

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0419
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 221 DP 15376, 266 Whale Beach Road WHALE BEACH NSW 2107
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Cecilia Anne Hooper
Applicant:	Allen De Carteret

Application Lodged:	30/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	10/05/2021 to 24/05/2021
Advertised:	Not Advertised
Submissions Received:	8
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,857,030.00
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EXECUTIVE SUMMARY

The application seeks consent for the demolition of the existing dwelling house and construction of a three storey dwelling house with basement carparking.

The proposed dwelling has a relatively notable side boundary envelope variation of 42.9%. However, variation to Clause D12.8 Building envelope of the P 21 DCP is permitted in this instance as the building footprint is situated on a slope of 31%.

Notification of the application resulted in four (4) individual objections to the proposed development. In addition, one (1) submission was received in support of this application. The received submissions raised concern with the following matters;

- Building envelope,
- Amenity impacts,
- Excavation,
- Visual impact,
- Construction management,
- Streetscape,
- Flood study report,
- Overdevelopment.

The application has been referred to the Development Determination Panel (DDP) as the development has an estimated cost of construction over \$1 million and has four (4) unresolved objections

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition works and construction of a dwelling house. The works will include;

Demolition/excavation works:

- Demolition of two-storey fibro cottage,
- Demolition of sandstone garage,
- Excavation works with a maximum depth of 6.0m to achieve the ground floor level at RL38.0m.

Ground floor (RL 38.00):

- Double garage,
- Entry, which includes an internal stair and lift,
- Bin storage, plant and store.

First floor (RL 41.50):

- Three bedrooms, including ensuites and south facing balconies,
- Laundry,
- Internal stair and lift access,
- Light well.

Second floor (RL 45.00):

- Living room, which includes a kitchen, dining, and sitting areas,
- South facing balcony,
- Rear courtyard,
- Internal stair and lift access.

Mezzanine/Clearstory (RL 48.00):

- Mezzanine,
- Internal access stair.

External works:

- Alterations to existing driveway to comply with Council's standard profiles,
- Associated landscaping works.

Amended Plans

Following a preliminary review of the proposal concern was raised from Council due to the proposed built form and extent of excavation. Following consultation with Council, amended plans were submitted on 08 July 2021, which addressed these concerns. The proposal was not formally re-notified in accordance with the CPP, as the revised design resulted in a lesser environmental impact than the original. Notwithstanding, the amended plans were sent out to western neighbour to which the changes relate to. The amended plans have been used to complete the assessment of this proposal.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

- Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality
- Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
- Pittwater 21 Development Control Plan - C1.3 View Sharing
- Pittwater 21 Development Control Plan - C1.5 Visual Privacy
- Pittwater 21 Development Control Plan - D12.5 Front building line
- Pittwater 21 Development Control Plan - D12.8 Building envelope

SITE DESCRIPTION

Property Description:	Lot 221 DP 15376 , 266 Whale Beach Road WHALE
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	BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Whale Beach Road.</p> <p>The site is irregular in shape with a splayed frontage of 15.3m along Whale Beach Road and a depth of 54.7m. The site has a surveyed area of 823.8m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates two storey weatherboard house with a single carport.</p> <p>The site is contained PLEP's geotechnical hazard mapping and has an overall slope of some 24 degrees to the south with an approximate fall of 12 meters.</p> <p>The site is heavily vegetated within the rear, however, there is no evidence of any endangered species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by two to three storey detached dwelling houses. Views of Whale Beach are obtained in the southern direction.</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:

N0044/10

Development application for the demolition of the existing dwelling and erection of a new two storey dwelling with basement parking. This application was approved by Council on 26 March 2010.

PLM2020/0081

Pre-lodgement meeting for the subject application held on 05 May 2020. In summary, it was advised that further resolution of the design should be undertaken to achieve a higher level of compliance with Council's controls and minimise the extent of excavation.

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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans</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>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</p>

Section 4.15 Matters for Consideration'	Comments
	of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) 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 (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

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/05/2021 to 24/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 8 submission/s from:

Name:	Address:
Mr Robert David Wines Ms Barbara Irving Wines	281 Whale Beach Road WHALE BEACH NSW 2107
Mr Bill Tulloch	9 Barrabooka Street CLONTARF NSW 2093
Mr Geoffrey Arthur Thomas Godden Mrs Ann Margaret Godden	264 Whale Beach Road WHALE BEACH NSW 2107
Mr Trevor Neil Holman	43 Norma Road PALM BEACH NSW 2108
Mrs Jean Judith Walker	PO Box 524 AVALON BEACH NSW 2107

Name:	Address:
Mr Bernard Alexander	268 Whale Beach Road WHALE BEACH NSW 2107
Geoffery Arthur Madden	264 Whale Beach Road WHALE BEACH NSW 2107
Mr Brendan Randles	11 Santa Marina Avenue WAVERLEY NSW 2024

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

- **Building envelope,**
- **Amenity impacts,**
- **Excavation,**
- **Reduced western side setback,**
- **Visual impact,**
- **Construction management,**
- **Streetscape,**
- **Flood study report,**
- **Overdevelopment,**
- **View loss.**

The matters raised within the submissions are addressed as follows:

- **Building envelope:** Concern is raised with the proposal's envelope non-compliance on the western side boundary.

Comment:

This matter has been discussed in further detail under Part 12.8 of this report. In summary, the proposed encroachment within the western side boundary envelope is reasonable given the slope constraints affecting the site. Furthermore, the proposed western elevation has been sufficiently articulated to reduce building bulk and it will not result in any adverse amenity impacts to adjoining land.

This matter does not warrant the refusal of the application.

- **Amenity impacts:** The received submissions have raised concern that the proposal will result in unreasonable amenity impacts to adjoining land. In particular the submissions highlighted concerns relating to privacy and overshadowing.

Comment:

The proposal has been assessed against the privacy provisions of P21DCP (see Part C1.5 of this report), which stipulates that private open space areas (including swimming pools and living rooms) of adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation. In summary, the proposal displays clear attempts within it's design to preserve and enhance the privacy experienced between buildings, through appropriate screening, landscape buffers and adequate spatial separation. Overall, the proposal will not result in any unreasonable privacy impacts.

The application is accompanied by shadow diagrams which demonstrates that the extent of additional overshadowing commensurate to the current situation is minor. The subject site is on a north / south orientation and it does not overshadow neighbouring properties for more than 3 hours between 9am and 3pm, though they are both partially self shaded at different times during the day. Overall, compliance with Part C1.4 Solar Access of the P21DCP has been

demonstrated.

This matter does not warrant the refusal of the application.

- **Excavation:** Concern is raised with the proposed excavation, particularly being within 1.0m of the western side boundary and the associated impacts this will have on the adjoining dwelling known as No.264 Whale Beach Road.

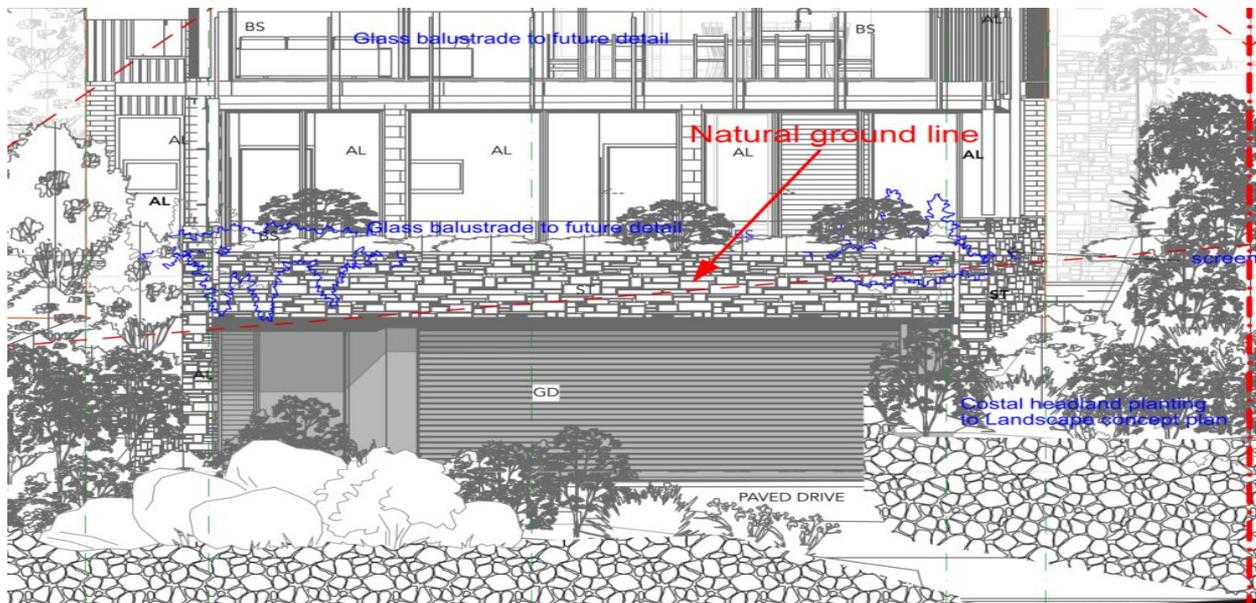
Comment:

The supporting geotechnical assessment details the site's subsurface condition and demonstrates that the proposed excavation is acceptable, subject to adherence to recommendations made in the report. In addition, the report was reviewed by Council's Development Engineer, who raised no objections to the proposal in relation to earthworks, subject to conditions. Furthermore, imposed conditions will require the applicant to monitor the concerned site throughout construction via dilapidation reports.

- **Reduced western side setback:** Concern is raised that the proposed dwelling has a reduced 1.0m western setback, as the existing dwelling at No. 264 Whale Beach Road adjoins the common boundary at parts on a nil setback.

Comment:

The proposal includes the 1.0m minimum western setback, to provide a site specific solution in minimising the need of excessive excavation. As displayed in the diagram below if the built form was to be shifted towards the eastern boundary it would result additional excavation, as the land slopes up in the eastern direction, which is contrary to the objectives of the zone that requires residential development to be integrated within the landform and landscape. In addition, reduced western side setback will not give rise to any adverse amenity impacts as explained above.



This matter does not warrant the refusal of the application.

- **Visual impact:** Concern is raised that the proposed dwelling will result in an unreasonable visual impact to No.264 Whale Beach Road. In particular the submission indicates that the building envelope non-compliance exacerbates this issue along with the reduced western setback, undercroft, and flue.

Comment:

As above, the proposed encroachment within the western side boundary envelope is considered reasonable, as the built form as a whole is highly articulated and responds appropriately to the slope of the land. In addition, the proposed dwelling provides a compliant western side setback, which gradually increases as the dwelling progresses upslope (north) to avoid any unreasonable overlooking into No.264 Whale Beach Road's private open space and internal living areas.

The proposal involves a comprehensive landscape design that effectively integrates the dwelling within the landform and landscape, when viewed from adjoining public and private spaces. Furthermore, the revised design limits the excavation within the western setback area, which will assist with the establishment of deep soil landscaping that is of the size and scale to visually reduce the built form (including the proposed undercroft and flue). In this regard it is considered that the proposal complies with the requirements of Part D12.1 *Character as viewed from a public place* and D12.14 *Scenic Protection Category One Areas* of P21DCP, as the dwelling is secondary to landscaping and vegetation.

This matter does not warrant the refusal of the application.

- **Construction management:** Concern is raised with the associated construction impacts of this proposal. In addition, the submission has requested that a Construction & Demolition Traffic Management Plan is provided prior to the issue of any consent.

Comment:

The supporting geotechnical assessment details measures and strategies that will be implemented over the course of the development, which have formed part of the recommended conditions of consent. In addition, the report was reviewed by Council's Development Engineer, who recommended that a Traffic Management Plan is provided prior to the issue of the construction certificate. Overall, it is considered that the construction related impacts will be reasonably mitigated by the above-mentioned conditions.

- **Streetscape:** Concern is raised that the proposal will result in unreasonable impacts upon the streetscape.

Comment:

Overall, the entire proposal will result in a better streetscape outcome due to the removal of the original dwelling, carport, and driveway. The landscaping facing the streetscape will be enhanced. In addition, as discussed in this report under Part A4.12 the proposal achieves reasonable compliance with the desired future character of the Palm Beach locality, which indicates compatibility within the streetscape.

This matter does not warrant the refusal of the application.

- **Flood Study Report:** Submissions raised concern that the proposed development will result in unreasonable stormwater runoff and no hydraulic report has been provided to assess these impacts.

Comment:

Council's Development Engineer is generally supportive (subject to conditions) of the proposal in relation to stormwater management and onsite detention.

- **Overdevelopment:** Concern is raised that the proposal represents an overdevelopment of the site.

Comment:

As above the proposal achieves general compliance with the desired future character of the Palm Beach locality. In addition, the proposal provides a compliant landscape setting with 61.2% (505sqm) of the site dedicated towards landscaped area, which exceeds P21DCP's minimum requirements. Overall, it is considered that the proposal is symptomatic of residential developments commonly found within the locality.

This matter does not warrant the refusal of the application.

- **View loss:** Concern was raised from No. 43 Norma Street that the proposal would result in view loss.

Comment:

This submission was resolved following further clarification of the submitted plans and the level difference between the subject site and No. 43 Norma Street.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>APPROVAL - subject to conditions</p> <p>General Comments</p> <p>DA2021/0419 is for a gas heater at 266 Whale Beach Road Whale Beach NSW 2107 and is approved with conditions. The location of the flue is appropriate for a gas heater but not a solid wood heater which would have an affect on the house to the left of this property.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>APPROVAL - subject to conditions</p> <p>This application is for the demolition of an existing residential dwelling, and the construction of a new residential dwelling.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none">• B4.22 Preservation of Trees and Bushland Vegetation• C1.1 Landscaping• D12.10 Landscaped Area - Environmentally Sensitive Land <p>A Landscape Plan is provided with the application and proposed works include the in-ground planting of small trees, shrubs, grasses and groundcovers, and the on-slab planting of low shrubs and groundcovers.</p>

Internal Referral Body	Comments
	<p>The Statement of Environmental Effects provided with the application notes that there are no significant trees on site, and that the proposal seeks to retain and enhance the existing low level vegetation towards the rear of the property. This is supported by the Site Survey provided as there appears to be no significant trees located on the site. It is however worth noting the Site Survey largely does not cover this dense vegetation area, and the presence of larger trees is not clear. Portions of this area appear to be removed in order to accommodate the terraced planters adjoining the proposed courtyard at the rear of the dwelling.</p> <p>The retention of this existing vegetation at the rear of the site is necessary to comply with control B4.22 and D12.20, as key objectives of these controls include "to protect and enhance the urban forest of the Northern Beaches", "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as the "conservation of natural vegetation and biodiversity".</p> <p>The proposed landscape works include a diverse planting mix of small trees, shrubs, grasses and groundcovers, provided a layered planting approach with the intention of softening and mitigating the height and bulk of the proposed development. Concern is raised regarding the use of <i>Rhaphiolepis indica</i> 'Oriental Pearl', as this species has been identified as an environmental weed and its use is therefore not supported. It is recommended that a locally native alternative be used instead. The completion of these landscape works as proposed on the Landscape Plans, inclusive of this species change, is vital to satisfy control C1.1, as key outcomes of this control seek to ensure the proposed built form is softened and complemented by landscaping, "landscaping reflects the scale and form of development", as well as to ensure "landscaping retains and enhances Pittwater's biodiversity by using locally native species".</p> <p>The landscape component of the proposal is therefore supported subject to the protect of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plans, inclusive of the aforementioned species change.</p>
NECC (Bushland and Biodiversity)	<p>APPROVAL - subject to conditions</p> <p>Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:</p> <ul style="list-style-type: none"> • Pittwater LEP cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor <p>The proposed development does not include the removal of any prescribed trees, nor will it impact on nearby biodiversity.</p>

Internal Referral Body	Comments
	<p>The Statement of Environmental Effects (Allen de Carteret Architecture 2021) has sufficiently addressed the above listed biodiversity provisions and the Landscape Plan submitted with the application provides suitable native landscaping in accordance with P21DCP cl. B4.4. The SEE states that there are no significant trees proposed for removal, which seems to be supported by the Survey (Bee & Lethbridge, April 2021) which has not identified any trees within proximity to the development.</p> <p>As such, Council's Biodiversity referrals team are satisfied that the proposed development complies with the relevant biodiversity provisions, subject to these conditions of consent.</p>
NECC (Coast and Catchments)	<p>APPROVAL - no conditions</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. 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 The subject land has been included on the 'Coastal Use Area' map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 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>No other coastal related issues identified.</p>

Internal Referral Body	Comments
	As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.
NECC (Development Engineering)	APPROVAL - subject to conditions The submitted stormwater design including OSD is satisfactory. The proposed driveway grade and width is also satisfactory. The submitted Geotechnical report addresses the relevant DCP controls. No objection to approval, subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	The proposal was referred to the Aboriginal Heritage Office for further comment. In summary, there are no Aboriginal heritage issues for 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. 1168288S_04 and

dated 08 March 2021).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	51

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

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

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
 - (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*

- (i) earthworks (including the depositing of material on land),
- (ii) constructing a levee,
- (iii) draining the land,
- (iv) environmental protection works,
- (d) any other development.

Comment:

Not applicable, as the site is not within coastal wetlands or littoral rainforests.

11 Development on land in proximity to coastal wetlands or littoral rainforest

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

Comment:

Not applicable, as the subject site is not within proximity of coastal wetlands or littoral rainforest areas.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of,*

*anticipated
coastal
processes
and
current
and
future
coastal
hazards.*

Comment:

Not applicable.

13 Development on land within the coastal environment area

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

Comment:

The site is not identified within the coastal environment area.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

Not applicable.

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 subject site is identified as being within the coastal use area.

(a) - Council is satisfied that subject to conditions the proposal will not cause any adverse impacts to the matters raised within (i)-(v).

(b) - The proposal has been appropriately designed and sited to avoid any adverse impacts referred to in paragraph (a).

(c) - The proposed built form is symptomatic of residential developments found within the Whale Beach locality.

As such, it is considered that the application does 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 proposal is not likely to cause increased risk of 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	Complies
Height of Buildings:	10.0m	8.3m	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
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	8.7m (Garage) 6.4 m (First floor balcony) 7.2m (Second Floor balcony)	1.5%	No
Rear building line	6.5m	26.1m (Mezzanine)	N/A	Yes
Side building line	2.5m - East	2.5m (Ground floor) 2.5m (First floor) 2.5m (Second Floor) 2.7m - 3.9m (Mezzanine)	N/A	Yes
	1.0m - West	2.2m (Ground floor) 1.0m - 3.2m (First floor) 1.0m - 3.2m (Second Floor) 6.5m - 7.2m (Mezzanine)	N/A	Yes
Building envelope	3.5m - East	Within envelope	N/A	Yes
	3.5m - West	Outside envelope	34.3% - 42.9%	Yes (Variation)
Landscaped area	60%	61.2% (505sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	No	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	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
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.12 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.12 Palm Beach Locality

The development is generally consistent with the desired character statement of the Palm Beach Locality with exception of the dwelling being three storey.

Specifically, the locality statement provides that the "*locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape*".

The 'third' storey element is a result of the basement carparking, which is a site specific response to providing adequate access, while maintaining compatible with the natural landform and surrounding residential development. In addition, sites situated along the northern side of Whale Beach Road similarly display two storey developments atop of basement carparking, including Nos. 262, 264, 274, and 278 Whale Beach Road. In addition, the proposal has made clear attempts to limit the extent of excavation to only what is required to provide sufficient access to the garage level. Overall, the dwelling appropriately responds to the topography of the site, while minimising excavation.

In this regard, the built form will sit comfortably with surrounding two, three and four storey residential developments. Further, proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Palm Beach locality.

B8.1 Construction and Demolition - Excavation and Landfill

The proposal includes excavation exceeding 1.5 metres in depth. In order to address the requirements of this clause, the Applicant submitted a Geotechnical Report and certified forms 1 and 1A. Furthermore, Council's Development Engineer reviewed these documents, and raised no objections, subject to conditions as recommended.

C1.3 View Sharing

Priority views of Whale Beach are obtained from the subject site in the southern direction. Therefore, the proposal will not unreasonably reduce the views experienced by the properties adjoining the sides of the subject site, in particular, Nos. 264 and 268 Whale Beach Road. In relation, to properties to the rear of the development they are situated much higher than the proposed ridge height. Overall, a reasonable sharing of view will be achieved by the proposal.

C1.5 Visual Privacy

Description of Non-compliance

Clause C1.5 of the P21DCP stipulates that private open space areas and windows of adjoining properties are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation. The proposed development contains elevated balconies and side facing windows that are within 9.0m from western (No.264 Whale Beach Road) neighbour.

A submission has been raised from No.264 Whale Beach Road regarding privacy impacts of the proposed; western windows, balconies, and rear courtyard.

Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

No.264 Whale Beach Road

Windows

The proposal includes limited glazing on the western elevation and has used appropriate screening when required. In addition, the proposed dwelling provides a compliant western side setback, which gradually increases as the dwelling progresses upslope (north) to avoid any unreasonable overlooking into No.264 Whale Beach Road's private open space and internal living areas. Furthermore, the concerned dwelling does contain windows on its eastern elevation. Overall, it is considered that the proposed windows have been adequately designed to optimise visual privacy.

Balconies

The proposal involves balconies to the first and second levels, which include appropriate privacy screens to prevent casual overlooking into the adjoining sites. Further, screening is not considered necessary as the works will be orientated away from the concerned dwelling and will reasonably maintain neighbouring amenity.

Courtyard

The proposed rear courtyard has a varied western side setback between 1.9m - 3.5m, which exceeds the minimum requirements of this control. Furthermore, the proposal involves a raised planter bed within the western side setback, which will provide a sufficient landscape buffer between the proposed outdoor living areas and the concerned site. In addition, the covered outdoor spaces are centrally located on the site, which provides reasonable amenity outcomes to adjoining sites.

- *A sense of territory and safety is provided for residents.*

Comment:

The proposed development is considered capable of providing a sense of territory and safety for residents on the subject site and adjoining properties.

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

D12.5 Front building line

Description of Non-Compliance

The minimum front building line is 6.5m for the site. The proposal involves constructing planter boxes to the first floor balconies, which will be set back 6.4m from the front boundary.

Merit Consideration

With regard to the consideration of the variation, the development is considered under the objectives of the control below:

- *Achieve the desired future character of the Locality.*

Comment:

The subject site is relatively constrained by the slope of the site. This is a common constraint for the nearby properties and has resulted in a prevalence of built form located towards the street front boundary. The proposal will remain consistent with the nearby development and will maintain the streetscape character of the locality.

The natural environment in proximity to the site is dominated by trees and remnant vegetation with houses built on elevated structures and garages close to the road due to the steep terrain.

The proposal also enhances landscaping within the site, and along the front boundary to soften the built form. This is adequate to ensure the landscape character is maintained and the built form does not impose on the public spaces. The proposal is of a suitable design when considering the site constraints and the nearby development.

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

Comment:

The proposal will not result in the loss of views.

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

Comment:

The site does not adjoin a main road.

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

Comment:

The submitted landscape plan involves enhancing the site's natural features, through providing a compliant landscaped area and incorporating substantial planting across the site. Additionally, the proposed planter boxes provide sufficient treatment to the façade, such that the visual impact of the built form is mitigated, when viewed from the street. Overall, it is considered that the proposed landscape design will be predominant feature of the site, thereby reducing the visual impact of the built form, when viewed from the street.

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

Comment:

Sufficient space is provided within the front setback to facilitate vehicle manoeuvring in a forward direction.

- *To preserve and enhance the rural and bushland character of the locality.*

Comment:

The bushland character of the locality is maintained by concentrating landscape elements in the front and rear setbacks, including canopy trees and natural ground surfaces for the native landscaping understory.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment:

The established building line along the northern side of Whale Beach Road is relatively varied due to the subdivision pattern, access, and topography of the area. As such, built form is commonly seen within the front setback. The design is keeping with the height of the natural environment as it sits below the height of surrounding canopy trees.

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

Comment:

The proposal involves demolishing the existing structures on the site, which include a dilapidated carport and weatherboard cottage that are situated within the front setback. The proposed dwelling will provide a compliant front building line, while incorporating substantial planting within the front setback to minimise the built form. Overall, the proposal will encourage attractive street frontages and pedestrian amenity.

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

Comment:

The works respond to the spatial characteristics of the existing urban environment which is a steep site. Therefore, the proposal's location is consistent with considerations to develop the site in an appropriate manner for the zone and meet the urban living needs of the occupants.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCA 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.

D12.8 Building envelope

Description of Non-Compliance

Clause D12.8 of the P 21 DCP prescribes a 3.5m side building envelope, but permits a variation to that envelope where the building footprint is situated on a slope of 16.7 degrees or more, which is relevant to the subject site.

The proposal has two encroachments of the western side boundary building envelope, with a maximum height of encroachment being 1.5m. The extent of encroachments is displayed in red and yellow on the below diagrams:

characteristics of the existing natural environment.

Comment:

The building appropriately steps up the land, while including a roof line that sensitively responds to the slope of the land. In addition, the proposal achieves reasonable compliance with P21DCP setback controls, which is symptomatic of a development compatible with the existing spatial characteristics of the surrounding environment. Further, the proposal has made clear attempts within its amended design to limit the extent of excavation required within the western setback area, which in turn provides sufficient opportunities for deep soil landscaping.

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

Comment:

The proposal incorporates various materials and varied setbacks to provide visual breaks along the western elevation. In addition, the proposed landscape design is considered to enhance the site's natural features, through minimising the visual impact of the built form, such that it is secondary to landscaping and vegetation. Overall, the proportions of the encroaching elements are not considered to be unreasonably scaled or bulky.

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

Comment:

The encroachments sought into the side building envelope do not detract from the provision of views currently enjoyed.

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

Comment:

The western elevation at the point of encroachment does not contain any windows, nor is it located near any adjoining private open space areas. In this regard the encroachment sought does not detract from the amenity of adjacent land.

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

Comment:

The proposal retains and enhances a satisfactory degree of vegetation as assessed elsewhere in this report.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$28,570 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,857,030.

CONCLUSION

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

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

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

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

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

The subject site currently contains a two storey dwelling. The proposal seeks consent for the construction of a new dwelling with basement carparking.

The development includes several non-compliances, including a breach of the side boundary envelope and front building line.

The proposal attracted eight submissions to the formal notification.

This assessment has concluded that the non-compliances are reasonable.

Overall, the proposal will be an upgrade to the existing dwelling, while satisfying the objectives of the zone and being consistent with character of the locality.

Accordingly, the application is recommended for approval subject to conditions. 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 DA2021/0419 for Demolition works and construction of a dwelling house on land at Lot 221 DP 15376, 266 Whale Beach Road, WHALE BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Certificate of Compliance**

Provide Council a certificate from an appropriately qualified person indicating the system is compliant with all relevant legislation, Building Code of Australia, Australian Standards, Specifications and manufacturer requirements.

Reason: To ensure the system operates in a legislatively compliant manner.

2. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA004 - Rev01: Site plan	30 March 2021	Studio_deCARTA
DA100 - Rev01: Ground floor plan	02 July 2021	Studio_deCARTA
DA101 - Rev01: First floor plan	02 July 2021	Studio_deCARTA
DA102 - Rev01: Second floor plan	02 July 2021	Studio_deCARTA
DA103 - Rev01: Mezzanine/clearstory plan	02 July 2021	Studio_deCARTA
DA104 - Rev01: Roof plan	02 July 2021	Studio_deCARTA
DA200 - Rev01: Section north - south	02 July 2021	Studio_deCARTA
DA201 - Rev01: Section north - south at stairway	02 July 2021	Studio_deCARTA
DA202 - Rev01: Section east - west	02 July 2021	Studio_deCARTA
DA203 - Rev01: Section east - west 2	02 July 2021	Studio_deCARTA
DA204 - Rev01: Driveway concept plan	02 July 2021	Studio_deCARTA
DA300 - Rev01: West elevation	02 July 2021	Studio_deCARTA
DA301 - Rev01: South elevation	02 July 2021	Studio_deCARTA
DA303 - Rev01: North elevation	02 July 2021	Studio_deCARTA

DA304 - Rev01: East elevation	02 July 2021	Studio_deCARTA
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Engineering Plans		
Drawing No.	Dated	Prepared By
C3.01:Stowamwater management plan	March 2021	ACOR Consultants P/L

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment	07 July 2020	JK Geotechnics

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
L101 Rev C: Landscape Planting Plan	10 March 2021	Spirit Level

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	16 March 2021	Matthews Contracting

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

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

3. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	10 May 2021
Aboriginal Heritage Office (AHO)	Response AHO Referral	10 May 2021

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

4. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the

Building Code of Australia (BCA).

- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

5. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$28,570.30 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$2,857,030.00.

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.

7. **Security Bond**

A bond (determined from cost of works) of \$5,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

8. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$1,000 as security against any damage to Council's stormwater drainage infrastructure adjoining the site as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

9. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics dated 7 July 2020 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.

11. **Traffic Management and Control**

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

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

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management Policy and generally in accordance with the concept drainage plans prepared by ACOR

Consultants Pty Ltd, drawing number NSW201744 C1.01, C1.02, C1.05, C1.06, C1.07 and C3.01 Issue A dated 26.03.21. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. A second access grate is to be provided in the diagonally opposite corner of the OSD tank to improve future maintenance
2. Details of the connection to the Council stormwater pit. (Note a separate Section 68 application is to be submitted to Council for this connection).

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

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

13. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

14. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

15. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

16. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the stormwater connection from the site to the existing Council stormwater pit in Whale Beach Road which is to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.s

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

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

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

17. **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.

18. **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

19. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

20. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties:

- No. 264 Whale Beach Road

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

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. **Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

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

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

23. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,

- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

24. Road Reserve

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

Reason: Public safety.

25. 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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

26. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

27. **Survey Certificate**

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

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

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

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

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

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

29. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

30. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/6 MH and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

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

31. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive

of the following conditions:

i) substitute the proposed *Rhaphiolepis indica* 'Oriental Pearl' with a locally native alternative. Suggested species include: *Lomandra longifolia* 'Tanika', *Rhagodia spinescens* or *Westringia fruticosa* (all proposed elsewhere on site).

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

Reason: Environmental amenity.

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

No Priority or environmental weeds (as specified on the NSW WeedWise website) are to be imported on to the site prior to or during construction works.

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

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

33. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

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

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

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

covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user over the on-site stormwater disposal structures is to be submitted.

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

36. **House / Building Number**

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

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

Reason: Proper identification of buildings.

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

37. **Landscape Maintenance**

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

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

For all new on slab landscape works, establish an on-going landscape maintenance plan that shall be submitted to the Certifying Authority that aims to monitor and replenish soil levels annually as a result of soil shrinkage over time.

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

Reason: To maintain local environmental amenity.