

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2021/0110 |
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| Responsible Officer: | Adam Mitchell |
| Land to be developed (Address): | Lot 31 DP 7236, 37 Heath Street MONA VALE NSW 2103 |
| Proposed Development: | Demolition works Dwelling House and construction of a dwelling house, secondary dwelling, swimming pool and garage |
| Zoning: | R2 Low Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | David Arthur Hellmich Jodie Leanne Hellmich |
| Applicant: | David Arthur Hellmich |

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| Application Lodged: | 02/03/2021 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Single new detached dwelling |
| Notified: | 09/03/2021 to 23/03/2021 |
| Advertised: | Not Advertised |
| Submissions Received: | 1 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 949,720.00 |
|---------------------------------|---------------|

PROPOSED DEVELOPMENT IN DETAIL

Development Application No. 2021/0110 seeks consent for demolition works and the construction of a new principal dwelling, detached secondary dwelling and garage and an in-ground swimming pool on the site known as 37 Heath Street, Mona Vale.

The proposal site arrangement is non-conformist to traditional layouts but is reflective of several other properties along Heath Street and an emerging coastal property theme.

The proposal seeks to construct a single storey double garage and secondary dwelling to the front of the site along with bin store, driveway and fencing. A raised timber boardwalk is proposed parallel to the western side boundary of the site which leads to a two storey, five bedroom house with a shallow

pitched roof at the back of the site.

Between the garage/secondary dwelling, the boardwalk and the principal dwelling lies the garden, swimming pool and a decking area. The remaining site area around the principal dwelling is largely used for planting only, and thus the site does not have a traditional 'back yard'.

The structures are proposed to be clad in grey sandblasted concrete blockwork, sandstone cladding and a variety of weatherboard claddings with timber screening, doors and windows throughout.

During the course of this assessment the Council wrote to the applicant and requested a reduction in the projection of the roof overhang at the front of the site in order to enhance the sense of openness on the Heath Street streetscape. Such amended plans have been received and, given the reduction in depth of the roof, are considered to be a lesser environmental impact than the original proposal and thus were not re-notified to neighbours. It is on the basis of these revised plans that this assessment is written.

Herein this report these works are described as the 'development'.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - D9.6 Front building line
 Pittwater 21 Development Control Plan - D9.7 Side and rear building line
 Pittwater 21 Development Control Plan - D9.9 Building envelope

SITE DESCRIPTION

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|------------------------------|---|
| Property Description: | Lot 31 DP 7236 , 37 Heath Street MONA VALE NSW 2103 |
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Detailed Site Description:

The subject site is legally described as Lot 31 Sec G in DP 7236 and is known as 37 Heath Street, Mona Vale.

The site falls within the R2 Low Density Residential zone pursuant to the Pittwater Local Environmental Plan 2014.

The site is exactly rectangular in shape with a width of 15.24 metres, depth of 60.96 metres and an overall surveyed area of 929 square metres.

The site presently accommodates a single storey principal dwelling of fibro construction to the front of the site and a detached granny flat to the rear of the site. Between the principal dwelling and the road is an in-ground swimming pool and decking. A timber boardwalk runs the length of the site parallel to the eastern boundary, providing access to the granny flat and a storage shed.

The site has vegetation throughout including approx. 8 metre tall bamboo along the western boundary and hedging (of a lesser height) along the northern street edge and northeastern boundary. A number of palm trees of other hedges are located towards the rear of the site. None of the vegetation present is thought to constitute as a threatened species.

Topographically the site is generally flat with a datum height of roughly RL 4.6.

Surrounding properties consist of an array of residential developments including large single dwelling houses and residential flat buildings. One block to the east is a public reserve used for car parking, and beyond that sits Mona Vale Beach, approximately 100 metres as the crow flies.

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:

- **BC0013/13** - Approved on 25 March 2013 for a single storey framed dwelling with a metal roof, an attached carport, timber decks and front timber fence.
- **CDC 0093/13** - Approved on 18 April 2013 for the Construction of a Secondary Dwelling.
- **N0016/14** - Refused on 28 April 2014 for construction of swimming pool, associated decking and fences.
- **N0446/14** - Approved on 7 January 2015 for new semi-inground spa, access deck and pool fencing with gate.
- **DA2019/1140** - Approved on 11 December 2019 for alterations and additions. The works have not been carried out.

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 |

| Section 4.15 Matters for Consideration' | Comments |
|--|--|
| | 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 2014 applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&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. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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 of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan 2014 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</p> |

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/03/2021 to 23/03/2021 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 1 submission/s from:

| Name: | Address: |
|------------------|------------------------------------|
| Mr Philip Rosati | 34 Heath Street MONA VALE NSW 2103 |

One submission in support of the Development Application were received from surrounding properties. A second submission in support was subsequently rescinded, however a formal objection was not made to the development application. The third submission listed above (BBF Town Planners) are on behalf of the applicant and in support of the proposal.

Therefore the proposal has one submission in support of the DA.

REFERRALS

| Internal Referral Body | Comments |
|--|---|
| Building Assessment - Fire and Disability upgrades | <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p> |
| | |

| Internal Referral Body | Comments |
|------------------------|---|
| Landscape Officer | <p>This application is for the demolition of an existing residential dwelling, secondary dwelling and swimming pool, and the construction of a new residential dwelling, secondary dwelling, swimming pool, as well as double garage.</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 • C1.24 Public Road Reserve - Landscaping and Infrastructure • D9.10 Landscaped Area - General <p>A Landscape Plan has been provided with the application and the proposed works include the in-ground planting of trees, shrubs, grasses and groundcovers.</p> <p>The Arboricultural Impact Assessment provided with the application has identified a total of five trees impacted by the proposed works, with three of those located within the site boundaries, and the remaining two located within the road reserve at the front of the site. Of the five trees identified, four are proposed for removal, with one tree proposed to be retained. This tree to be retained, Tree No. 5, is located within the site adjacent to eastern boundary towards the rear of the property. Tree No. 5 is within 1.5m of the proposed development, however it is located within an existing raised garden bed, of which most of its roots are contained. The Arboricultural Impact Assessment notes that this tree can be retained without any adverse effects as long as tree protection measures are employed in accordance with Arboricultural Method Statement. The retention of this tree, as well as vegetation within adjoining properties is vital to satisfy control B4.22 and D9.10, as key objectives include "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as "to preserve and enhance the rural and bushland character of the area".</p> <p>Trees No. 3 and 4 are also located within the site boundaries, however are proposed for removal as they fall within the proposed works footprint. Both Trees No. 3 and 4 have been identified as exempt species, and therefore do not require Council's approval to be removed. The remaining two trees, Trees No. 1 and 2, are existing street trees that are proposed for removal. These trees are proposed to be removed as they fall within the footprint of the proposed driveway, as well as for the fact they are growing against the existing footpath, which currently exhibits visible evidence of cracking and lifting as a result of the trees roots. The Arboricultural Impact Assessment has requested consideration for replacement tree planting, which is currently evident on the proposed Landscape Plans, both with regards to street trees, and trees within the site. For this reason, the Arborists recommendations are supported.</p> |

| Internal Referral Body | Comments |
|---|---|
| | <p>The current Landscape Plans indicate that sufficient compensation planting has already been proposed, thus no additional tree planting, in addition to that already proposed, is needed to compensate tree loss within the site.</p> <p>The replacement street tree planting to compensate the loss of existing street trees shall be completed in accordance with control C1.24, which seeks to ensure the desirable character of Pittwaters streetscape is achieved and maintained. In relation to this site specifically, the proposed street trees shall be located a minimum 2.5m from the proposed driveway, and a minimum 2m from the existing footpath edge. This is to ensure adequate space and soil volume to allow the tree to thrive, whilst ensuring future damage to the driveway, footpath and kerb is avoided.</p> <p>The implementation of landscape works as proposed on the Landscape Plans is necessary to satisfy control C1.1 as a key objective is to ensure the built form is softened and complemented by landscaping, and that "landscaping reflects the scale and form of the development". The current proposed landscaping adequately achieves this desired outcome.</p> <p>The landscape component of the proposal is therefore acceptable subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plans.</p> |
| NECC (Development Engineering) | No objections to approval subject to conditions as recommended. |
| NECC (Stormwater and Floodplain Engineering – Flood risk) | All proposed works are located outside the adopted Flood Planning Level extent and not subject to residential flood related development controls. |

| External Referral Body | Comments |
|------------------------|---|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid whom confirmed that an assessment on their behalf was not necessary, and thus no conditions are required from Ausgrid. |

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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 2: Secondary dwellings

Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

Comment:

The proposed use is defined under PLEP 2014 as a Secondary Dwelling.

Clause 20: Land to which this Division applies:

| Requirement | Comment |
|--|---|
| This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land: | |
| (a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or | Consistent. The site is located within the R2 Low Density Residential zone and, as such, the proposed use |

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| (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential. | is permissible with consent under PLEP 2014. |
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Clause 21: Development to which this Division applies

| Requirement | Comment |
|---|---|
| This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling. | Consistent. The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies. |

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

| Requirement | Comment |
|---|---|
| (2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling. | Upon completion of the development the land would accommodate one principal and one secondary dwelling. |
| (3) A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area. | The secondary dwelling has a proposed gross floor area of 47 square metres; lesser than the maximum prescribed by the SEPP and standard instrument. |
| (4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres. (b) parking if no additional parking is to be provided on the site. | The development application is not being refused on any of these grounds. |

Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

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| Requirement | Comment |
|---|--|
| A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division. | Consistent. This application does not propose any subdivision of the existing allotment. |

Conclusion

The proposed secondary dwelling complies with the relevant provisions of the SEPP ARH.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1156449M dated 05 February 2021). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0005662705 and 0005662499 dated 05 February 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 whom confirmed that an assessment on their behalf was not necessary, and thus no conditions are required from Ausgrid.

Pittwater Local Environmental Plan 2014

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|---------------------------------|-----|
| Is the development permissible? | Yes |
|---------------------------------|-----|

After consideration of the merits of the proposal, is the development consistent with:

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|-----------------------------|-----|
| aims of the LEP? | Yes |
| zone objectives of the LEP? | Yes |

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m | 7.0m | - | 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 |
| 5.4 Controls relating to miscellaneous permissible uses | Yes |
| 5.10 Heritage conservation | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.3 Flood planning | Yes |
| 7.10 Essential services | Yes |

Detailed Assessment

7.1 Acid sulfate soils

The site is attributed as being with Acid Sulfate Soil Class 4 area which gives a series of recommendations if works are to require 2 metres or more of excavation. The works proposed do not necessitate this level of excavation and thus the proposal complies with the clause.

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|---------------------|------------------------|---|-----------------------|-----------------|
| Front building line | (Heath Street) 6.5m | Building - 6.5m Eave - 4.7m Bin store - Nil | - 27.7% 100% | Yes No No |
| Rear building line | 6.5m | Main building - 5.4m 'Pop-out' - 4.7m Eave - 4.5m | 17% 27.7% 30.8% | No No No |
| Side building line | (northwest) 1.0m | Building - 1.0m Eave - 0.3m | - 70% | Yes No |
| | (southeast) 2.5m | Building - 1.6m Eave - 1.0m Pool coping - 1.4m | 3.6% 60% 44% | No No No |

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| Building envelope | (northwest) 3.5m | Two areas of encroachment, both at a height of 0.4m and for lengths of 4.4m and 13.7m | 11.4% | No |
| | (southeast) 3.5m | One encroachment at a height of 1.1m and for a length of 4.4m | 31.4% | No |
| Landscaped area | 50% (464.5m ²) | 50.3% (467m ²) | - | Yes |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.9 Mona Vale Locality | Yes | Yes |
| B1.3 Heritage Conservation - General | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B3.11 Flood Prone Land | Yes | Yes |
| B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land | 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 | No | Yes |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition - Site Fencing and Security | Yes | Yes |
| B8.5 Construction and Demolition - Works in the Public Domain | Yes | Yes |
| B8.6 Construction and Demolition - Traffic Management Plan | Yes | Yes |
| C1.1 Landscaping | Yes | Yes |
| C1.2 Safety and Security | Yes | Yes |
| C1.3 View Sharing | Yes | Yes |
| C1.4 Solar Access | Yes | Yes |
| C1.5 Visual Privacy | Yes | Yes |
| C1.6 Acoustic Privacy | Yes | Yes |
| C1.7 Private Open Space | Yes | Yes |
| C1.9 Adaptable Housing and Accessibility | Yes | Yes |
| C1.11 Secondary Dwellings and Rural Worker's Dwellings | Yes | Yes |
| C1.12 Waste and Recycling Facilities | Yes | Yes |
| C1.13 Pollution Control | Yes | Yes |
| C1.14 Separately Accessible Structures | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| C1.17 Swimming Pool Safety | Yes | Yes |
| C1.23 Eaves | Yes | Yes |
| C1.24 Public Road Reserve - Landscaping and Infrastructure | Yes | Yes |
| D9.1 Character as viewed from a public place | Yes | Yes |
| D9.2 Scenic protection - General | Yes | Yes |
| D9.3 Building colours and materials | Yes | Yes |
| D9.6 Front building line | No | Yes |
| D9.7 Side and rear building line | No | Yes |
| D9.9 Building envelope | No | Yes |
| D9.10 Landscaped Area - General | Yes | Yes |
| D9.12 Fences - General | Yes | Yes |
| D9.14 Construction, Retaining walls, terracing and undercroft areas | Yes | Yes |

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

In accordance with the requirements of B6.3 of the P 21 DCP, the site should have three car parking spaces (two for the main house, and one for the secondary dwelling). The plans detail a double garage for the main house, and then one hardstand space in the driveway for the secondary dwelling. The secondary dwelling space blocks the garage and, in reality, would not necessitate a functional relationship.

Whilst there could be scope to add a third garage bay to the design, this would unbalance the proportions of the building and would result in the majority of the street frontage being dominated by car parking. This is not a good design solution.

The site is reasonably well connected and is within walking distance to a number of bus stops, including the hub of Mona Vale and the B-Line bus stop. There is also parking (albeit limited) on the surrounding road network.

On balance the proposal succeeds with only two car parking spaces. If an arrangement is reached between the owner and future tenants of the secondary dwelling that permits parking in the driveway as shown on the plans then this arrangement is also acceptable.

C1.5 Visual Privacy

To the first floor western elevation of the secondary living room there exists floor to ceiling identified as Window 30. This window is setback from 2.94 metres from the boundary shared with no.35 Heath Street. Whilst this window may not cause any harmful direct impacts at present, if the adjoining site were to redevelop in the future then this large first floor window from a primary living area would impede their development potential.

Accordingly, it is recommended that the annotated 'timber screen' on the plans be secured as a privacy screen by way of condition. That condition would ensure that natural light can still enter the subject home, but would ameliorate any perception of direct overlooking from this window. Subject to this

condition, the development achieves a satisfactory provision of privacy and can be supported.

D9.6 Front building line

Description of Non-Compliance

Part D9.6 of the P 21 DCP prescribes a 6.5 metre front boundary setback line for buildings and built structures. The proposed front wall of the garage and secondary dwelling are appropriately setback 6.5 metres, however the design of the roof provides a large overhang that encroaches the setback area with a setback of 4.7 metres, and a bin store which has a nil setback to the boundary.

The request for variation is assessed against the following control outcomes:

- *Achieve the desired future character of the Locality.*
Comment: The proposed development achieves the desired future character of the Mona Vale Locality and will have an appropriately proportioned and designed streetscape appearance.
- *Equitable preservation of views and vistas to and/or from public/private places.*
Comment: The encroachment into the front boundary setback area is not found to result in the unreasonable loss of views or vistas from any nearby private residences or the public domain.
- *The amenity of residential development adjoining a main road is maintained.*
Comment: N/A Heath Street is not a main road.
- *Vegetation is retained and enhanced to visually reduce the built form.*
Comment: The encroachment of the roof and bin store into the front setback area does not directly result in the loss of vegetation. As described throughout this report, the built form is acceptable and is not found to be visually dominant.
- *Vehicle maneuvering in a forward direction is facilitated.*
Comment: The proposal does not facilitate vehicle maneuvering in a forward direction when leaving the site. Such is uncommon along the street and could not easily be achieved within the entire front setback area being dedicated to parking and turning circles. The outcome is not considered to be essential in this circumstance.
- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*
Comment: The two elements encroaching within the front setback area are a bin store which sits below the front fence, and a roof overhang at ground level. These two elements sit below existing vegetation and are comparable in heights and proportions to other nearby structures.
- *To encourage attractive street frontages and improve pedestrian amenity.*
Comment: The proposal is well designed and has an appropriate relationship to the street which shall enhance the appearance of the street overall, and create a more pleasant pedestrian amenity.
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*
Comment: The proposal succeeds in relating to the spatial relationship between the public and private domain established along Heath Street and other surrounding roads.

On balance, the development succeeds against the outcomes of the control and the variation to Part D9.6 may be supported on merit.

D9.7 Side and rear building line

Description of Non-Compliance

Part D9.7 of the Pittwater 21 Development Control Plan 2014 prescribes a minimum building setback to the side boundaries of a property measuring 1 metre to one side (in this case, northwest) and 2.5 metres to the other side (southeast). It also sets a 6.5 metre rear building line.

The proposed dwelling and the garage/secondary dwelling building itself complies with the required side setbacks, however the eaves of those buildings and the swimming pool coping encroach within the setback area. The rear wall of the dwelling encroaches the rear building setback line by up to 27.7% with a setback of 4.7 metres.

The control permits swimming pools and their coping to be located 1 metre from a side of rear boundary (which the proposed exceeds with a setback of 1.4 metres) subject to several requirements and the control outcomes being met.

For ease of reading this assessment, the variations to the building, eaves and swimming pool shall all be considered together against the following control outcomes:

- *To achieve the desired future character of the Locality.*
Comment: The proposed encroachments into the side and rear setback areas do not diminish the proposal's overall ability to be compatible with the desired future character of the Mona Vale Locality, for reasons the same as those described above in Part D9.6.
- *The bulk and scale of the built form is minimised.*
Comment: The proposed swimming pool encroachment does not result in any bulk or scale as it is in-ground. The eaves of the buildings are relatively minor in scale commensurate to the proportions of the project overall and are contributory to the architecture of the building - it is considered that enforcing compliance with the portions of the eaves that encroach would result in a negligible change to any perceivable bulk and scale, but would unbalance the building and cause greater harm. To the rear, the building line proposed for most of the dwelling is compatible with the setbacks of neighbouring dwellings. At first floor level there are two small 'pop-outs' which are setback 4.715 metres from the boundary and these elements are considered to be acceptable given their minimal scale and by nature of not connecting with the ground.
- *Equitable preservation of views and vistas to and/or from public/private places.*
Comment: The works proposed are not considered to result in any unreasonable losses from any private dwellings or public places.
- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*
Comment: The works proposed are not considered to result in any unreasonable losses from any private dwellings or public places.
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*
Comment: Notwithstanding the numerical variations proposed, the works have been found to result in no excessive loss of privacy or sunlight to any neighbouring properties and does not present as an excessively dominant building.
- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment: Achievable.

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

Comment: The positioning of buildings on the site differs from traditional residential development in a manner which retains an adequate level of amenity to neighbours and has an attractive street presence. Therefore there is sufficient merit in this circumstance to allow for flexibility in the siting of buildings.

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

Comment: The variations sought to these controls does not directly attribute to the loss of any significant or valuable vegetation. Whilst there are some plantings that must be removed to accommodate the development, this shortfall is balanced by additional plantings.

- *To ensure a landscaped buffer between commercial and residential zones is established.*

Comment: N/A

On balance the proposal succeeds against the control outcomes and there is sufficient merit to permit a variation in this instance.

D9.9 Building envelope

Description of Non-Compliance

Part D9.9 Building Envelope of the Pittwater 21 Development Control Plan 2014 prescribes an envelope control to the flank elevations of a building, measuring 3.5 metres in height plus the setback of that wall from the boundary.

In this proposal the development does not achieve compliance with the envelope on the northwestern or southeastern flank elevations for dimensions as indicate in the built form control table.

The request for a variation to the control is assessed against the following control outcomes:

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

Comment: The request to vary the building envelope control does not materially change the buildings adherence to the desired future character of the Mona Vale Locality. Notwithstanding the variation, the design still presents as a well-designed, highly modulated set of buildings that is subservient to landscaping and open space. The general character is consistent with, if not an improvement to, the established streetscape and the wider Mona Vale Beach area. On balance, the works satisfy this objective.

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

Comment: The portions of building which encroach the prescribed building envelope are not readily visible from the street or the public domain given the location of the building on the land. The overall height of building complies with the relevant control (Clause 4.3 of the Pittwater Local Environmental Plan 2014) and is beneath the existing and established tree canopy level, as well as the canopy level of future trees.

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

Comment: It is considered that the new development appropriately responds to the spatial characteristics of the existing natural environment.

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

Comment: As indicated above, it is considered that the proposal is of a high quality architecture that has gone to considerable lengths to reduce its bulk and scale on all elevations. Where there are elements of a planar character, these will be softened by a mixed palette of materials and dense landscaping.

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

Comment: The works proposed are not considered to result in unreasonable view loss from any surrounding dwellings or from the private domain.

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

Comment: It is not considered that the portions of the facades which encroach the envelope directly result in any unreasonable level of overshadowing. It is considered that if these areas of encroachment were removed, the prospective shadow diagrams could have a negligible change. Similarly, the proposal is designed to have minimal windows on the flank elevations, and thus the envelope encroachments do not result in a loss of privacy to neighbouring properties.

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

Comment: The site has a compliant provision of landscaped open space and is surrounded by existing mature landscaping that is to be strengthened by additional plantings. The plantings will significantly screen the scale of the proposal and, combined with the selected material palette, the overall design is considered acceptable.

Therefore, notwithstanding the variation sought to the building envelope control, the proposal succeeds on merit and a variation may be supported.

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 \$9,497 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$949,720.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0110 for Demolition works Dwelling House and construction of a dwelling house, secondary dwelling, swimming pool and garage on land at Lot 31 DP 7236, 37 Heath Street, MONA VALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|---|-----------------|--------------------------|
| Drawing No. | Dated | Prepared By |
| DD 00 Material & Drawing Schedule | 23 March 2021 | Markham-Lee Architecture |
| DD 01 Site / Roof Plan | 23 March 2021 | Markham-Lee Architecture |
| DD 02 Proposed Ground Floor Plan | 11 January 2021 | Markham-Lee Architecture |
| DD 03 Proposed Upper Floor Plan | 11 January 2021 | Markham-Lee Architecture |

| | | |
|---|-----------------|--------------------------|
| DD 04 Proposed Flat Ground Floor Plan | 23 March 2021 | Markham-Lee Architecture |
| DD 05 Proposed North, South Elevations | 11 January 2021 | Markham-Lee Architecture |
| DD 06 Proposed East, West Elevations | 11 January 2021 | Markham-Lee Architecture |
| DD 07 Section A-A | 11 January 2021 | Markham-Lee Architecture |
| DD 08 Section B-B | 11 January 2021 | Markham-Lee Architecture |
| DD 09 Proposed North, South Flat Elevations | 11 January 2021 | Markham-Lee Architecture |
| DD 10 Proposed East, West Flat Elevations | 23 March 2021 | Markham-Lee Architecture |

Reports / Documentation – All recommendations and requirements contained within:

| Report No. / Page No. / Section No. | Dated | Prepared By |
|--|------------------|--------------------------------|
| Arboricultural Impact Appraisal and Method Statement | 09 December 2020 | Naturally Trees |
| BASIX Certificate No. 1156449M | 05 February 2021 | Efficiency Assessments Pty Ltd |
| Geotechnical Assessment (ref. AG 20011) Version 3 | 01 December 2020 | Ascent Geotechnical Consulting |
| NatHERS Certificate No. 0005662499 | 05 February 2021 | Markham-Lee Architecture |
| NatHERS Certificate No. 0005662705 | 05 February 2021 | Markham-Lee Architecture |

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 |
| DA 01 E Landscape Plan | 01 February 2021 | Sprout Studio |

| Waste Management Plan | | |
|-----------------------|------------------|----------------|
| Report Title | Dated | Prepared By |
| Waste Management Plan | 18 February 2021 | Reef Interiors |

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

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

2. Prescribed Conditions

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

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

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

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

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

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

Reason: Legislative requirement.

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 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

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$9,497.20 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 \$949,720.00.

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

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

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

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

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

5. **Security Bond**

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is

located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

6. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

7. **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 Ascent Geotechnical Consulting dated 1/12/2020 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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **Amendments to the approved plans**

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

- The timber batten screen (annotated as 'TS') on Window W30 is to have spaces no greater than 22mm in width between each batten.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

9. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

10. **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.

11. **Compliance with Standards**

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

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

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

12. **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

13. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

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

Existing ground levels shall be maintained within the tree protection zone of trees to be retained,

unless authorised by the Project Arborist.

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

i) all demolition, excavation and construction works within the TPZ's and SRZ's of trees to be retained.

All tree protection measures specified must:

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

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

Note:

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

Reason: Tree protection.

14. Tree Removal Within the Road Reserve

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

- i) *Melaleuca quinquenervia*, located within the road reserve adjacent to the northern boundary, within the proposed driveway footprint, Tree No. 1,
- ii) *Callistemon spp*, located within the road reserve adjacent to the northern boundary, within the proposed driveway footprint, Tree No. 2.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: Public liability.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. 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.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:

- i) Section 4 - Arboricultural Method Statement,
- ii) Appendix 4 - Tree Protection Fencing and Signs - Illustrative Specification,
- iii) Appendix 5 - Root Zone and Trunk Protection - Illustrative Specification,
- iv) Appendix 6 - General Guidance for Working in TPZ,
- v) Appendix 8 - Tree Management Plan.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

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

Reason: Tree and vegetation protection.

16. **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.

17. **Survey Certificate**

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

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

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

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

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

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

18. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 meters wide at the kerb and 4.5 meters wide at the boundary in accordance with Northern Beaches Council Drawing No A4-3330/ 1N 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.

19. **Waste Management During Development**

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

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

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

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

20. **Landscape Completion**

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

i) the proposed replacement street trees shall be located a minimum 2.5m from the proposed

driveway, and a minimum 2m from the edge (closest to the proposed dwelling) of the existing footpath.

All street trees shall be a minimum planting size of 100 litres, as proposed on the Landscape Plans, and shall meet the requirements of Natspec - Specifying Trees.

All street trees shall be planted into a prepared planting hole 1m x 1m x 700mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall generally be centralised within the road verge.

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.

21. **Condition of Retained Vegetation - Project Arborist**

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

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

Reason: Tree protection.

22. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

23. **Waste Management Confirmation**

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

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

24. **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.

25. **House Number**

A house 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.

26. **Swimming Pool Requirements**

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

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

27. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

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

28. **Landscape Maintenance**

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

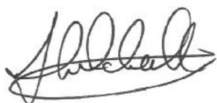
If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

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

Reason: To maintain local environmental amenity.

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

Signed



Adam Mitchell, Principal Planner

The application is determined on 01/04/2021, under the delegated authority of:



Lashta Haidari, Manager Development Assessments