

DEVELOPMENT APPLICATION ASSESSMENT REPORT

| | |
|---|---|
| Application Number: | DA2019/0565 |
| Responsible Officer: | Thomas Prosser |
| Land to be developed (Address): | Lot 100 DP 1196629, 129 Riverview Road AVALON BEACH NSW 2107 |
| Proposed Development: | Construction of an inclinor |
| Zoning: | E4 Environmental Living W1 Natural Waterways |
| Development Permissible: | Yes - Zone E4 Environmental Living Yes - Zone W1 Natural Waterways |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Catherine Ann Hrones |
| Applicant: | Peter Downs Designs |
| Application lodged: | 04/06/2019 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 18/06/2019 to 02/07/2019 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |
| Estimated Cost of Works: | \$ 304,000.00 |

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 - 4.3 Height of buildings

Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways

SITE DESCRIPTION

| | |
|-----------------------------------|---|
| Property Description: | Lot 100 DP 1196629 , 129 Riverview Road AVALON BEACH NSW 2107 |
| Detailed Site Description: | <p>The subject site consists of an allotment located on the southern side of Riverview Road.</p> <p>The site is irregular in shape with a depth of 104.7m and the site has a surveyed area of 1317m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a dwelling house on site.</p> <p>The site contains a significant slope from Riverview Road down to Pittwater.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by dwelling housed on each side of Riverview Road.</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:

- N533/07 was approved for minor demolition to the lower portion of the existing dwelling and alterations and additions to the existing dwelling including a new swimming pool
- N069/09 was approved for Alterations and additions to the existing dwelling, swimming pool, inclinator and secondary dwelling

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for an incline lift from the existing house to the existing boatshed.

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 | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any | None applicable. |

| Section 4.15 Matters for Consideration' | Comments |
|--|--|
| planning agreement | |
| 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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>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 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

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

| Internal Referral Body | Comments |
|----------------------------------|--|
| Landscape Officer | <p>The proposal seeks approval for an incline lift from the existing house to the existing boatshed.</p> <p>In terms of landscape impact to the existing landscape character, the works require the removal of one tree. Based on the Arborist Report assessment and recommendations, removal is supported subject to compensatory tree replacement.</p> <p>Landscape treatments are not proposed with the application. In consideration of the proposed above ground railglider, planting at ground level shall be conditioned to reduce the visual impact and integrate the railglider within the landscape setting.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D1 Avalon Beach Locality</p> |
| NECC (Bushland and Biodiversity) | <p>This application has been assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.7 Pittwater Spotted Gum EEC.</p> <p>The proposal is for an incline lift from the existing house to the existing boatshed to increase accessibility within the property.</p> <p>The submitted Arbortom Assessment and Risk Assessment report (The Ents Tree Consultancy, 28/07/2019) assesses one tree, T1 <i>Eucalyptus piperita</i>, and recommends removal due to structural faults in the tree. The Arborist undertook an Arbortom test and the report states, "<i>The Arbortom image (Appendix 1B), shows that the tree has lost between 19 & 34% of its structural strength at .2m above ground level.</i>" and "<i>The range that is acceptable is considered to be up to 30% strength loss. After that the structural integrity of the tree is in a range that is considered compromised (30-50%). Strength loss greater than 50% is considered unstable (Smiley & Coder).</i>"</p> <p>The tree contains hollows and cavities which have the potential to be</p> |

| Internal Referral Body | Comments |
|-----------------------------|--|
| | <p>used by local native hollow-dependent fauna. A qualified Project Ecologist is to be engaged to undertake a pre-clearance survey on this tree and cavities prior to removal as per the Tree Removal Protocol. The survey must include stag-watch over 2 nights and, where possible, camera probing. The Project Ecologist must also undertake direct supervision of removal to rescue any fauna found during removal. All log hollows are to be retained onsite as habitat.</p> <p>At least one replacement native canopy tree planting will be required to offset the removal of T1.</p> <p>Council's Natural Environment - Biodiversity section supports the application, subject to conditions.</p> |
| NECC (Coast and Catchments) | <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and also against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>State Environmental Planning Policy (Coastal Management) 2018.</p> <p>12 Development on land within the coastal vulnerability area</p> <p><i>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:</i></p> <ul style="list-style-type: none"> (a) <i>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</i> (b) <i>the proposed development:</i> <ul style="list-style-type: none"> (i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i> (ii) <i>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</i> (iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i> (c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i> <p><u>Comment:</u></p> <p>The subject property has been included under both the 'Coastal Use Area' map and 'Coastal Environment Area' map but has not been</p> |

| Internal Referral Body | Comments |
|----------------------------------|---|
| | <p>included on the Coastal Vulnerability Area Map under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and in regard to CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.</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>Estuarine Risk Management</p> <p>The subject property has been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.70m AHD has been adopted by Council for the subject site. A reduction factor (RF) based upon the distance from the foreshore edge of</p> <p>the proposed development may also apply at a rate of 0.06m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m. No further reduction is applicable.</p> <p>Further, as the DA relates to construction of an inclinor, Section C1.19 of the Pittwater 21 DCP also applies.</p> |
| NECC (Development Engineering) | The submitted geotechnical report addresses the relevant DCP controls. No objection to approval, subject to conditions as recommended. |
| NECC (Riparian Lands and Creeks) | <p>This application will not impact stormwater, except during construction.</p> <p>Sediment and erosion controls must be installed prior to any work on site and maintained until work is complete and groundcover re-established.</p> |

| External Referral Body | Comments |
|------------------------|--|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been |

| External Referral Body | Comments |
|----------------------------|--|
| | received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |
| Aboriginal Heritage Office | <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development subject to conditions.</p> |

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)

Nil

Pittwater Local Environmental Plan 2014

| | |
|--|--------------------------------|
| Is the development permissible? | Zone E4 : Yes Zone W1 : Yes |
| After consideration of the merits of the proposal, is the development consistent with: | |
| aims of the LEP? | Yes |
| zone objectives of the LEP? | Zone E4 : Yes Zone W1 : Yes |

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|--------------------|-------------|----------|
| Height of Buildings: | 8.5m | 3.3m (Rail-glider) | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 4.3 Height of buildings | Yes |
| 5.7 Development below mean high water mark | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.6 Biodiversity protection | Yes |
| 7.7 Geotechnical hazards | Yes |
| 7.8 Limited development on foreshore area | Yes |
| 7.10 Essential services | Yes |

Detailed Assessment

4.3 Height of buildings

Principal Development Standards:

| Standard | Requirement | Proposed | Complies |
|---------------------|-------------|----------|----------|
| Height of Buildings | 8.5m | 4.1m | Yes |

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|----------------------------|-------------|----------|--------------|-------------------|
| Setback from side boundary | 2m | 1m | N/A | No (see comments) |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.1 Avalon Beach Locality | Yes | Yes |
| A5.1 Exhibition, Advertisement and Notification of Applications | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B3.7 Estuarine Hazard - Low density residential | Yes | Yes |
| B3.8 Estuarine Hazard - Medium Density Residential | Yes | Yes |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community | Yes | Yes |
| B4.15 Saltmarsh Endangered Ecological Community | Yes | Yes |
| | | |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| B4.19 Estuarine Habitat | Yes | Yes |
| B4.20 Protection of Estuarine Water Quality | Yes | Yes |
| B4.22 Preservation of Trees and Bushland Vegetation | Yes | Yes |
| B5.1 Water Management Plan | Yes | Yes |
| B5.11 Stormwater Discharge into Waterways and Coastal Areas | Yes | Yes |
| B5.12 Stormwater Drainage Systems and Natural Watercourses | Yes | Yes |
| B5.13 Development on Waterfront Land | Yes | Yes |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.2 Construction and Demolition - Erosion and Sediment Management | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition - Site Fencing and Security | Yes | Yes |
| C1.1 Landscaping | Yes | Yes |
| C1.2 Safety and Security | Yes | Yes |
| C1.3 View Sharing | Yes | Yes |
| C1.4 Solar Access | Yes | Yes |
| C1.5 Visual Privacy | Yes | Yes |
| C1.6 Acoustic Privacy | Yes | Yes |
| C1.13 Pollution Control | Yes | Yes |
| C1.14 Separately Accessible Structures | Yes | Yes |
| C1.19 Incline Passenger Lifts and Stairways | No | Yes |
| C1.25 Plant, Equipment Boxes and Lift Over-Run | Yes | Yes |
| C5.1 Landscaping | Yes | Yes |
| D1.1 Character as viewed from a public place | Yes | Yes |
| D1.5 Building colours and materials | Yes | Yes |
| D1.9 Side and rear building line | Yes | Yes |
| D1.11 Building envelope | Yes | Yes |
| D1.14 Landscaped Area - Environmentally Sensitive Land | Yes | Yes |
| D1.16 Fences - Flora and Fauna Conservation Areas | Yes | Yes |
| D1.17 Construction, Retaining walls, terracing and undercroft areas | Yes | Yes |
| D1.20 Scenic Protection Category One Areas | Yes | Yes |
| D15.12 Development seaward of mean high water mark | Yes | Yes |
| D15.13 Lateral limits to development seaward of mean high water mark | Yes | Yes |
| D15.14 Minimum frontage for waterfront development | Yes | Yes |
| D15.15 Waterfront development | Yes | Yes |
| D15.18 Seawalls | Yes | Yes |
| D15.19 Dredging | Yes | Yes |

Detailed Assessment

C1.19 Incline Passenger Lifts and Stairways

Description of non-compliance

The proposal does not meet the control for incline passenger lifts to be setback two metres from the side boundary. In this regard, the proposal provides a setback of 1 metre to the outer face of the carriage.

Merit Consideration

In consideration of the variation, the proposal is assessed against the outcome of the clause as follows:

Incline passenger lifts and stairways that cause minimal visual and acoustic disturbance to the environment and neighbours. (En, S)

Comment:

The proposed incline lift involves a screened landing platform and an enclosed platform room. Along with the reasonable physical separation between the carriage and neighboring living spaces (as the carriage heads west down the slope of the site), this provides an appropriate design to minimise visual and acoustic disturbance to the environment and neighbours.

As a result, the proposal is consistent with the outcome of the clause and the variation to the numerical control is reasonable.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$3,040 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$304,000.

CONCLUSION

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

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

- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0565 for Construction of an inclinor on land at Lot 100 DP 1196629, 129 Riverview Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|----------------------|
| Drawing No. | Dated | Prepared By |
| A1 1907 02- Site Plan | 13.5.19 | Peter Downes Designs |
| A1 1907 03- Section 1 | 13.5.19 | Peter Downes Designs |
| A1 1907 04- South/ West/ Notes | 13.5.19 | Peter Downes Designs |
| Colour Schedule | 13.5.19 | Peter Downes Designs |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|--------------|----------------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Geotechnical Investigation | 29/05/19 | White Geotechnical Group Pty Ltd |
| Arbortom Assessment and Risk | 28/07/2019 | The Ents Tree |

| | | |
|------------|--|-------------|
| Assessment | | Consultancy |
|------------|--|-------------|

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

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

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

2. **Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and

- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

occurs on Council's property.

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

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

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

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,040.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$304,000.00.

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

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

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

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

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

5. Security Bond

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

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

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

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

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

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 29 May 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **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.

8. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal 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.

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

The Project Ecologist is to prepare a brief Tree Removal Protocol which includes a pre-clearance survey, direct supervision of tree removal, protocol for rescue of fauna and re-location of log hollow sections onsite to provide habitat.

The pre-clearance survey must include stag-watch of hollows/cavities over 2 consecutive nights, immediately prior to tree removal, and, where possible, camera probing. The Tree Removal Protocol must also include a hold point where any threatened fauna species are found during the pre-clearance survey, and formal impact assessment will be required prior to tree removal.

The Tree Removal Protocol prepared by the project ecologist is to be submitted to the Principal Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW *Biodiversity Conservation Act 2016* and relevant Natural Environment LEP/DCP controls.

10. **Estuarine Hazard Design Requirements**

The following applies to all development:

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

To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

11. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of **2.70 m AHD** has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below **2.70 m AHD** shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above **2.70 m AHD** or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below **2.70m AHD**.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above **2.70 m AHD**. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above **2.70 m AHD** to avoid the likelihood of contact with splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

12. **Project Ecologist**

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

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

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method assessor accreditation under the NSW *Biodiversity Conservation Act 2016*

Employment of a project ecologist is to be certified by the Principal Certifying Authority Prior to

issue of Construction Certificate.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. Tree removal

The following existing tree is granted approval for removal following assessment and recommendation in the Arbotum Assessment and Risk Assessment prepared by The Ents Tree Consultancy dated 28th July 2019:

- Tree 1 - Sydney Peppermint Gum

The tree is assessed with average health, average vigour and below average form for the species. This specimen is growing out of a west facing rock shelf and its growth has been stunted, limiting its height.

14. Installation and Maintenance of Sediment and Erosion Control

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.

15. Installation and Maintenance of Sediment and Erosion Control

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. Maintenance of Road Reserve

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

Reason: Public Safety.

17. Protection of Adjoining Property - Excavation

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety

18. **Tree and vegetation protection**

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

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

b) Tree protection shall be generally undertaken as follows:

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

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

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

19. **Tree Removal Protocol to be Implemented**

Removal of native trees with cavities/hollows is to be undertaken in accordance with the protocols and recommendations specified in the approved Tree Clearing Protocol prepared by the Project Ecologist and these conditions of consent.

This includes the pre-clearance survey, direct supervision of tree removal and re-location of any salvaged log hollows in other vegetated areas on the site.

Details confirming compliance are to be certified by the project ecologist and submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect native wildlife in accordance with relevant Natural Environment LEP/DCP controls.

20. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

21. **Condition of retained vegetation**

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

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

23. **Required Planting**

i) one (1) Sydney Peppermint Gum or Spotted Gum shall be planted on site to achieve a minimum mature height of at least 8 metres, installed at a minimum 75 litre pot size, with a minimum soil area of 3m x 3m, and planted 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used,

ii) native shrub planting, excluding any existing planting, shall be provided along the southern boundary to the extent of the above ground section of the proposed railglider, consisting of shrubs capable of attaining 2-3 metres in height at maturity, planted no more than 1 metre apart, and planted at a minimum container size of 200mm.

Reason: to provide landscape amenity and integrate the proposed works in to the landscape

setting.

24. **New vegetation planting**

Prior to the issue of any Occupation Certificate, evidence that the new vegetation planting comprises a minimum of 80% locally native vegetation species (as per species listed in the Pittwater Spotted Gum Endangered Ecological Community) is to be provided to the Principal Certifying Authority.

Reason: To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls.

25. **Tree Removal Protocol to be Certified as Completed**

The Project Ecologist is to provide photographic evidence and written details regarding the implementation and completion of the approved Tree Removal Protocol to the Principal Certifying Authority prior to issue of Occupation Certificate.

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016 and relevant Natural Environment LEP/DCP controls.

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

26. **Landscape maintenance**

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

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

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

27. **Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

28. **Control of Weeds**

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

Reason: Weed management.

29. **No Planting Environmental Weeds**

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

Reason: Weed management.

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

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

Reason: To protect Aboriginal Heritage.

31. **Dead or Injured Wildlife**

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

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

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

Signed



Thomas Prosser, Planner

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



Steven Findlay, Manager Development Assessments