

## REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2023/0002
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 30 DP 22275, 82 Binburra Avenue AVALON BEACH NSW 2107
Proposed Development:	Review of Determination of Application DA2022/0885 for Alterations and additions to a dwelling house including garage
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Kirsten Jane Higgins Simon Travis Coles
Applicant:	Kerrie Shimeld

Application Lodged:	15/02/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/02/2023 to 06/03/2023
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 250,000.00
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### EXECUTIVE SUMMARY

This review application seeks to review the determination of DA2022/0885, which was lodged for alterations and additions to a dwelling house including a new garage, and subsequently refused under delegation on 21 October 2022.

This application is referred to the Development Determination Panel (DDP), as it is a Review of Determination, which is required to be determined by the DDP.

Critical assessment issues include; front building line, character and streetscape.

This assessment finds that the applicant has made suitable amendments to the proposed development, while it still constitutes substantially the same development.

The merits of the revised design have been reviewed and the reasons for refusal have been satisfactorily addressed.

This report concludes with a recommendation that the DDP grant approval to the review application, subject to special and standard conditions.

## **PROPOSED DEVELOPMENT IN DETAIL**

This review application seeks to review the determination of DA2022/0885 for alterations and additions to a dwelling house including a garage that was refused.

DA2022/0885 proposed the construction of a new single garage with a landscaped rooftop terrace and associated earthworks. The existing driveway would be removed and replaced with landscaping including a ground level deck.

Under the s8.2A Review Application, the proposal has been amended as follows:

- An increase in the northern side setback of the garage from 0.9m to 1.0m.
- The overall height of the garage has been reduced from 4.6 metres to 3.8 metres and the rooftop terrace above has been deleted.
- The planters atop the garage have been extended to wrap around the southern elevation as well as the western elevation.

## **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**

Environmental Planning and Assessment Act 1979 - Section 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 30 DP 22275 , 82 Binburra Avenue AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Binburra Avenue. The lot is of an irregular shape and has a surveyed area of 1,782m<sup>2</sup>.</p> <p>The site slopes steeply down from the eastern rear towards the western front of the site.</p> <p>The site is currently occupied by a two storey weatherboard dwelling house, concrete driveway and attached garage. The site contains landscaping within the front setback and steep natural bushland in the rear where the site adjoins Bangally Headland.</p> <p>The adjoining properties consist of low density residential dwellings with extensive vegetation within the front setback. The surrounding development is characterised by low density residential dwellings of varying sizes and styles set within a landscaped setting.</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:

- **N0245/16** - Development Application for Alterations and additions to an existing dwelling house - Approved 3 August 2016.
- **DA2022/0885** - Development Application for alterations and additions to a dwelling house including garage - Refused 21 October 2022.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 21 October 2022 and the notice of determination was issued on 21 October 2022. The review was lodged on 9 February 2023 and is to be considered by the Development Determination Panel on 12 April 2023, which is within 6 months of the date of determination (21 April 2023).

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly, it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act.

### **Assessment of Reasons for Refusal DA2022/0885**

#### **How has the 8.2 Application responded to the reasons for refusal?**

The applicant has amended the proposal and has provided additional information, including a response to each of the reasons for refusal in written form. The nine (9) reasons for refusal are addressed as follows:

1. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.*

Comment:

This reason for refusal results due to the inconsistencies with the below Clauses of the PLEP 2014. The amended proposal is considered to satisfactorily address the aims of the PLEP 2014 and is discussed further in detail below.

2. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone C4 Environmental Living of the Pittwater Local Environmental Plan 2014.*

Comment:

The proposal has been amended to reduce the height and scale of the garage and include a planter that wraps around the southern and western facade of the structure. Further conditions have been recommended that reduce the visual impact of the structure and allow the development to be integrated into the landform, landscape and streetscape. A detailed assessment against the objectives of this Clause has found that the proposal is consistent with the provisions of this clause.

3. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.2 Earthworks of the Pittwater Local Environmental Plan 2014.*

Comment:

The reasons for refusal pertaining to earthworks were predominantly due to the amenity impacts associated with the garage. Through design amendments and the increase to the northern side setback, this assessment finds the proposal to be consistent with Clause 7.2 Earthworks of the PLEP 2014.

4. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause A1.7 Considerations before consent is granted of the Pittwater 21 Development Control Plan.*

Comment:

This reason for refusal pertains to the inability of the proposal to be consistent with the PLEP 2014, the desired character of the Locality and the development controls. These matters are considered to be satisfactorily addressed through the amendments and are discussed in further detail in the relevant sections of this report.

5. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause A4.1 Avalon Beach Locality of the Pittwater 21 Development Control Plan.*

Comment:

The proposal has been amended to reduce the bulk of the garage when viewed from the street and further information has been provided with regards to similar development within the locality. While there is not an established precedent of garages in the front building line, there is a presence of some parking facilities within the front setback area along Binburra Avenue. As such, the proposed development is considered to be consistent with the character of the Avalon Beach Locality.

6. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D1.1 Character as viewed from a public place of the Pittwater 21 Development Control Plan.*

Comment:

The proposal has been amended to delete the rooftop terrace above the garage and reduce the overall height of the garage. Further amendments are recommended which include deleting the garage door and the southern wall of the garage which are subject to the recommended conditions. This creates a sense of openness and transparency when the structure is viewed from the street, enabling consistency with the character as viewed from a public place.

7. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D1.4 Scenic protection - General of the Pittwater 21 Development Control Plan.*

Comment:

The proposed and recommended amendments have reduced the overall visual impact of the proposed development and this clause is considered to be satisfied.

8. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D1.8 Front building line of the Pittwater 21 Development Control Plan.*

Comment:

The proposed amendments demonstrate an effort to ameliorate the impacts of the front building line variation by the integration of the planter on top of the garage. The roof of the garage is to be changed to a green roof with planters covering the entire area to limit any trafficable use of the space. The garage door is to be deleted along with the southern wall of the garage to provide a higher degree of openness and lesser visual impact. These amendments are subject to the recommended conditions. Given these amendments, the assessment has found the proposal to qualify for the variation and is considered to be consistent with the outcomes of this clause.

9. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D1.9 Side and rear building*

*line of the Pittwater 21 Development Control Plan.*

Comment:

The proposal has been amended to increase the setback of the garage to the northern side boundary from 0.9m to 1.0m, which now complies with the control. The proposed deck of the studio is setback 0.9m from the southern side boundary, but retains the setback of the existing building and is considered acceptable. A detailed assessment has found the proposal to be consistent with this clause.

## **Concluding Comments of Review of Reasons for Refusal**

Consequently, the proposed amendments demonstrate that they satisfactorily address and overturn the reasons for refusal. With the further amendments subject to the recommended conditions, the proposal is considered to adequately address the reasons for refusal and is recommended for approval.

### **EXISTING USE RIGHTS**

Existing Use Rights are not applicable to this application.

### **BUSHFIRE PRONE LAND**

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by Building Code & Bushfire Hazard Solutions Pty Limited, dated 13 May 2022). The report stated that the bushfire attack level of the site is "Flame Zone".

The application was referred to the NSW Rural Fire Service for further assessment. A response has not yet been received from the NSW Rural Fire Service. Once received, the response will be provided under separate cover.

### **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject development application has been publicly exhibited from 20/02/2023 to 06/03/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

<b>Name:</b>	<b>Address:</b>
Mr Paul Colin Boler	80 Binburra Avenue AVALON BEACH NSW 2107

The following issues were raised in the submissions:

- Streetscape Images

The above issues are addressed as follows:

- **Streetscape Images**

The submission briefly stated that it is in opposition of the DA. Images of the streetscape and front of the subject site and adjoining property were included in the submission.

Comment:

It is unclear what the specific causes of concern raised in this submission are due to the lack of information. It is considered that all relevant matters for consideration are addressed within this report.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is supported with regard to landscape issues.</p> <p><u>Additional Information Comment 28/03/23:</u> It is understood that the extent of the green roof over the proposed garage will be increased, and as such the landscape conditions have been updated to suit.</p> <p><u>Original Comment:</u> Landscape Referral will only assess the proposed works within the property boundary.</p> <p>No significant trees are proposed to be removed and all trees and vegetation shown to be retained shall be protected during works. Drawing 0422 2/2 and the Landscape Plan shows the on-slab planter above the garage with different dimensions. The planters shall be constructed as shown on drawing 0422 2/2, 1200mm internal width on the western side, and at least 500mm internal width on the southern side. All on slab landscaping shall meet Council's minimum soil depth requirements and the proposed planting shall meet the requirements outlined in the conditions of consent.</p>
NECC (Bushland and Biodiversity)	<p>The review seeks approval for alterations and additions as proposed under DA2022/0885</p> <p>The comments on this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> <li>• Planning for Bushfire Protection 2019</li> <li>• Pittwater LEP 2014 cl 7.6 Biodiversity.</li> <li>• P21 DCP B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor.</li> </ul> <p>As indicated in the previous Natural Environment Referral Response - Biodiversity (17/06/2022) the site is located on Bush fire prone land. The development does not require the removal of any significant</p>



Internal Referral Body	Comments
	<p>vegetation for the purposes of an asset protection zone.</p> <p>The development is to take place on parts of the site that have been previously disturbed and will not impact on bushland on the site or adjoining properties. There would be no net loss of native vegetation.</p> <p>It is concluded that previous biodiversity comments and conditions continue to apply to the proposal and no amendments to the original biodiversity referral are proposed.</p>
NECC (Development Engineering)	The application was referred to Council's Development Engineering Team for further assessment. A response has not yet been received from Development Engineering. Once received, the response will be provided under separate cover.
Parks, reserves, beaches, foreshore	The property adjoins Bangalley Headland Reserve upslope. The development proposal is located to the front of the property and the proposed works do not impact on the adjoining Reserve. No concerns are raised.
Road Reserve	Plans unchanged in respect of works on road reserve from DA2022/0885. Development Engineering to ensure Road Act application for driveway addresses civil works for any retaining walls, pathways or stairs across verge as per previous DA.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	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.
Rural Fire Service - Local Branch - EP&A Act, s4.14	The application was referred to the NSW Rural Fire Service for further assessment. A response has not yet been received from the NSW Rural Fire Service. Once received, the response will be provided under separate cover.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A449036 dated 23 May 2022).

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

## **SEPP (Transport and Infrastructure) 2021**

### Ausgrid

Section 2.48 of Chapter 2 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.

## **SEPP (Resilience and Hazards) 2021**

### **Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

## **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

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Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.8m	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

#### Detailed Assessment

### **Zone C4 Environmental Living**

#### The underlying objectives of the C4 Environmental Living zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

#### Comment:

The proposal provides a single garage providing safe off-street parking in a low-impact setting. The proposed development has been amended to be sympathetic with the special ecological, scientific and aesthetic values of the area.

- To ensure that residential development does not have an adverse effect on those values.*

#### Comment:

The proposed development has been amended so as to reduce the height of the garage and delete the terrace above to reduce the overall bulk and scale of the building. The recommended conditions further assist in visually softening the development and ensuring the development does not have an adverse impact on the special ecological, scientific or aesthetic values of the area.

- To provide for residential development of a low density and scale integrated with the landform and landscape.*

#### Comment:

The proposal consists of a single garage with a reduction in height and scale to ensure that the development is of a low density. The proposed garage is integrated into the slope of the site to provide safe and improved access to the site. Subject to the recommended conditions, the proposal is of a low density and scale integrated with the landform and landscape.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The proposal largely retains vegetation and natural features on the site and is not considered to impact on wildlife corridors.

## 7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

*(e) the source of any fill material and the destination of any excavated material*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(f) the likelihood of disturbing relics*

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or*

*environmentally sensitive area*

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

*(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.*

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **Pittwater 21 Development Control Plan**

### Built Form Controls

<b>Built Form Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation*</b>	<b>Complies</b>
Front building line	6.5m	Garage: Nil Deck: 4.7m-5.3m	100% 18.5%-27.7%	<b>No</b> <b>No</b>
Rear building line	6.5m	>6.5m	N/A	Yes
Side building line	South - 2.5m	Deck: 0.9m	64%	<b>No</b>
	North - 1m	Garage: 1.0m	N/A	Yes
Building envelope	South - 3.5m	Within Envelope	N/A	Yes
	North - 3.5m	Within Envelope	N/A	Yes
Landscaped area	60%	86% (1532m <sup>2</sup> )	N/A	Yes

### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

#### Detailed Assessment

##### **A4.1 Avalon Beach Locality**

The Avalon Beach Locality statement notes the following:

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

"Carparking should be provided on site and where possible integrally designed into the building".

"A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land".

#### Comment:

The proposal is for a single garage that has been reduced in size and height. The rooftop terrace has been deleted and a green roof is to be provided atop of the garage as per the recommended conditions. The provision of a green roof in conjunction with the planters assists with ensuring the development is integrated with the landform and consistent with the landscape character of the area. The height of the proposed garage is in keeping with the height of the natural environment and sits below the height of the existing tree canopy.

The existing parking arrangements on the site require access via a steep and winding driveway that is deemed unsafe. The proposed garage and crossing provide improved vehicular access to the site which are appropriate given the steep topography and site constraints.

It is noted that there is not a precedent or established character of garages in front setbacks in Binburra Avenue, however there is a presence of some carport structures along Binburra Avenue. For instance, No. 59, 55, 49 and 43 are examples of parking structures within the front setback area along Binburra Avenue. The only exception to this is a consent that was granted under N0134/15 for a double garage in the front setback area at No. 88 Binburra Avenue, however it is noted that this consent was never acted on and has since lapsed.

As such, while there is not an evident precedent of garages within the front setback area along Binburra Avenue, there is a presence of open carparking structures whereby the proposed development will not be out of character for the area.

Given the above and subject to the recommended conditions, it is considered that the proposal is consistent with the desired character of the Avalon Beach Locality.

### **B6.3 Off-Street Vehicle Parking Requirements**

This control requires dwellings with 2 or more bedrooms to provide 2 off-street parking spaces. The proposal consists of a single garage providing 1 off-street parking space which is non-compliant with the control. The control offers consideration for a variation for steeply sloping sites subject to merit consideration.

Given the low-density nature of the residential dwelling and that no additions to the floor area or number of bedrooms are proposed, there is no increase in car parking demand by the proposal. Additionally, the siting of the existing dwelling and steep topography of the site, restricts the ability for safe off-street parking for 2 vehicles to be provided within the site. As such, the proposed parking is considered to be acceptable.

### **D1.1 Character as viewed from a public place**

This control requires garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place. Parking structures should be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser.

Council may permit parking spaces in front of building line where site constraints limit location, such variation must be justified in the discussion below.

The proposed garage involves a nil setback to the front boundary and does not comply with this control. The garage width at the boundary is 5.3m, which is less than 50% of the lot frontage. The existing parking facilities are accessed via a steep winding driveway which is considered unsafe due to the topography and lack of visibility.

As such, the proposed garage location improves vehicular access and safety. The existing curved driveway is to be replaced with landscaping and pedestrian access stairs to improve the functionality and appearance of the front setback area.

As such, the proposal is considered acceptable in this instance.

## D1.8 Front building line

### Description of non-compliance

Clause D1.8 requires development to be setback 6.5m from the front building line.

The propose works provide the following setbacks to the front boundary:

- Garage: Nil
- Deck: 4.7m - 5.3m

It is noted that the control allows for exemptions for car parking structures on sloping sites, however all other structures must be setback as per the control.

### Merit Consideration

With regards to the consideration for a variation, the development is assessed against the outcomes of the control as follows:

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

#### Comment:

The proposal maintains the low density residential form of the area and therefore achieves the desired future character of the Locality. Amendments have been recommended including the deletion of the garage door and southern wall and the addition of sandstone cladding to the external walls to further ensure the character of the locality is maintained.

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

#### Comment:

Binburra Ave is not a main road and this objective is not applicable.

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

#### Comment:

The proposal includes the removal of minimal vegetation to facilitate the proposed works. The existing curved driveway is to be replaced with landscaping and the substantial landscaping in the rear yard is to be retained. The proposal provides a planter box that wraps around the western and southern edge of the garage. A condition is also imposed that the roof of the garage is to be a green roof to provide increased landscaping and softening.

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

#### Comment:

Vehicle manoeuvring in a forward direction would not be expected in this instance given the site constraints.

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



Comment:

The proposed garage has been amended to reduce the height and size of the structure to encourage attractive street frontages. The proposed landscaping associated with the planter atop of the garage assists in softening the appearance of the structure when viewed from the street. The proposal improves both vehicular and pedestrian access to the site through providing a new driveway and pedestrian steps. The garage door is to be deleted to maximise openness when viewed from the street. The southern wall of the garage is also to be deleted to provide transparency and minimise bulk. The external walls of the garage are to be faced with sandstone cladding to ensure the development further aligns with the streetscape and coastal character. These amendments are subject to the recommended conditions.

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

Comment:

The site is constrained by its steep topography making siting new development challenging. The existing parking facilities are accessed via a steep winding driveway as a result of the slope of the site. This parking arrangement is impractical and highly unsafe. The proposed garage on the front boundary eliminates the safety issues associated with a steep driveway and allows safe parking to be provided on the site. As such, the proposed development responds to and sensitively relates to the spatial characteristics of the existing urban environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P 21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **D1.9 Side and rear building line**

Description of non-compliance

D1.9 Side and rear building line prescribes side setbacks of 1.0m to one side and 2.5m to the other side. For this assessment, the 2.5m requirement has been applied to the southern side boundary and the 1.0m requirement applied to the northern side boundary.

The proposed deck is setback 0.9m from the southern side boundary and does not comply with the 2.5m requirement. The proposed garage is setback 1.0m from the northern side boundary and complies with the 1.0m requirement.

Merit Assessment

With regard to the request for a variation, the development is considered against the underlying Outcomes of the Control as follows:

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

Comment:

The proposed development consists of a garage and maintains the low density residential form of the area therefore achieving the desired future character of the Locality.

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

Comment:

The proposed garage complies with the setback requirements, it is only the proposed deck that does not comply. The deck sits predominantly at ground level and does not include any structures that contribute to bulk and scale.

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

Comment:

The proposed development does not impact on existing views and vistas to and/or from public/private places.

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

Comment:

The proposed development does not impact on view sharing and the works have been appropriately sited incorporating well-positioned landscaping.

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

Comment:

The development maintains an appropriate level of amenity to adjoining properties. A privacy screen is included on the southern edge of the proposed deck to maintain a reasonable level of privacy for the adjoining southern property.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment:

The proposal retains the mature tree canopy and substantial landscaping throughout the site. The proposal introduces new landscaping where possible including replacing the existing driveway with landscaping and planter boxes above the garage.

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

Comment:

Given the steep topography of the site and the location of existing structures, the proposed development has been sited in a suitable location.

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

Comment:

The proposal does not require the removal of significant trees and a significant quantum of landscaping area is to be retained. New vegetation and plantings are proposed to help soften and visually reduce the appearance of the garage.

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

Comment:

N/A the site does not adjoin a commercial zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P 21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$2,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$250,000.

### **Outstanding Referrals**

Importantly, at the time of finalising this report, a couple of referrals had not been completed, including one from the NSW Rural Fire Service and also Council's Development Engineering section.

It is noted that both of these referrals did not have any issues or concerns with the proposal the subject of the refusal under the DA and it is anticipated that the same response will be provided.

Once received, these referral comments will be provided under separate cover to the DDP for their consideration in the determination of the 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 2021;
- 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

## **PLANNING CONCLUSION**

This review application, which seeks to gain an approval for an amended scheme in response to the refusal of the DA for alterations and additions to a dwelling house including a garage, has been referred to the Development Determination Panel (DDP), due to it being a review application under section 8.2 of the Environmental Planning and Assessment Act 1979 No 203, requiring determination by the DDP.

Critical assessment issues included; front building line, character and streetscape.

This assessment finds that the applicant has made substantive amendments to the proposed development, while still constituting substantially the same development.

Additional amendments are recommended to fully address and overcome the original reasons for refusal.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal has therefore been recommended for approval.

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 REV2023/0002 for Review of Determination of Application DA2022/0885 for Alterations and additions to a dwelling house including garage on land at Lot 30 DP 22275, 82 Binburra Avenue, AVALON BEACH, subject to the conditions printed below:

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
0422 1/2 - Site Plan, Section A and South Elevation	30 January 2023	SHIMDESIGN
0422 2/2 - Plan, Roof Top Terrace, North and West Elevation	30 January 2023	SHIMDESIGN

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No. A449036	23 May 2022	shimdesign
Geotechnical Investigation	20 April 2022	White Geotechnical Group
Bushfire Assessment Report	13 May 2022	Building Code & Bushfire Hazard Solutions Pty Limited

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Landscape Concept	Undated	SHIMDESIGN

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	20 May 2022	Kerrie Shimeld

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

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

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	Undated

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

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

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 Certifier 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 Certifier 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 Certifier 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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that

occurs on Council's property.

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

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

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

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

- (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.



- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred 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

### 5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,500.00 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 (as amended).

The monetary contribution is based on a development cost of \$250,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed

with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

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

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

### 7. **Amended Landscape Plan**

An amended landscape plan shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:

- a) updated planting scheme to suit the increased extent of the green roof,
- b) 300 mm soil depth to accommodate grass and groundcover planting,
- c) a range of suitable native plant species that could be included in the planting scheme; *Dianella, Lomandra, Poa, Ficinia, Microlaena stipoides, Themeda australis, Scaevola, Carpobrotus, Hardenbergia, Hibbertia, Pelargonium australe*.

Certification shall be provided to the Certifier that these amendments have been documented.

Reason: Landscape amenity.

### 8. **On Slab Landscape Works**

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

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

The following soil depths are required to support landscaping: 300mm for grasses and groundcovers.

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

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

### 9. **Adherence to Natural Environment Consent Conditions**

All biodiversity-related conditions of consent under previous development applications are to be adhered to, including DA2022/0885, unless amended by these biodiversity-related conditions of consent.

Reason: To protect biodiversity values.

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

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

- The proposed garage roof is to be amended to provide a green roof including groundcover planting.
- The timber panel garage door is to be deleted.

- The southern wall of the garage is to be deleted along with the windows and door and kept open.
- The remaining external walls of the garage are to be faced with sandstone cladding.

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

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

**11. 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 referenced in Condition 1 of this consent 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 Certifier.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**12. Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**13. Pre-Construction Dilapidation Report**

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

**80 Binburra Avenue**

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

In the event that access for undertaking the dilapidation report is denied by an adjoining owner,

the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

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

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

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

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

### **14. Tree and Vegetation Protection**

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

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period,

and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

15. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

16. **Survey Certificate**

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

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

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

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

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

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

18. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

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

19. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved amended Landscape Plan(s), and inclusive of the following conditions:

- a) planting shall be installed as indicated on the approved amended Landscape Plan(s),
- b) mass planting shall be installed at minimum 4 plants per metre square for grasses and groundcovers of a minimum 140mm container size at planting, and shall be in a garden bed

prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,  
c) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

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

Reason: Environmental amenity.

20. **Post-Construction Dilapidation Report**

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

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

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

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

22. **Waste Management Confirmation**

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

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

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

23. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved amended Landscape Plan(s) and any conditions of consent.

A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

Reason: To maintain local environmental amenity.

24. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.