

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0352
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 1 DP 1238126, 98 Elimatta Road MONA VALE NSW 2103
Proposed Development:	Construction of a dwelling house including secondary dwelling
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Timothy John Brown Eleanor Jayne Brown
Applicant:	Wincrest Group Pty Ltd

Application lodged:	10/04/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	24/04/2019 to 08/05/2019
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 630,000.00
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ASSESSMENT INTRODUCTION

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

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - C1.4 Solar Access
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
 Pittwater 21 Development Control Plan - D9.3 Building colours and materials
 Pittwater 21 Development Control Plan - D9.6 Front building line
 Pittwater 21 Development Control Plan - D9.9 Building envelope
 Pittwater 21 Development Control Plan - D9.11 Landscaped Area - Environmentally Sensitive Land
 Pittwater 21 Development Control Plan - D9.12 Fences - General

SITE DESCRIPTION

Property Description:	Lot 1 DP 1238126 , 98 Elimatta Road MONA VALE NSW 2103
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the south-western side of Elimatta Road.</p> <p>The site is regular in shape with a frontage of 16.4m along Elimatta Road and a depth of 42m. The site has a surveyed area of 650.5m².</p> <p>The site is located within the E4 Environmental Living zone and is currently a vacant lot having recently been subdivided.</p> <p>The site slopes from west to east towards the road frontage. The site has a moderate slope with a fall of approximately 7m across the building platform.</p> <p>The site is vacant of any trees with a small amount of grass cover.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by single and double storey detached residential dwellings. To the north is a two storey dwelling and to the south is a single storey dwelling. To the rear (west) is a vacant site which forms part of the recent subdivision to create with site.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. The site has recently undergone a subdivision and two dwelling applications on the newly created lots. A search of Council's records has revealed the following relevant history:

Application **N0178/17** for Torrens title subdivision of one (1) lot into three (3) lots and the construction of a shared access driveway and on-site detention drainage was approved on 11/09/2017 by Northern Beaches Council.

Application **DA2018/0964** for Construction of a new dwelling house and swimming pool within currently unregistered Lot 2 of an approved subdivision (N0178/17) was approved on 23/10/2018 by Northern Beaches Council.

Pre-lodgement Meeting **PLM2018/0266** was held on 27/11/2018 for Construction of a dwelling house and a secondary dwelling (Lot 1).

Application **DA2018/1636** for Construction of a dwelling house within currently unregistered Lot 2 of an approved subdivision (N0178/17) was approved on 04/01/2019 by Northern Beaches Council.

The subject site was registered on 24 January 2019 as Lot 1 DP 1238126.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of a two storey dwelling house with an attached secondary dwelling. Specifically, the development involves:

- Ground floor double garage, living/dining room, media room, study, laundry, bathroom and kitchen;
- Alfresco area off the dining room;
- Upper floor living room, four bedrooms, en suite, bathroom;

- Secondary dwelling above the garage, including two bedrooms, bathroom, laundry, kitchen and living/dining room;
- Associated landscaping around the dwelling.

Following an initial assessment of the application, it was requested the applicant increase the setback to the first floor secondary dwelling and portion of the upper floor facade of the main dwelling on the south-eastern elevation. Amendments were made to the proposal which increased the upper floor setback to the secondary dwelling (from 1.65m to 2m) and portion of the main dwelling (additional 0.3m to Bedroom 1). This resulted in near full compliance with the building envelope and increased solar access for the adjoining property.

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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. Additional information was requested in the form of amended plans to increase upper floor setbacks.</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>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is</p>

Section 4.15 Matters for Consideration'	Comments
	<p>not relevant to this application.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
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 process council is in receipt of 2 submission/s from:

Name:	Address:
Ms Elizabeth Ann Jenkins	96 Elimatta Road MONA VALE NSW 2103
Danielle Deegan	

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

- Solar Access
- Privacy
- Noise
- Non-compliance with 88b Instrument
- Bulk and Scale
- Private open space
- Landscaped Area
- Swimming Pool

The matters raised within the submissions are addressed as follows:

- *The proposed development will result in unacceptable overshadowing to the main private open space area of 96 Elimatta Rd.*

Comment:

The proposed development will result in some overshadowing of the PPOS area and windows during the afternoon period, however no additional impact during the morning period. A detailed assessment has been conducted later within this report regarding solar access with consideration to the case law regarding solar access. The assessment has found the proposal to be acceptable and refusal of the application on the basis of the additional impact to solar access is not warranted in the circumstance.

- *The proposed front deck will result in unreasonable privacy impacts to the front deck of 96 Elimatta Rd. In the event that approval is recommended, it is requested that a condition of consent require a privacy screen be erected along the southern elevation of this deck to ensure satisfactory privacy levels are maintained between dwellings.*

Comment:

A privacy screen to 1.7m high has been provided upon the south-eastern elevation of the raised alfresco area through amended plans. As a condition of consent, a privacy screen of 1.7m high is to be provided upon the upper floor deck on the south-eastern elevation. Further, a privacy screen will also be required on the staircase landing for the secondary dwelling on the south-eastern elevation as a condition of consent.

- *The location of the proposed air-conditioning plant will have unacceptable acoustic impacts on the residents of 96 Elimatta Rd. In the event that approval is recommended, it is requested that a condition of consent require the relocation of the air-conditioning plant away from the common boundary.*

Comment:

A condition of development consent has been recommended for the relocation of the air-conditioning unit away from the south-eastern boundary.

- *The proposed development extends approximately 6m forward of the approved building footprint under the Positive Covenant numbered 4 in DP 1238126. This represents a substantial exceedance of the built form envisaged for the site.
It is questioned whether the proposed development can be approved without first modifying both the Section 88b instrument and Consent N0178/17.*

Comment:

As set out in the terms of Restriction Number 4, Northern Beaches Council is the Authority empowered to release, vary or modify the restriction on the use of land. Pursuant to Clause 1.9A of the Pittwater LEP, for the purpose of enabling development on land to be carried out in accordance with the LEP, a covenant that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

The subdivision application N0178/17 has been reviewed to ascertain if there was a specific reason (in regards to environmental impact) as to why a building envelope was imposed on the site. Upon review of the subdivision application N0178/17, it can be concluded that there was no specific reason as to why the building envelope was imposed other than to demonstrate as part of the subdivision application that a dwelling could be facilitated on the site with a 175sqm footprint and comply with the minimum setbacks under the DCP. The proposed development has demonstrated to the satisfaction of Council that a dwelling can be accommodated on the site in accordance with the required setbacks and achieve the outcomes of the Pittwater DCP and Pittwater LEP. Therefore, strict compliance with the building envelope is not necessary in this circumstance given there was no specific outcomes to be achieved via strict compliance with the building envelope on the title.

- *The proposal results in a breach of the building envelope control on the south-eastern corner of up to 1m.*

Comment:

The proposed development as originally submitted consisted of a moderate building envelope encroachment upon the south-eastern elevation. Council requested the applicant address this aspect of the proposal to require compliance with the building envelope. An amended set of plans has been submitted to Council which increased the upper floor setback to the south-eastern elevation which results in a minor (0.1m) building envelope encroachment for a small portion of the dwelling. The extent of the encroachment is considered very minor and is acceptable given the outcomes of the control have been achieved (as discussed in detail elsewhere within this report).

- *The proposal does not comply with Control C1.7 which requires a minimum of 80m² private open space per dwelling at ground level with no more than 75% of this private open space provided in the front yard.*

The rear yard contains private open space and what appears to be a gravel car parking space for the secondary dwelling only. Consequently, all of the private open space for the principal dwelling is in the front yard. This does not satisfy the requirements of the DCP.

Comment:

The DCP allows up to 75% (60sqm) of POS to be provided in the front setback, provided it is suitably screened from the street to ensure privacy. Landscape screening capable of reaching 2m in height is proposed as part of the landscape plan to provide privacy to the front POS area. The level of the road/footpath is below POS area which will assist in limited views from the public domain to the POS when combined with landscape screening of 2m in height. An area of

40sqm is provided within the rear setback which can be utilised by the secondary dwelling and/or principle dwelling as required. Overall, the development provides more than the minimum POS area which will be suitably screened from the street as required by the DCP.

- *The site plan does not clearly show the calculations for the proposed landscaped area. Nevertheless, the SEE acknowledges that the proposed development provides 59.25% of the subject site as landscaped area, where the control calls for 60%.*

Comment:

Council's assessment of the landscaped area has found the site to consist of 58.5% landscape area (in accordance with the variation clause). A detailed review of the merits of the landscape variation is contained elsewhere in this report. Overall, the variation is considered to be minor and does not render the development to be excessive in bulk and scale, detrimental to storm water drainage or limit the areas available for good quality landscape planting.

- *It is noted that a "future swimming pool details by others" in the front yard is shown on the plans. This is contrary to the DCP which states that built structures are not permitted within the front building setback. In addition, any swimming pool with its associated pool coping/decking, will further reduce the landscaped area which is already deficient. In the event that approval is recommended, it is requested that a condition of consent delete the swimming pool from the plans.*

Comment:

A condition of development consent has been recommended requiring removal of any reference to a swimming pool from the plans.

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>
Landscape Officer	<p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of the existing trees and vegetation, and the completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater21 DCP Controls:</p> <p>B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping C1.5 Visual Privacy D9 Mona Vale Locality</p> <p>No Arboricultural Impact Assessment report is provided for this</p>

Internal Referral Body	Comments
	<p>development application. The recommendations for retention of trees as contained within the Arboricultural Impact Assessment prepared for subdivision approval under N0178/17 applies, including conditions as imposed.</p> <p>A Landscape Plan is provided satisfying DA Lodgements Requirements, and is subject to conditions.</p>
NECC (Development Engineering)	<p>The proposed development is located beyond the approved building footprint area and contradicts the restriction on lot 1 DP 1238126 (subject lot) which benefits Council.</p> <p>Planner to evaluate the DA N0178/17 to consider if the application can be permitted in contrary to the restriction. This can set a precedent to the other lots on this Deposited Plan.</p> <p>Should the application be approved no objection subject to conditions.</p> <p><i>*Note: The building envelope restriction is addressed under the submissions section of the report.</i></p>

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. The site has recently undergone a subdivision whereby all matters relating to the contamination of land were addressed at subdivision stage under application NO178/17. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 995665M dated 6 March 2019).

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

Commitment	Required Target	Proposed
Water	40	41
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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.315m	N/A	Yes
Maximum floor area secondary dwelling	60sqm floor area	52sqm	N/A	Yes

(Clause 5.4 (9))

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	Prevailing setback (13.36m)	11.407m	14.6%	No
Rear building line	6.5m	6.5m	N/A	Yes
Side building line	2.5m	3.23m (North-west)	N/A	Yes
	1m	1.605m (South-east)	N/A	Yes
Building envelope	3.5m	Within (North-west)	N/A	Yes
	3.5m	Not within (South-east) Max encroachment 0.1m	2.8%	No
Landscaped area	60%	58.5% (including open alfresco as permitted under variation clause)	2.5%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Residential		
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	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	No	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	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
C1.23 Eaves	Yes	Yes
C5.1 Landscaping	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	No	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes
D9.9 Building envelope	No	Yes
D9.11 Landscaped Area - Environmentally Sensitive Land	No	Yes
D9.12 Fences - General	No	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

The principle dwelling provides two (2) off-street parking spaces within a double garage.

A third space is provided for the secondary dwelling within the lot.

The minimum dimensions of a double garage under the PDCP is 5.7m x 6m. The proposed garage has

dimensions of 5.52m x 6.9m and slightly below the requirement in regards to width. However, the garage meets the requirement under the Australian standard AS 2890.1 of 5.4m x 5.4m and is therefore considered acceptable and capable of accommodating two cars.

C1.4 Solar Access

The proposal has been assessed against the Pittwater DCP in regards to solar access. The DCP requires the main private open space area of any adjoining dwellings to receive a minimum 3 hours of sunlight between 9am and 3pm on 21 June. Further, the windows of principle living areas are to receive a minimum of 3 hours sunlight (to 50% of the glazed area of the windows) between 9am and 3pm on 21 June.

The applicant has provided detailed elevation shadow diagrams demonstrating the impact of the development upon the north facing windows of the adjoining dwelling on 21 June. It is noted that there is existing overshadowing to the north facing windows resulting from the dwelling itself and a pergola roof over the decked outdoor area. The proposed dwelling will not have any additional impact between 9am and 12pm. Further, the pergola has operable louvers which allows solar access to the window as required by the owner. Some impact will result from the development between 12pm and 3pm, however, the impact will still allow for 50% of the glazed area to receive solar access when the louvers are opened, as shown upon the elevation shadows which demonstrate the scenario with and without the pergola.

With consideration to solar access for windows, the proposed development will not be the direct cause the adjoining dwelling windows receiving less than the DCP requirements. Although the development has an impact during the afternoon period for a portion of the window, the impact during the morning is due to the existing situation.

An assessment has been carried out regarding solar access to the Private Open Space area of the adjoining dwelling at 96 Elimatta Road. The adjoining dwelling at 96 Elimatta Road has area of 3.5m x 8.5m (based on the dimension of the deck approved under NO514/05) adjoining the living room and kitchen and is approximately 30sqm. The area consists of a timber deck and pergola with operable louvers. This area is said to be the principle private open space (PPOS) of the property and is the focus of the assessment (and the submission in relation to solar access from the adjoining property).

The proposed dwelling will have no impact upon the PPOS at 9am and a minor impact by 12pm (10% reduction to the PPOS) as demonstrated in the shadow diagrams provided with the application. The proposed dwelling will have an overshadowing impact between 12pm and 3pm (with 1/3 of the PPOS in sunlight by 3pm). The dwelling upon 96 Elimatta Road is the cause of the existing overshadowing during the morning period which is demonstrated on the 3D shadow diagrams provided with the application.

The combination of the existing overshadowing during the morning period and the overshadowing as a result of the proposed development (between 12pm and 3pm) would result in the PPOS area not receiving full solar access (i.e to the whole 30sqm deck area) for 3 hours on 21 June. Given the numerical non-compliance, the proposal is assessed against the planning principles set out by 'The Benevolent Society V Waverley Council' 2010 Judgement in the NSW Land and Environment Court.

The Benevolent Society v Waverley Council [2010] NSWLEC 1082

Numerical guidelines dealing with the hours of sunlight on a window or open space usually leave open the question what proportion of the window or open space should be in sunlight, and whether the sunlight should be measured at floor, table or a standing person's eye level. Numerical guidelines should therefore be applied with the following principles in mind, where relevant:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The locality is a low density environment consisting of detached one and two storey dwellings (with the occasional secondary dwelling). It is reasonable to require that the adjoining dwelling and some of its open space will retain existing sunlight given the residential setting. The assessment is conducted with the density in mind, however, the impacted PPOS area is considered to be quite vulnerable given it is directly south of the proposed building, sited below the adjoining boundary level and the area already experiences overshadowing from itself due to the orientation of the building, PPOS and existing roofed pergola.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: The vast majority of the sunlight currently enjoyed during the morning period is retained to the PPOS, with a minor reduction of 10% of the PPOS by 12pm as a result from the development. What must also be considered are the alternate opportunities for solar access throughout the site. The site 96 Elimatta Road has an elevated deck on the north-east (front) elevation which will receive full solar access during the morning period. This area is directly accessible from a living area with full height glass sliding doors. Although this area is not as private as the rear PPOS, the area is elevated and setback a sufficient distance from the street to be usable open space with a reasonable level of privacy. There is also a good sized landscaped area/gardens throughout the rear yard which will receive full solar access in a private landscaped setting.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The area of the proposed development which results in the impact to the PPOS is the first floor level over the garage which accommodates a secondary dwelling. This component of the proposal is compliant in setback, building envelope, building height and maximum floor space area (for a secondary dwelling). The upper floor setback to the secondary dwelling has been amended following Council's initial assessment, where it was requested an increased setback be provided to achieve a better solar outcome for the adjoining property. The setback was increased from 1.6m to 2m to improve the outcome when compared to the development as originally proposed.

Overall, the development is not considered to be unreasonable and is an appropriate response to the spatial characteristics of the site, neighbouring sites and the streetscape. Should the development be situated further forward, this would result in a negative impact upon the streetscape, being much further forward of each dwelling and would likely still result in an impact to solar access.

- To be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.5 degrees or more. (This is because sunlight at extremely oblique angles has little

effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight. For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.

Comment: The proposed development will not result in an impact to the windows during the morning period. As demonstrated in the elevation shadow diagrams, the living room window will have 50% of its area in sunlight once the louvers are opened on the pergola by 3pm.

When solar access is available to the deck, it will be available to a usable strip adjoining the living room (at ground level).

- Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.

Comment: The existing overshadowing by the eave overhang and pergola has been taken into account in assessing the existing impact and the proposed impact.

- In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.

Comment: The proposed development upon 98 Elimatta Road forms the consideration of the impact to solar access.

Having considered the proposed development against the Pittwater DCP and the relevant Planning Principle, the following conclusions are drawn:

- The adjoining PPOS area is considered to be vulnerable to overshadowing impact, as the area already is impacted by the existing dwelling itself and a pergola over the decked area;
- The portion of the dwelling creating the impact to PPOS (the second floor over the garage) is compliant in height, setback and building envelope;
- The numerical non-compliance with the Pittwater DCP solar access control is not entirely as a result of the proposed development. The impact is not worsened during the morning period to living room windows as majority of overshadowing is caused by the dwelling itself and the pergola. The solar access to PPOS is only impacted a minor amount by 12pm as a result of the proposed development and usable strip at ground level adjoining the living room is retained for 3 hours.
- Although the rear deck area is the Principle POS, there are other areas throughout the site which receive good quality solar access including an elevated deck at the front of the dwelling (adjoining a living space) and other areas within the rear of the site within a private landscaped setting.

Having considered the requirements of the DCP and the Planning Principle, the impact arising from the proposed development does not warrant refusal of the application due to the particular circumstances of the case.

C1.6 Acoustic Privacy

The location of the of the air-conditioning unit is adjacent to the south-western boundary.

To ensure the impact of noise from the air conditioning unit is mitigated, a condition of development consent will be imposed requiring the relocation of the air-conditioning unit away from the south-western boundary. The condition will require the location to be adjacent to the south-eastern facade of the garage.

By imposing this condition the development is able to be consistent with the outcomes of the control.

D9.3 Building colours and materials

The proposed fascias, eaves, garage door and window finishes are inconsistent with the PDCP colour schedule.

A condition of development consent will be imposed regarding the external colour finishes to consist of a colour not lighter than windspray or equivalent.

D9.6 Front building line

The DCP control requires the front setback to be a minimum of 6.5m or consistent with the established building line.

The adjoining sites have the following minimum front setbacks (based on survey):

- 96 Elimatta Road 13.36m
- 102A Elimatta Road 24.56m

It is noted the dwelling upon 102A Elimatta Road is setback much greater than the surrounding dwellings in immediate vicinity and it would be unreasonable to require any new development upon the recently created lot at 98 Elimatta Road to be setback as far. A more reasonable comparison would be to 96 Elimatta Road to the south and which is setback 13.36m.

The proposed dwelling is setback 11.4m which is 1.96m forward of the adjoining property to the south. In considering the variation to the control, the proposal is considered against the outcomes of the control as follows:

Outcome 1) Achieve the desired future character of the Locality.

Comment: The proposed development consists of a two storey built form which is well articulated when viewed from the street frontage including open balcony features and a variety of roof forms to add architectural interest. This kind of built form is consistent with the surrounding development. The proposed front setback of 11.4m is considered to respond to the surrounding development on Elimatta Road, whilst affording the opportunity for the applicant to construct a reasonable sized development that does not have an unacceptable impact on the character of the area.

Outcome 2) Equitable preservation of views and vistas to and/or from public/private places.

Comment: The proposed development will not have any unreasonable impacts in regards to loss of views to and/or from public/private places.

Outcome 3) The amenity of residential development adjoining a main road is maintained.

Comment: The development does not adjoin a 'main' road. The dwelling will achieve reasonable amenity through the provided setback to Elimatta road.

Outcome 4) Vegetation is retained and enhanced to visually reduce the built form.

Comment: No vegetation is required to be removed to locate the dwelling as proposed.

Outcome 5) Vehicle manoeuvring in a forward direction is facilitated.

Comment: The location of the garage is towards the rear of the site and faces the right of carriageway. The design will allow for vehicles to exit the site in a forward direct.

Outcome 6) To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.

Comment: The proposed two storey built form is an appropriate scale for the streetscape. The built form is well articulated with stepped walls, balcony features and a variety of roof forms which will enhance the existing streetscape.

Outcome 7) To encourage attractive street frontages and improve pedestrian amenity.

Comment: The front facade as viewed from the street is considered attractive for the reasons stated above. The proposed from setback will not impact upon pedestrian amenity.

Outcome 8) To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Comment: The proposed development responds to the existing setbacks of Elimatta Road, in that a reasonably generous setback is maintained of 11.4m given the size of the lot. The proposed development does not impact upon any trees or existing significant features of the site.

The proposed development is considered to achieve the required outcomes of the control and Pittwater DCP, and therefore the variation is supported in this circumstance.

D9.9 Building envelope

The development is proposed to have a minor building envelope non-compliance on the south-eastern elevation towards the front of the dwelling. The building envelope encroachment is a maximum of 0.1m outside of the envelope and is considered to be minor for a small extent of the dwelling due to the slope of the site towards the front boundary. It is noted that the development as originally proposed had two areas of non-compliance on the south-eastern facade to a larger extent.

Amended plans have been provided to Council which increased the upper floor setback for two areas of the building. This resulted in only a very minor non-compliance which is an acceptable outcome. The variation is considered against the outcomes of the control as follows:

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

Comment: The proposed development is suitable consisting of a two storey built form with landscaped front setback which is consistent with the locality.

Outcome 2) 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 proposed development will sit below the existing tree canopy and is of a scale that is consistent with surrounding two storey development. Appropriate setbacks are provided and spatial separation between adjoining development. The minor non-compliance with building envelope will not render the development to be of a scale that is inappropriate.

Outcome 3) To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

Comment: The proposed development does not impact upon any significant trees or natural site features. Setbacks have been provided that reflect the surrounding development and the proposal is stepped appropriately to response to the site topography.

Outcome 4) The bulk and scale of the built form is minimised.

Comment: The proposal has been amended in order to limit the encroachments to building envelope and increase the upper floor setback on the south-eastern facade. The development is compliant with the height of buildings development standard and therefore can be considered to be of an appropriate bulk and scale.

Outcome 5) Equitable preservation of views and vistas to and/or from public/private places.

Comment: The proposed development will not have any unreasonable impacts to significant views.

Outcome 6) To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment: The proposed development provides highlight windows, obscure glazing and privacy screens where necessary to minimise the impact upon privacy for all adjoining neighbours. The proposal has been found to not have an unreasonable impact upon solar access to the surrounding properties given the site orientation and orientation of the adjoining POS. This is also discussed in detail elsewhere in this report.

Outcome 7) Vegetation is retained and enhanced to visually reduce the built form.

Comment: No vegetation is proposed to be removed as a result of the development. Conditions of consent with require new landscape planting to limit the impact of the built form and provide appropriate canopy tree planting.

The proposed development is considered to achieve the required outcomes of the control and Pittwater DCP, and therefore the variation is supported in this circumstance.

D9.11 Landscaped Area - Environmentally Sensitive Land

The DCP requires the site to consist of 60% landscaped area. Providing the outcomes of the control are achieved, the variation clause allows up to 6% of the total site area to be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only.

When applying the variation clause, the site has a total landscaped area of 58.5% (304.8sqm landscaped + 28sqm patio/alfresco). The proposed development is assessed against the outcomes of the control as follows:

Outcome 1) Achieve the desired future character of the Locality.

Comment: The proposed development consists of a two storey built form within a landscaped setting which is suitable for the character of the area.

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

Comment: The built form has been articulated and setback to minimise the bulk and scale. The upper floor has been setback particularly on the south-eastern facade to reduce the bulk and scale as viewed from adjoining properties.

Outcome 3) A reasonable level of amenity and solar access is provided and maintained.

Comment: As discussed elsewhere within this report, the proposal has demonstrated a satisfactory outcome in regards to solar access given the orientation of the site. The proposal has adequate privacy treatments to windows and privacy screening where required to mitigate views.

Outcome 4) Vegetation is retained and enhanced to visually reduce the built form.

Comment: No vegetation is removed to facilitate the development. New landscape planting is proposed and required as a condition of consent.

Outcome 5) Conservation of natural vegetation and biodiversity.

Comment: The proposal will not have a detrimental impact in regards to biodiversity. New native planting is proposed to improve the current vacant site.

Outcome 6) Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.

Comment: Council's development engineer has reviewed the proposal and has found it to be acceptable with regards to stormwater runoff. The minor variation to landscaped area will not cause adverse impacts in regards to stormwater runoff.

Outcome 7) To preserve and enhance the rural and bushland character of the area.

Comment: No trees are proposed to be removed. New landscaped plantings will be required to be planted as a condition and as per the landscape plan.

Outcome 8) Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

Comment: The site is able to adequately deal with stormwater runoff as demonstrated via the proposed stormwater plan.

The proposed development is considered to achieve the required outcomes of the control and Pittwater DCP, and therefore the variation is supported in this circumstance.

D9.12 Fences - General

The front fence/fencing forward of the building line is proposed to be 1.2m in height. However, to ensure consistency with the DCP requirements, a condition of development consent has been imposed requiring fencing to be no higher than 1m forward of the building line and to be constructed of open, see-through, dark-coloured materials.

By applying this condition of consent, the proposal is compliant with the control.

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

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

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 DA2019/0352 for Construction of a dwelling house including secondary dwelling on land at Lot 1 DP 1238126, 98 Elimatta Road, 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
Site Plan - Issue H	18 June 2019	Wincrest Homes
Ground Floor Plan - Issue H	18 June 2019	Wincrest Homes
First Floor Plan - Issue H	18 June 2019	Wincrest Homes
Elevation A and B - Issue H	18 June 2019	Wincrest Homes
Elevation C and D - Issue H	18 June 2019	Wincrest Homes
Section A-A - Issue H	18 June 2019	Wincrest Homes
Section B-B, Issue H	18 June 2019	Wincrest Homes
L/01, Landscape Plan	21 March 2019	Wincrest Homes
External Colour Schedule	Undated	Unsigned

Engineering Plans		
Drawing No.	Dated	Prepared By
D1, Cover Sheet and Calculations, Issue A	6 March 2019	Eze Drainage Solutions
D2, Stormwater Management Plan, Issue A	6 March 2019	Eze Drainage Solutions
D3, Typical Details, Issue A	6 March 2019	Eze Drainage Solutions

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No.995665M	6 March 2019	Thermal Performance
Geotechnical Rerpot, 37822	4 February 2019	Miles Opacic

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	5 April 2019	Wincrest Homes

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. **Amendments to the approved plans**

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

- All external facade finishes are to consist of a colour not lighter than windspray or equivalent;
- Any fencing forward of the building line that is proposed as part of this application shall not exceed 1m in height and be constructed of open, see-through, dark-coloured materials;
- The air-conditioning unit shall be relocated away from the south-western boundary and placed adjacent to the south-eastern facade of the garage;
- Reference to a swimming pool is to be removed from the plans;
- Privacy screen shall be provided at the staircase landing on the south-east elevation to a height of 1.7m.

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 and compliance with the PDGP colour schedule and fencing requirements.

3. **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

4. **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.

5. **No consent granted to swimming pool**

No development consent is granted to a swimming pool as part of this development application. Any swimming pool is subject to a future application.

Reason: To ensure only development consent is granted to works only applied for as part of the development application.

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

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

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

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

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

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

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

7. **Stormwater Disposal**

Engineering Plans in accordance with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2:1998 - Stormwater Drainage – Acceptable solutions are to be submitted and certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the existing inter-allotment drainage system.

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

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

8. **Soil and Water Management Program**

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

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

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

9. **Amendments to the approved plans**

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

- All external facade finishes are to consist of a colour not lighter than windspray or equivalent;
- Any fencing forward of the building line that is proposed as part of this application shall not exceed 1m in height and be constructed of open, see-through, dark-coloured materials;
- The air-conditioning unit shall be relocated away from the south-western boundary and placed adjacent to the south-eastern facade of the garage;
- Reference to a swimming pool is to be removed from the plans;
- Privacy screen shall be provided at the staircase landing on the south-east elevation to a height of 1.7m.

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 and compliance with the PDCP colour schedule and fencing requirements.

10. **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.

11. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **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.

14. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and with this development consent by a suitably qualified person.

Details demonstrating compliance are to be submitted to Council prior to any works being finalized.

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

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

a) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site not impacted by development and as identified for retention in the Arboricultural Impact Assessment report prepared by S & B Tree Services in the approved development application N0178/17, excluding exempt trees and palms 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,
- 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.

Note: 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.

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

18. **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 natural life. Planting that may die or is removed must be replaced.

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

19. **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.

20. **Maintain privacy screens**

Any proposed privacy screens or privacy screens required as a condition of consent shall be maintained for the life of the development.

Reason: To ensure privacy is maintained to adjoining properties.

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

Signed



Jordan Davies, Planner

The application is determined on 11/07/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments