

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/0329
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<b>Responsible Officer:</b>	Kent Bull
<b>Land to be developed (Address):</b>	Lot 53 DP 22275, 49 Binburra Avenue AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including swimming pool and driveway
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	William Leslie Kiloh
<b>Applicant:</b>	THW Architects

<b>Application Lodged:</b>	09/04/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	19/04/2021 to 03/05/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 495,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the alterations and additions to a dwelling house including swimming pool and driveway. In particular, the works include:

#### Ground Floor

- Alterations and additions to the existing ground floor to accommodate three (3) bedrooms, a bathroom, laundry, ensuite, storage, rumpus room and internal stairs connecting to the first floor.

#### First Floor

- Alterations and additions to first floor (street floor plan) to accommodate an attached double garage with associated mud room, two (2) bedrooms inclusive of a master bedroom with ensuite and walk-in robe, an open-plan living, dining and kitchen, bathroom and additions to the front and rear covered outdoor decks.

#### Landscaping works and Swimming Pool

- Construction of an in-ground swimming pool within the rear yard, with associated retaining walls and native screen plantings along the rear boundary;
- Planting of one (1) native canopy tree within the rear yard;
- Planting of two (2) native canopy trees within the front yard, including native screen plantings; and
- Removal of redundant paved areas within the rear yard and northern side setback areas.

### 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 - B8.5 Construction and Demolition - Works in the Public Domain  
Pittwater 21 Development Control Plan - C1.1 Landscaping  
Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy  
Pittwater 21 Development Control Plan - C1.23 Eaves  
Pittwater 21 Development Control Plan - D1.5 Building colours and materials  
Pittwater 21 Development Control Plan - D1.8 Front building line  
Pittwater 21 Development Control Plan - D1.9 Side and rear building line  
Pittwater 21 Development Control Plan - D1.11 Building envelope

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 53 DP 22275 , 49 Binburra Avenue AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site is known as 49 Binburra Avenue, Avalon Beach and is legally referred to as Lot 53 DP 22275. The site consists of one (1) allotment located on the northern side of Binburra Avenue. The site is regular in shape with a frontage of 18.965m along Binburra Avenue and a depth of 33.59m. The site has a surveyed area of 588.1m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two (2) storey dwelling house that is currently undergoing renovations works.</p> <p>The site is mapped within the Geotechnical Hazard Map, Northern Beaches Bush Fire Prone Land Map and Biodiversity Map.</p> <p>The slope of the site is measured at 22%, falling approximately 7.42m from the road frontage to the rear boundary.</p> <p>The site is of a modified landscaped setting, with vegetation consisting of lawned turf areas and tropical plantings such as Frangipanis.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by dwelling houses within landscaped/bushland settings.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

## APPLICATION HISTORY

### 5 May 2021

Site inspection undertaken by the assessing officer.

### 13 May 2021

Letter issued to the Applicant that identified the following issues which prevented Council from supporting the proposal. The issues related to: stormwater drainage, breach to front setback (double garage), insufficient details of the swimming pool and breach to rear setback, breach to southern side setback and building envelope, insufficient provision of native canopy trees and landscaping, external colours and finishes.

### 28 May 2021

Amended architectural plans, a landscape plan, a revised stormwater plan and additional information including a signed letter from the owners at No. 41 Binburra Avenue rejecting a drainage easement was submitted to Council. These plans and additional information addressed the above concerns and form the basis of the following assessment.

In accordance with the Northern Beaches Community Participation Plan, re-notification is not required where the *"changes result in a lesser or reduction of environmental impacts"*.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;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&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. / This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to stormwater drainage, the breach to the front setback, side and rear setback and building envelope, insufficient details of the swimming pool, insufficient provision of native canopy trees and landscaping, breach to external colours and finishes requirement.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a</p>



Section 4.15 Matters for Consideration'	Comments
	condition of consent.  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.
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	(i) <b>Environmental Impact</b> 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.  (ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.  (iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is 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 that included a certificate (prepared by Wattle Grove Services Pty Ltd T/A The Fire Consultants, dated 22/02/2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 19/04/2021 to 03/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Mrs Shirley Vivienne Bender	23 Oxford Falls Road BEACON HILL NSW 2100

Whilst the one (1) submission made did not specifically object to any of the proposed works within the property boundaries of the subject site, concern was raised with regards to recent excavation works that had occurred in close proximity to stairs at No. 51 Binburra Avenue.

Comment:

The application has been submitted with a Geotechnical Report Ref. J3241, dated 8 March 2021, prepared by White Geotechnical Group Pty Ltd. This submitted report has been relied on by Council as the basis for ensuring that the Geotechnical Risk Management aspects of the proposed development have been adequately addressed to achieve an "Acceptable Risk Management" level for the life of the structure. Council's Development Engineer has also reviewed excavation and geotechnical aspects associated with this application, supporting the proposal subject to conditions. The application is therefore not recommended for refusal on this basis.

## REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p><b>Biodiversity Conservation Act 2016 (BC Act)</b>  <b>Pittwater Local Environmental Plan (PLEP)</b></p> <ul style="list-style-type: none"> <li>7.6 Biodiversity Protection</li> </ul> <p><b>Pittwater Development Control Plan (PDCP)</b></p> <ul style="list-style-type: none"> <li>B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor</li> </ul> <p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	<p><b>21/04/2021:</b>  <b>Access</b>            At present an attached carport adjacent to the south-western side of the dwelling is existing and driveway access is via an existing concrete driveway from Binburra Avenue.            Proposal is for construction of attached double garage and driveway (existing driveway access remains).            A new crossing and layback will be required.</p>

Internal Referral Body	Comments
	<p><b>Excavation</b> The site is identified as Geotechnical Hazard H1 on Council's Geotechnical Hazard Map. Geotechnical Report prepared by White Geotechnical Group, Ref No. J3241, dated 8th March 2021 is submitted along application. Proposal is for new swimming pool which will be at a low level within the rear yard. An excavation depth of 2.5m is proposed to facilitate the pool. Applicant is advised to incorporate Geotechnical Report prepared by White Geotechnical Group, Ref No. J3241, dated 8th March 2021, into construction and design phases.</p> <p><b>Stormwater</b> The site falls away from the street towards the rear boundary, existing stormwater from the site is dispersed within the rear yard. The new works and roof areas will be connected to the existing system which disperses stormwater within the rear yard of the site. As the impervious area is increased by 68 sqm, an Onsite Detention System with a dispersion trench is proposed.</p> <p>Stormwater plans prepared by Barrenjoey Consulting Engineers, Job No. 210205, Drawing No. SW1 to SW3 (Internal ref. TRIM2021/222374), the proposed OSD capacity seems to be small, Applicant is advised to redesign the OSD as per Council's Water Management for Development Policy, Appendix 4.</p> <p>Level spreader to be 3m away from site boundary and any structure (pool).</p> <p>But before Council consider amended plans applicant is advised as below:</p> <p>a) The Stormwater drainage for the site shall demonstrate compliance with Council's Water Management for Development Policy, particularly Stormwater Drainage from Low Level Properties Technical Specification Section 5.5. As the subject site falls to the rear, an easement to drain water is to be created in favor of the site over the downstream properties. Evidence of owners consent by the property owner (41 Binburra Avenue) shall be submitted with the Development Application. The Application shall be supported by a long section of the inter-allotment drainage to the connection with Council's road drainage system.</p> <p>b) Should this method of stormwater disposal not be possible, evidence shall be submitted with the Application.</p>



Internal Referral Body	Comments
	<p>For sample letter refer Appendix 2, Easement Letter of Council's Water Management for Development Policy.</p> <p>Where evidence of the refusal of an easement is provided, the steps in accordance with clause 5.5.1.2 of the Policy are to be followed.</p> <p><b>31/05/2021:</b>  <b>Stormwater</b>  Stormwater easement refusal letter signed by property owner (41 Binburra Avenue) is provided.  Amended Stormwater plans by Barrenjoey Consulting Engineers, Job No. 210205, Drawing No. SW1 to SW3, Rev - A, Dated- May 2021 (Internal ref. TRIM2021/385846), are satisfactory.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that "no decision required". It is therefore assumed that no objections are raised and no conditions are recommended.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A406333\_03, dated 16

March 2021).

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

### SEPP (Infrastructure) 2007

The proposal was referred to Ausgrid who provided a response stating that "no decision required". It is therefore 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	7.6m	-	Yes

### Compliance Assessment

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

### Pittwater 21 Development Control Plan

#### Built Form Controls

Built Form Control	Requirement	Proposed
Front building line	6.5m	3.6m (Garage) 7.18m (Dwelling House)
Rear building line	6.5m	2m (Swimming Pool coping) 10.2m (Dwelling House)
Side building line	2.5m (North)	3.8m (Dwelling House)

		NB: Existing beach at 2.17m to the side boundary
	1m (South)	1m (Dwelling House) NB: Existing breach at 0.795m to the side boundary
Building envelope	3.5m (North)	Within envelope
	3.5m (South)	Outside envelope
Landscaped area	60% (352.86m <sup>2</sup> )	45.78% (269.2m <sup>2</sup> )

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	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
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	No	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

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

The proposed double garage being 5.65m x 5.8m is technically non-compliant with the control requirement for internal dimensions to be 5.7m x 6m. Despite this non-compliance, the internal dimensions are consistent with the minimum dimensions for double garages in accordance with Australian Standards. Further the proposal has been reviewed by Council's Development Engineer who has raised no concerns subject to conditions.

As such, the proposal is considered to meet the relevant outcomes of this clause and the non-compliance is supported on merit.

### **B8.5 Construction and Demolition - Works in the Public Domain**

The pedestrian steps on Council's Road Reserve are subject to relevant approvals under the provisions of Sections 138 and 139 of the Roads Act 1993 and does not form part of this application.

### **C1.1 Landscaping**

The submitted Landscape Concept Plan, dated 27/05/2021, prepared by SAS Landscape Design & Tree Consultants demonstrates that two (2) *Tristanopsis laurina* 'Luscious' (Water Gum) are to be planted within the front yard and one (1) *Glochidion ferdinandi* (Cheese Tree) is to be planted within the rear yard. The proposal is considered to therefore comply with the relevant tree planting provisions under this clause. The Landscape Concept Plan also demonstrates the use of native screen plantings/shrubs to further enhance the habitat and landscape amenity of the site and locality, whilst also assisting to soften the built form of the development.

### **C1.5 Visual Privacy**

#### Description of non-compliance

The proposed first floor north-west facing (rear) covered deck area is considered to be non-compliant with the control that requires direct views of any private open space or any habitable room window within 9m to be restricted by appropriate privacy measures. In this regard, there are overlooking concerns towards No. 47 Binburra Avenue to the north. The control also states that elevated decks should incorporate privacy screens where necessary.

#### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying

Outcomes of the Clause as follows:

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

Comment:

In order to optimise visual privacy between No. 49 Binburra Avenue and No. 47 Binburra Avenue, a fixed privacy screen is to be installed along the length of the northern side of the proposed first floor deck. This change is seen to be an effective measure to limit the extent of privacy impacts between the proposed elevated entertainment area (outdoor dining inclusive of a bbq/associated sink) and the private open space areas and windows of No. 47 Binburra Avenue.

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

Comment:

The proposed privacy measure discussed above, is considered to help ensure a sense of territory and safety is provided for residents.

Based on the above, the proposed development is considered acceptable in merit and consistent with the Outcomes of this clause in this particular instance.

## **C1.6 Acoustic Privacy**

To ensure the protection of acoustic amenity, a condition is to be placed to ensure that the maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level when measured from any adjoining premises.

### **C1.23 Eaves**

The proposal does not incorporate 450mm wide eaves on all elevations and is therefore non-compliant with the control requirement. Despite this compliance, the submitted BASIX Certificate indicates that appropriate solar access and shading will be achieved. Further, the gabled roof design is considered consistent with the coastal heritage and character of Pittwater and is not visually dominant from the streetscape. As such, the proposal is considered to meet the outcomes of this clause and is recommended to be supported on merit.

## **D1.5 Building colours and materials**

The submitted colours and finishes (Drawing No. A 106-D), dated 28 May 2021, prepared by THW Architects indicated the external cladding, render and garage door being a colour equivalent or darker than Colorbond "Windspray" which is best described as a mid-grey. The proposed roof finish is to be a Colorbond roof "Monument" that is a dark shade of grey/black in tone. The limited use of white for gable trim the associate fascia as reflected on this plan is acceptable and supported on merit.

## **D1.8 Front building line**

### Description of non-compliance

The proposed garage is non-compliant with the 6.5m front building line requirement, being 3.6m from

the eastern boundary to Binburra Avenue.

NB: Excluding the garage, the dwelling house is compliant with the front building line, being 7.18m from the eastern boundary. It should also be noted that the carport (recently demolished) had previously been located within the front setback area and nearer to the eastern boundary.

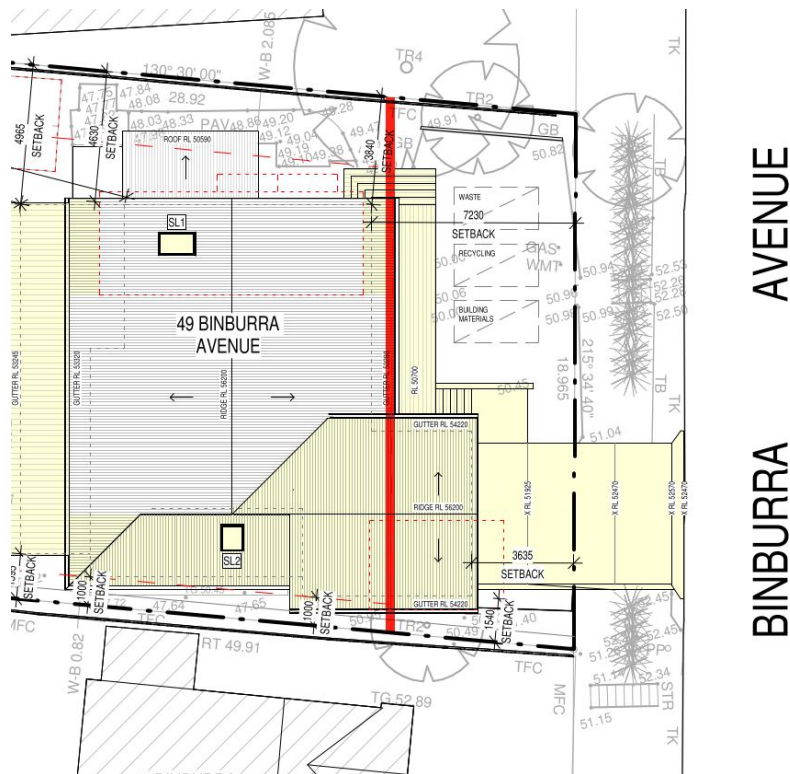


Figure 1: Annotated site plan marking a 6.5m front building line in red.

#### Merit consideration:

With regard to the consideration for variation, the development is considered against the underlying Outcomes of this Clause as follows;

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

#### Comment:

The proposal is considered to achieve the desired future character for Avalon Beach, which seeks that development minimise bulk and scale, and be below the tree canopy, and be a maximum of two storeys in one place within a landscape setting.

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

#### Comment:

Binburra Avenue is not considered a main road under RMS classification.

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

#### Comment



As discussed throughout this assessment, the submitted Landscape Concept Plan demonstrates the provision for at least three (3) native canopy trees to be planted on site, in addition with native screen planting/shrubs which are capable of visually reducing the built form.

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

Comment:

Whilst vehicle manoeuvring in a forward direction for both entry and exist has not been demonstrated, Council's Development Engineer has reviewed the proposal and is in support subject to conditions.

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

Comment:

The proposal inclusive of the garage are to incorporate dark external finishes, plantings within the front setback area, as well as a single storey appearance when viewed from the Binburra Avenue frontage. Consideration has been given that the resultant development will re-enforce attractive street frontages and improve pedestrian amenity

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

Comment:

There are a number of examples of car parking arrangements that are near or partially within the front setback areas along Binburra Avenue. In this regard, the proposal is not seen to responde to the spatial characteristics of the existing urban environment.

Based on the above, the proposed development is considered acceptable in merit and consistent with the Outcomes of this clause in this particular instance.

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

The proposed in-ground swimming pool breaches the 6.5m rear setback control, being 2m from the pool coping wall to the western boundary. It should be noted that the variations of this clause allows for swimming pools to be considered with a 1 metre minimum subject to compliance with the following:

- *satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and*
- *Council is satisfied that the adjoining properties will not be adversely affected, and*
- *the pool or spa is not more than 1 metre above ground level (existing), and*
- *that the outcomes of this clause are achieved without strict adherence to the standards, and*
- *where the site constraints make strict adherence to the setback impractical, and*
- *where strict compliance with these requirements will adversely impact on the views of adjoining residential properties.*

Consideration has been given that the 2m rear setback and maximum height of the pool being lesser than 1m above ground level is compliant with these numerical requirements. Despite the variation, the

location of the proposed swimming pool is seen to maintain a reasonable level of privacy, amenity, views and solar access for neighbouring properties. The submitted Landscape Concept Plan also demonstrates native screen/shrub plantings within the setback area of the pool and rear boundary. In this regard, the proposal is considered to provide for satisfactory landscaping.

Based on the above, the proposal is considered to meet the relevant Outcomes of this clause and is supported on merit.

### D1.11 Building envelope

The proposed development results in a breach to the building envelope along southern elevation by 1.469m. The greatest extent of the breach relates to the garage addition as depicted in Figure 2.

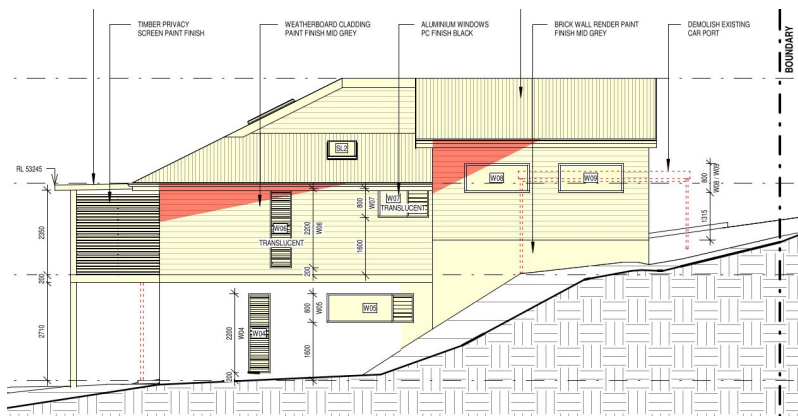


Figure 2: Extent of the building envelope breach along the southern elevation shaded red.

In accordance with this clause, Council may consider a variation for additions of a second storey where the existing dwelling is retained. This variation is largely applicable given the the ground floor is being retained and the breaches relate to the first floor level (street floor plan). The variations sought for the proposed development does not result in an unreasonable impact to neighbouring properties with regards to views, privacy and solar access. Furthermore, the proposal is consistent with achieving the desired future character of the locality and visual impacts on the streetscape through limiting the built form of the proposed development and enhancing the site through the provision of native canopy trees and screening/shrub plantings within the setback areas.

Based on the above, the variations to the control are supported on merit in this instance, as the proposed development is considered to satisfy the Outcomes of this clause.

### D1.14 Landscaped Area - Environmentally Sensitive Land

#### Description of non-compliance

##### *Requirement:*

The total landscaped area shall be 60% of the site area (352.86m<sup>2</sup>).

##### *Proposed:*

The proposed landscaped area is 45.78% (269.2m<sup>2</sup>) resulting in a variation of 23.7% (83.66m<sup>2</sup>).

It should be noted that the clause permits up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only and for impervious areas less than 1 metre in width (e.g. pathways and the like) to be included in a revised

landscaped area calculation. On this basis, the revised landscaped area calculation would be over 50% of site being able to be considered as part of the overall landscaped area.

#### Merit Consideration

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

- *Achieve the desired future character of the Locality. (S)*

#### Comment:

The desired future character of the Avalon Beach Locality makes reference to developments being within a "...*landscaped setting, integrated with the landform and landscape*". In this regard, the proposed development has been integrated with the planting of new canopy trees and native vegetation.

- *The bulk and scale of the built form is minimised. (En, S)*

#### Comment:

The proposal maintains the appearance of a two-story dwelling house (appearing single storey from the Binburra Avenue streetscape), that is largely compliant with the relevant built form controls to minimise the bulk and scale of the development.

- *A reasonable level of amenity and solar access is provided and maintained. (En, S)*

#### Comment:

The proposed development is considered to maintain a reasonable level of amenity and solar access to the subject site and neighbouring properties.

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

#### Comment:

The proposal does not seek the removal of any native canopy trees, rather it indicates a provision for three (3) native canopy trees to be planted on site in addition to native screen plantings/shrubs. This proposed landscape arrangement is considered to assist with visually reducing the built form of the development.

- *Conservation of natural vegetation and biodiversity. (En)*

#### Comment:

The proposed development is seen to enhance the biodiversity of the site through new tree plantings and additional native vegetation.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment:

The proposed stormwater arrangement has been reviewed by Council's Development Engineer as acceptable, subject to compliance with conditions.

- To preserve and enhance the rural and bushland character of the area. (En, S)

Comment:

Through the planting of additional native canopy trees and native vegetation, the bushland character of the area will be preserved and enhanced.

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

Comment:

As detailed above, the proposed development retains a significant portion of the site (45.78%) for landscaping. Further, the submitted architectural plans and landscape plan demonstrate that attempts have been made to off-set the increase in impervious areas through the removal of some paved areas to the rear and northern side of the dwelling house. As Council's Development Engineer has supported the stormwater arrangement, the proposed development is considered to minimise run-off and provide for effective stormwater management.

Based on the above, the proposed development is considered to meet the outcomes of this clause and is supported on merit.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

A monetary contribution of \$4,950 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$495,000.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0329 for Alterations and additions to a dwelling house including swimming pool and driveway on land at Lot 53 DP 22275, 49 Binburra Avenue, AVALON BEACH, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A01-D (Site & Roof Plan)	28/05/2021	THW Architects
A02-D (Ground Floor Plan)	28/05/2021	THW Architects
A03-D (Street Floor Plan)	28/05/2021	THW Architects
A10-D (North Elevation)	28/05/2021	THW Architects
A11-D (South Elevation)	28/05/2021	THW Architects
A12-D (East Elevation)	28/05/2021	THW Architects
A13-D (West Elevation) 28/05/2021	28/05/2021	THW Architects

A20-D (Section 1)	28/05/2021	THW Architects
A108-D (Pool Drawings)	28/05/2021	THW Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
SW1A (Site Stormwater Management Plan)	May 2021	Barrenjoey Cc
SW2 (Site Stormwater Management Detailing 1)	May 2021	Barrenjoey Cc
SW3 (Site Stormwater Management Detailing 2)	May 2021	Barrenjoey Cc

<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>
Bush Fire Hazard Assessment Report	22/02/2021	Wattlegrove Services Pty Ltd T/A "The Fire Consultants"
Geotechnical Report, Ref. J3241	23/02/2021	White Geotechnical Group Pty Ltd
Flora and Fauna Assessment	March 2021	Ecological Consultants Australia Pty Ltd T/A "Kingfisher"
BASIX Certificate, Ref. A406333_03	16 March 2021	THW Architects

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>
01 (Landscape Concept Plan)	27/05/2021	SAS Landscape design & Tree Consultants

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Northern Beaches Council Waste Management Plan	24/02/2021	THW Architects

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. **No Approval for Steps on Council's Road Reserve under this Development Consent**

The pedestrian steps on Council's Road Reserve are subject to relevant approvals under the provisions of Sections 138 and 139 of the Roads Act 1993 and is does not form part this Development Consent.



Reason: To ensure compliance with the relevant Local Environmental Plan.

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

waste/recycling centres.

- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

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

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

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

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

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

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

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

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

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

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

## **FEES / CHARGES / CONTRIBUTIONS**

### **5. Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$4,950.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$495,000.00.

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

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

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

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

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

### **6. Security Bond**

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](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. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group, Ref No. J3241, dated 8th March 2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

- A privacy screen to a height of 1.7m from the finished floor level (RL 50.750) is to be located along the length of the northern side of the proposed first floor deck.

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

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

### 9. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Barrenjoey Consulting Engineers Pty Ltd, Job Number. 210205, Drawing number SW1 to SW3, Issue-A, Dated May 2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i) OSD to be provided in accordance with Clause 9.0 of Council's Water Management for Development Policy.
- ii) Dispersion trench is to be 3m away from the site boundary.
- iii) Dispersion trench to be provided parallel to the contours.
- iv) Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

10. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

11. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

12. **Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

13. **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.

14. **Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](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.

**15. External Finishes**

The external finishes of the development are to be consistent with Drawing No. A 106 -D (Colours & Finishes), dated 28 May 2021, prepared by THW Architects inclusive of the following:

- a. All external weatherboard cladding/render are to be painted/finished in a dark and earthy tone equivalent to or darker than Colorbond "Windspray" (Mid-Grey);
- b. All new roofing is to be a colour equivalent to or darker than Colorbond "Windspray", and
- c. With the exception of the underside of eaves, ceilings and trim to windows, doors and gables, the use of white on any external finish is not permitted.

The schedule of external finishes is to be submitted to the Certifying Authority, prior to the issue of the Construction Certificate.

Reason: To minimise the visual impact of the resultant development.

**16. 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.

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

**17. Road Reserve**

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

Reason: Public safety.

**18. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 –

### The Demolition of Structures.

Reason: For the protection of the environment and human health.

19. **Survey Certificate**

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

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

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

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

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

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

20. **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.

21. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 4.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 3NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

22. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

## OCCUPATION CERTIFICATE

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

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

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

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

24. **Priority Weed Removal and Management**

All Priority weeds as specified within the Flora and Fauna Assessment (Kingfisher 2021) within the property are to be removed, including *Asapargus aethiopicus* and *Chrysanthemoides monilifera*. All other environmental weeds identified are to be controlled, to prevent their invasion into the nearby headland.

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

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

25. **Certification of Landscape Plan**

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

- i) Tree planting shall be located within a 9m<sup>2</sup> deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees.
- ii) Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

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

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed onsite stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdfforms/legaldocumentsa-on-site-stormwater-detention-systems/guide-submitting-Idaanov19.pdf>

The form for the application can be found on Council's website using the following link.

[https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdfforms/legaldocumentsa-on-site-stormwater-detention-systems/4023 legaldocumentsauthorisationoct19.pdf](https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdfforms/legaldocumentsa-on-site-stormwater-detention-systems/4023%20legaldocumentsauthorisationoct19.pdf)

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

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard and not altered.

27. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Final Occupation Certificate.

Reason: Public and Private Safety

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

29. **House / Building Number**

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

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

Reason: Proper identification of buildings.

30. **Swimming Pool Requirements**

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

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

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

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human.

31. **External Finishes**

The external finishes of the as-built development are to be consistent with the Drawing No. A 106 -D (Colours & Finishes), dated 28 May 2021, prepared by THW Architects and required by the conditions of this consent.

Documented evidence of consistency with this requirement is to be provided to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure that the visual impact of the development is minimised.

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

32. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife in accordance.

33. **Pool Filter Noise**

The maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level when measured from any adjoining premises.

Reason: To protect the amenity for adjoining properties.

34. **Landscape Maintenance**

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

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

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

Reason: To maintain local environmental amenity.

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

**Signed**



**Kent Bull, Planner**

The application is determined on 02/06/2021, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**