 months following practical completion. 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.

Reason: To maintain local environmental amenity and ensure landscaping continues to soften

the built form.

27. **Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

28. **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.

29. **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**



**Jordan Davies, Planner**

The application is determined on 19/08/2019, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**