

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1715
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 56 DP 7794, 60 Hudson Parade CLAREVILLE NSW 2107
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
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:	Oliver Hartley Nicola Jane Hartley
Applicant:	Brook Lane Property Group Pty Ltd

Application Lodged:	19/10/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	25/10/2022 to 08/11/2022
Advertised:	Not Advertised
Submissions Received:	8
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,206,369.00
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EXECUTIVE SUMMARY

This development application seeks consent for the construction of alterations and additions to an existing dwelling including a new swimming pool.

The application is referred to the Development Determination Panel (DDP) due to eight (8) objections being received and triggering the requirement to go to the panel.

The principle resident issues that were raised within the submissions include; tree removal; insufficient landscaped area; impacts on biodiversity and Spotted Gum Community; impacts to the foreshore area;

privacy; solar access; view loss; setbacks; the location and amenity impacts of the proposed pool; impacts to a potential heritage item; height and visual bulk; over-development; inconsistent with the character of the area and objectives of C4 zoning; and non-compliance with relevant planning controls within Pittwater LEP and DCP.

Notification and preliminary assessment raised a number of concerns. These concerns included; building height and bulk; landscaped area; setbacks; tree removal; works within the foreshore; heritage; and internal referral concerns. Amended plans and additional information were submitted to address these concerns. These amended plans reduced the height of the proposal, increased side setbacks of the pool and dwelling additions, increased proposed landscaped area, reduced proposed tree removal and deleted the proposed boat shed within the foreshore area. The assessment of the application is based on the amended plans.

The proposed development (as amended) would retain a single dwelling house and ancillary structures within a landscaped setting. The proposal is set below the general tree canopy height, includes adequate building modulation, articulation and changes in finishes to minimise bulk, and provides an appropriate balance between respecting the landform and encouraging development. The proposal (as amended) limits development within the foreshore area, will be below building height and will respect the integrity of the existing dwelling. Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form, most notably within the foreshore area. Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions contained within this report), will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. Overall, it is considered that the bulk and scale of the proposal would not be out of character with the wider locale and the development would comply with the objectives of the C4 zone.

The property has been identified as being potentially of heritage significance, as the existing dwelling onsite was designed by the well known Australian architect Bruce Rickard in the late 1980s. Council's Heritage Officer (including external heritage consultants advice) has supported the proposal subject to two conditions, being a full photographic archival recording of the site, and amending the pool shape and increasing the northern setback to allow for an improved landscaped setting.

Potential amenity issues to surrounding neighbours have been reviewed under Council's Policies and have been determined to be reasonable within the context and setting of the residential environment (subject to recommended conditions).

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that, on balance the proposal (as amended) is a suitable and appropriate development for the subject site, for the reasons outlined in this report.

This report concludes with a recommendation that the DDP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The new works will provide for demolition works and the construction of alterations and additions to an existing dwelling including a new swimming pool.

Specifically, the proposed works consist of the following:

Lower Ground Floor:

- Addition to include laundry, living and kitchenette

- New internal access stair and lower courtyard

Ground Floor:

- Addition of 2 bedrooms
- Bathroom
- New ensuite and walk-in-robe to the master bedroom
- Garage with storage spaces, games room and bathroom.
- New internal stair.

First Floor:

- Addition to include new pantry, powder room and music room.
- Gallery hallway connection to the new front garage pavilion
- 2 Bedroom, with terrace, bathroom and mudroom.
- Entry from the street is provided at this level.

Roof

- The roof of the existing dwelling will largely be retained and will be extended to the east.

External

- New swimming pool
- Landscaping works including tree removal
- New driveway and crossover
- Excavation and fill works
- Retaining walls

AMENDED PLANS

During the assessment of the application, amended plans were submitted which reduced the height of the proposal, increased side setbacks of the pool and dwelling additions, increased landscaped area, reduced proposed tree removal and deleted the proposed boat shed.

The application has been assessed based off these amended plans.

An informal re-notification (via email) of the amended plans has been carried out. In accordance with Northern Beaches Community Participation Plan, amendments which have a reduction of impact or minimal environmental impact do not have to be formally re-notified. It is considered the proposed amendments would have an overall reduction of impact.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

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

Pittwater 21 Development Control Plan - B1.3 Heritage Conservation - General

Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation

Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve

Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - B8.3 Construction and Demolition - Waste Minimisation

Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures

Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure

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

Pittwater 21 Development Control Plan - D1.11 Building envelope

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

SITE DESCRIPTION

Property Description:	Lot 56 DP 7794 , 60 Hudson Parade CLAREVILLE NSW 2107
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<p>Detailed Site Description:</p>	<p>The subject site consists of one (1) allotment located on the north-western side of Hudson Parade.</p> <p>The site is irregular in shape with a frontage of 28m along Hudson Parade and a depth of between 70.675m and 87.175m down to the mean high watermark. The site has a surveyed area of 1239m².</p> <p>The site is located within the C4 Environmental Living zone and accommodates 2 & 3 storey brick house and detached carport and parking bay accessed via a driveway from Hudson Parade. The property has been identified as potentially being of heritage significance, as the existing dwelling onsite was designed by the well known Australian architect Bruce Rickard in the late 1980s.</p> <p>The site has a crass fall of approximately 12.5m from the east (street frontage) to the west (Pittwater foreshore).</p> <p>The vegetation within the subject property comprises of scattered native canopy trees amongst a sparse mid-storey of predominately landscaped and planted species. Seventeen (17) trees grow within the site and an additional twelve (12) trees grow in close proximity within the street and neighbouring properties. The property is mapped as part of the existing Pittwater Spotted Gum Forest and contains multiple Spotted Gum trees.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by two and three storey single occupancy dwellings within a landscaped setting on sloping sites oriented towards Pittwater waterway.</p>
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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:

- **N1060/02** - Development Application for the construction of a new driveway, turning circle and parking bay - Approved 26/09/2003
- **N0071/14** - Development Application for a stepped sandstone seawall to align with existing embankment beach front and associated landscaping - Approved 25/08/2015

APPLICATION HISTORY

07 March 2023

Council sent an RFI letter to the applicant, raising concerns primarily in relation to:

- Building height and bulk
- Landscaped area
- Tree removal
- Internal referral concerns including Biodiversity, Landscaping, Parks & Reserves, Coast and Catchments, Roads Assets and Heritage

30 August 2023

Amended plans and additional information were submitted to address Council's concerns.

An email was sent to relevant objectors notifying them of amended plans. In accordance with Northern Beaches Community Participation Plan, amendments which have a reduction of impact or minimal environmental impact to do have to be formally re-notified. It is considered the proposed

amendments would have an overall reduction of impact.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 25/10/2022 to 08/11/2022 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 8 submission/s from:

Name:	Address:
Ms Janet Clare Forrester	59 Hudson Parade CLAREVILLE NSW 2107
Utz Sanby Architects	Suite 103 506 Miller Street CAMMERAY NSW 2062
Mr Geoffrey William Tyndall Sheppard	63 A Hudson Parade CLAREVILLE NSW 2107
Bill Tulloch	Po Box 440 MONA VALE NSW 1660
Maria Still	62 Hudson Parade CLAREVILLE NSW 2107
Mr Michael Anthony Still	62 Hudson Parade CLAREVILLE NSW 2107

Name:	Address:
Mrs Chelsey Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Docomomo Australia Inc	26 Staton Street NAREMBURN NSW 2065

The following issues were raised in the submissions:

- Building height and change in roof form
- Non-compliance with DCP Controls - Landscaped Area, side setback, building envelope, front setback
- Solar access
- Location and amenity impacts of the proposed pool (privacy acoustic impacts and solar access)
- Visual privacy
- Acoustic Privacy
- View loss
- Visual bulk
- Impacts on Flora/Fauna, Biodiversity and Spotted Gum Community
- Tree removal
- Requirement for native planting
- Heritage concerns
- Boat shed and impacts to foreshore area
- Insufficient landscaped area
- Stormwater
- Does not meet DCP objectives
- Overdevelopment and does not meet the character of the area or objectives of C4 Zoning
- Scenic protection
- Impacts of southern facade
- Excavation and geotechnical concerns and potential damage to adjoining properties
- External finishes to the roof
- Location of plant equipment
- Public Interest
- Fencing design
- Requirement of various conditions

The above issues are addressed as follows:

- **Building height and change in roof form**

Comment:

Following these submissions, amended plans were received which retained the height of the existing roof form and reduced the height of the development to below the stipulated 8.5m height requirement.

- **Non-compliance with DCP Controls - Landscaped area, side setback, building envelope, front setback**

Comment:

Following this submission, amended plans were received which reduced non-compliance with landscaped area, side setback and building envelope. For each of the numerical non-compliances, a merit assessment was carried out against the objectives of that control in this report. The assessment has found the proposed non-compliances to be reasonable in this instance (subject to conditions).

- **Solar access**

Comment:

The submitted solar access diagrams demonstrate that adjoining properties will receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st to principle private open space and windows to principal living areas of adjoining properties in accordance with Clause *C1.4 Solar Access* of P21DCP

- **Location and amenity impacts of the proposed pool (privacy acoustic impacts and solar access)**

Comment:

Given the location of the existing dwelling and constraints of the foreshore building line to the west, the location of the pool, is considered reasonable in this instance. During the assessment of the application, amended plans were received which increased the side setback of the pool to 1.6m from the northern side boundary to facilitate additional screen planting. Following a referral to Council's Heritage Officer, conditions have been recommended to increase the northern side setback of the pool to 2m to allow for more landscaping and for the proposal to present within a greater landscaped setting. This greater setback will also assist to reduce associated amenity impacts.

A swimming pool is a typical form of development within a residential environment and associated acoustic impacts are not considered unreasonable in this instance. If approved, conditions will be imposed requiring the pool filter to be acoustically treated so that it does not emit any noise louder than 5dB (A) above background noise at the nearest residential receiver.

Visual privacy has been addressed within the section of this report relating to Section C1.5 *Visual Privacy* of the P21 DCP. In summary, the proposal results in reasonable levels of privacy to adjoining properties (subject to recommended conditions).

The pool will adjoin south facing bedroom windows and will not result in unreasonable solar access impacts to the adjoining dwelling to the north which will retain adequate solar access to north and west facing windows and private open space.

- **Visual privacy**

Comment:

The proposed development is acceptable in relation to privacy for the reasons detailed in the section of this report relating to Section *C1.5 Visual Privacy* of the P21 DCP. In summary, the proposal results in reasonable levels of privacy to adjoining properties (subject to recommended conditions).

- **Acoustic Privacy**

The submissions raised concerns that with the location of the proposed pool and impacts on acoustic privacy.

Comment:

Given the location of the existing dwelling and constraints of the foreshore building line to the west, the location of the pool, is considered reasonable in this instance. A swimming pool is a typical form of development within a residential environment and associated acoustic impacts are not considered unreasonable in this instance.

If approved, conditions will be imposed requiring the pool filter to be acoustically treated so that it does not emit any noise louder than 5dB (A) above background noise at the nearest residential receiver.

- **View loss**

Comment:

The proposed development is acceptable in relation to view loss for the reasons detailed in the section of this report relating to Section C1.3 *View Sharing* of the P21 DCP. The requirements of this clause and the view sharing principles of *Tenacity Consulting vs Warringah Council [2004]* NSWLEC 140 have been addressed and the issues raised within the residents submissions in relation to view loss do not warrant further amendment or refusal of the application.

- **Visual bulk**

Comment:

Following this submission, amended plans were received which included a reduction in height, increased side setbacks of the pool and dwelling additions, reduced building envelope non-compliance, increased landscaped area, reduction of tree removal and the deletion of the proposed boat shed. It is considered that the proposed amendments adequately reduced the building bulk of the proposal. The proposal (as amended) exhibits a compliant building height and proposes sufficient building separation and landscaping to offset the built form. Furthermore, the proposed design of the first floor extension will compliment the existing dwelling. Therefore, the bulk and scale of the built form has been adequately minimised.

- **Impacts on Flora/Fauna, Biodiversity and Spotted Gum Community**

Comment:

Following this submission, amended plans were received which reduced the number of trees proposed to be removed. Of particular note, was the removal of the proposed boat shed which enabled the retention of Spotted Gums within the foreshore area. The proposal (as amended) seeks the removal of one (1) spotted gum tree (T2) to facilitate the development. The proposal is supported with a Flora and Fauna Assessment (Narla Environmental September 2023), which has concluded that a significant impact to the endangered ecological community and Biodiversity on the site is unlikely. The proposal (as amended) seeks to retain other spotted gum tree located on and adjoining the site.

The proposal and supporting documentation has been reviewed by Council's Bushland & Biodiversity Officer and Landscape Officer who support the proposal subject to conditions including replanting and adherence to protection measures within the submitted Aborigicultural Impact Assessment.

Please refer to the comments prepared by Council's Landscape Officer and Biodiversity Officer for further information related to Biodiversity and tree removal.

- **Tree removal**

Comment:

Following this submission, amended plans were received which reduced the number of trees proposed to be removed. Of particular note, was the removal of the proposed boat shed which enabled the retention of Spotted Gums within the foreshore area. The application is accompanied by an Arboricultural Impact Assessment and Flora and Fauna Assessment Report to address the proposed tree removal and impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

Suitable conditions have been imposed by Council's Landscape Officer to protect retained trees including adherence to the submitted Arboricultural assessment which requires tree protection measures and the project Arborist prior to commencement of works. The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment to ensure tree protection measures of trees to be retained both on the subject site and adjoining properties.

- **Requirement for native planting**

Comment:

The application has been reviewed by Council's Biodiversity Officer who has recommended a condition of consent requiring that at least 80% of any new planting incorporates native vegetation and the provision of four native replacement trees to offset the proposed tree removal.

- **Heritage**

The existing dwelling onsite was designed by the well known Australian architect Bruce Rickard in the late 1980s. The submissions raised concerns that the existing dwelling has heritage significance and that the proposed works would unreasonably impact the form and integrity of the site and existing built form.

Comment:

Following this submission amended plans were received which reduced the extent of works to the existing dwelling to retain the general form of the existing dwelling. The extent of tree removal was also reduced, most notably, within the foreshore area.

Please refer to Council Strategic and Place Planning (Heritage Officer) referral comments in this report for further details. In summary, Council's Heritage Officer (including external heritage consultants advice) has supported the proposal subject to two conditions being a full photographic archival recording of the site, and amending the pool shape and increasing the northern setback to allow for more landscaping.

- **Boat shed and impacts of development to the foreshore area**

Comment:

Following this submission, the proposed boatshed and works within the foreshore area were

removed from the plans. The proposal (as amended) will not result in unreasonable impacts to the foreshore area. Conditions have also been imposed limiting works within the foreshore.

- **Insufficient landscaped area**

Comment:

Following this submission, amended plans were received which increased the quantum of landscaped area and reduced the number of trees to be removed. A merit assessment has been carried out against the objectives of Clause *D1.14 Landscaped Area - Environmentally Sensitive Land* of P21DCP in this report. The assessment has found the proposed non-compliance to be reasonable in this instance (subject to conditions). The application has also been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal (as amended) subject to recommended conditions and replacement planting.

- **Stormwater**

Comment:

Council's Development Engineer and Water Management Officer have reviewed the proposed development with regards to the potential impact of the proposed development upon stormwater management and are satisfied that the development will adequately manage stormwater, subject recommended conditions of consent.

- **Does not meet DCP objectives**

Comment:

For each of the numerical non-compliances, a merit assessment was carried out against the objectives of that control in this report. The assessment has found the proposed non-compliances to be reasonable in this instance (subject to conditions).

- **Overdevelopment and does not meet the character of the area or objectives of C4 Zoning**

Comment:

Concern has been raised that the proposal is an overdevelopment of the site and the resulting building bulk and scale would not meet the character of Avalon Beach Locality or intent of C4 Environmental Living Zoning. These issues have been addressed throughout the report.

Following this submission, amended plans were received which included a reduction in height, increased side setbacks of the pool and dwelling additions, reduced building envelope non-compliance, increased landscaped area, reduction of tree removal and the deletion of the proposed boat shed.

The proposed development (as amended) would retain a single dwelling house and ancillary structures within a landscaped setting. The proposal is set below the general tree canopy height, includes adequate building modulation, articulation and changes in finishes to minimise bulk, and provides an appropriate balance between respecting the landform and encouraging development. The proposal limits development within the foreshore area, will be below building height and will respect the integrity of the existing dwelling. Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions contained within this report), will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. Overall, it is considered that the bulk and scale of the

proposal would not be out of character with the existing streetscape and wider locale and the development would comply with the objectives of the C4 zone.

- **Scenic protection**

Comment:

Following this submission, amended plans were received which increased landscaped area and retained the existing trees within the foreshore area (through the deletion of the proposed boat shed). It is considered that the proposal (as amended) would meet the requirements of Clause *D1.20 Scenic Protection Category One Areas* of P21DCP as canopy trees and vegetation will be retained between the dwelling and Pittwater Waterway and the form of the dwelling will not be substantially altered as viewed from the waterway.

- **Impacts of southern facade**

The submissions raised concerns with the visual impact and extent of building proposed along the southern facade.

Comment:

Following this submission, amended plans were received which increased the setback of the proposed "gallery" walkway to 2.6m from the southern boundary. This increased setback will facilitate a break in the built form and provide screen planting along the southern boundary to mitigate the perceived visual impacts of the proposal. Additionally, this "gallery" area will be single storey and well below building height and envelope requirements.

- **Excavation and geotechnical concerns and potential damage to adjoining properties**

Comment:

In order to ensure that there are no adverse impacts on the adjoining neighbours, conditions have been imposed which ensure structural adequacy of landfill and excavation work; require dilapidation report for the adjoining properties; ensure the adherence of a Waste Management Plan; ensure the recommendations of the Geotechnical report is adhered to and implemented in the construction plans; ensure the proper installation and maintenance of sediment and erosion control and ensure topsoil is stockpiled on site and stabilised during construction works. The application is also supported by a Geotechnical Report which specifies that provided that the construction is undertaken in accordance with the recommendations, construction is not expected to affect the overall stability of the site or negatively influence the geotechnical hazards. Council's Development Engineers have reviewed the proposal and submitted Geotechnical Report and have raised no objection subject to recommended conditions.

- **External finishes to the roof**

Comment:

The colours and finishes to the roof are proposed to match the existing dwelling. Given the potential heritage significance of the existing dwelling, the maintenance of the existing colours and finishes to the roof are considered acceptable in this instance.

- **Amenity of plant equipment**

Comment:

In this regard, conditions are imposed to ensure that any plant equipment does not produce

noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

- **Public Interest**

Comment:

No matters have arisen in this assessment that would justify the refusal of the application in the public interest

- **Suggested design amendments**

Comment:

A submission was received which recommended a number of design amendments to the proposal. Following this submission, amended plans were received which incorporated some of these amendments including a reduction in height, increased side setbacks of the pool and dwelling additions, increased landscaped area, reduction of tree removal and the deletion of the proposed boat shed. As detailed within this report, the proposal (as amended) is now considered acceptable.

- **Requirement of various conditions**

Comment:

Suitable conditions have been imposed to mitigate potential impacts of the proposed development on the natural environment and adjoining neighbours.

- **Fencing design**

The submissions raised concerns that the pool fence is excessively tall and will create unreasonable impacts.

Comment:

As discussed above, conditions are to be imposed requiring the pool and associated fencing to be located 2m from the northern boundary. It is considered that this separation is reasonable and will allow for landscaping to mitigate the visual impact of the proposed pool fence.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan (PLEP) clause C4 zone Environmental Living, and the following Pittwater 21 Development Control Plan (PDCP) controls (but not limited to):</p> <ul style="list-style-type: none">• B4.22 Preservation of Trees and Bushland Vegetation• C1.1 Landscaping• D1 Avalon Locality <p>The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment,</p>

Internal Referral Body	Comments
	<p>including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone. To achieve development in response to the objectives of the C4 Environmental Living zone, 60% of the property is required to be landscape area to promote the retention of existing natural landscape features including existing trees, or otherwise where no tree are existing, allow adequate landscape area to promote new tree canopy planting. The property is mapped as part of the existing Pittwater Spotted Gum Forest association, and the property supports seventeen existing trees..</p> <p>Amended plans are submitted with the application that illustrate site planning changes including the building arrangement. Amended and detailed Landscape Plans as requested by Landscape Referral are additionally submitted to allow for a full understanding of the landscape proposal. Upon review Landscape Referral raise no concerns with the landscape outcome as proposed and documented. Conditions shall be included to exclude proposed landscape works within the public road reserve, and otherwise conditions are able to be included for completion of landscape works and any other landscape requirements as imposed.</p> <p>Likewise an updated Arboricultural Impact Assessment report is submitted and no concerns are raised for tree removal within the arboricultural zone area impacted by construction works, should the application be approved. A total of nine existing trees (identified as T1, T2, T5, T7, T9, T10, T11, T12, and T13) are proposed for removal, and of these five are prescribed trees (T1, T2, T9, T10 and T11). Existing trees T5, T7, T12 and T13 are exempt species that do not require Council consent for management or removal.</p> <p>Within the property the following existing trees are identified for retention and protection: T3 (Native Daphne), T4 (Cheese Tree), T6 (Coast Banksia), T8 (Orchid Tree), and T14, T15, T16, T17 (all Spotted Gum), and fundamentally all these trees are beyond the arboricultural zone area of impact for existing trees and thus the proposed works do not impact upon these existing trees. All existing trees within the road reserve and within adjoining properties in proximity to the development site shall be retained and protected.</p> <p>Should the Assessing Planning Officer determine approval, Landscape Referral provide conditions of consent.</p>
NECC (Bushland and Biodiversity)	<p><u>Amended Referral Comments</u></p> <p>The amended development plans will avoid impact to trees previously proposed for removal, with these mainly located within the the foreshore setback. The revised plans will result in the removal of 17 trees, 6 of which are locally native. While some of these trees and native plants are characteristic species of Pittwater Spotted Gum Forest Endangered Ecological Community, the Flora and Fauna Assessment (Narla Environmental September 2023) has concluded</p>

Internal Referral Body	Comments
	<p>that a significant impact to the endangered ecological community is unlikely. They have proposed a range of environmental management and mitigation measures that are to be implemented as part of the development to further reduce the impacts of the proposal on the local biodiversity values.</p> <p>In addition, the Landscape Plan only identifies four species that are characteristic of the vegetation community, and the replacement of native canopy trees proposed for removal is also to be detailed. In order to comply with the relevant controls, the Plan is to be amended via way of condition to ensure a minimum of 80% of native plants proposed are characteristic of the Pittwater Spotted gum community, and also the replacement of native canopy trees.</p> <p><u>Referral Comments February 2023</u></p> <p>The application is proposing alterations and additions to the existing dwelling house and the construction of ancillary garage, boat storage and a new swimming pool. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <ul style="list-style-type: none"> • Biodiversity Conservation Act 2016 (BC Act) and Biodiversity Conservation Regulation 2017 • State Environmental Planning Policy (Resilience and Hazards) 2021 <ul style="list-style-type: none"> • 2.10 Development on land within the coastal environment area • Pittwater Local Environmental Plan (PLEP) <ul style="list-style-type: none"> • 7.6 Biodiversity Protection • Pittwater Development Control Plan (PDCP) <ul style="list-style-type: none"> • B4.7 Pittwater Spotted Gum Forest <p>Council's Biodiversity Unit do not support the proposal in its current form and concur with the matters raised by Council's Landscape Referral team. The key concerns raised by Biodiversity include:</p> <ol style="list-style-type: none"> 1. The development fails to provide an ecological assessment. 2. The proposed development does not demonstrate adequate avoidance or minimisation of biodiversity impacts in accordance with relevant legislation 3. The proposed impacts to Pittwater Spotted Gum Forest within the site are considered non-compliant with Clause 7.6 of the Pittwater Local Environmental Plan 2014 and B4.7 of the Pittwater 21 Development Control Plan. <p>Further detail on points (1) - (3) is provided below.</p>

Internal Referral Body	Comments
	<p>(1) Any new DA submitted to Council under Part 4 of the NSW Environmental Planning and Assessment Act 1979 (EP&A Act), may require assessment under the provisions of the Biodiversity Conservation Act. The application should be accompanied by a Flora and Fauna Assessment (FFA) prepared by a suitably qualified ecologist. The assessment should assess the biodiversity values of the subject site, include a Threatened species 'Tests of Significance' for any applicable threatened entities, prepared in accordance with Section 7.3 of the BC Act, a discussion of measures undertaken to avoid and minimise impacts of the development (see below), and identification of mitigation and/or compensatory measures to reduce impacts following avoidance and minimisation of impacts. The applicant should refer to the Biodiversity Requirements for Development Applications Guideline available on the Council website.</p> <p>(2) The NSW Biodiversity Conservation Act 2016 (BC Act) and Biodiversity Conservation Regulation 2017 (BC Regulation) requires that developments are first designed to avoid and minimise impacts to the natural environment, and then the residual impacts can then be assessed. The residual impact is the impact remaining after measures to avoid and minimise impacts to biodiversity have been applied.</p> <p>The development requires the removal of several trees that are characteristic of the Endangered Ecological Community Pittwater Spotted Gum Forest. This loss of vegetation is not supported and the footprint of the additions should be re-designed to minimise the loss to an acceptable degree. Additional justification of the tree removals proposed as part of a revised design is required.</p> <p>The applicant is encouraged to explore alternative design options that retain the significant biodiversity features within the site and utilise the existing vegetation, which is then complimented by suitable landscaping. No evidence of lower impact design options have been presented with the proposal, and therefore it is assumed that none have been considered.</p> <p>(3) At present, the application seeks to remove the majority of larger canopy trees, which are components of the TEC Pittwater Wagstaff Spotted Gum Forest. The proposed landscaping will not adequately offset the long-term loss, and is therefore considered inconsistent with PLEP7.6 and PDGP 4.7, and the development should not result in significant onsite loss of canopy cover or a net loss in native canopy trees. While four <i>Corymbia maculata</i> (Spotted Gums) are shown on the Landscape Plans proposed by Arcadia, the common name and mature height information is inconsistent, and there is doubt around the tree replacements proposed. A high percentage of native plants proposed should be characteristic of the Pittwater Spotted gum community, in order to comply with the relevant controls.</p>

Internal Referral Body	Comments
NECC (Coast and Catchments)	<p data-bbox="529 383 1038 416">SUPPORTED WITH NO CONDITIONS</p> <p data-bbox="529 456 1422 591">The application has been reassessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p data-bbox="529 631 1430 766">The reassessment is based on amended master set dated 28 August 2023 and letter detailing revisions on the DA dated 29 August 2023 prepared by Bennett Murden Architects. According to revisions, proposed boatshed has been removed from the application.</p> <p data-bbox="529 864 951 898">Coastal Management Act 2016</p> <p data-bbox="529 900 1426 1070">The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p data-bbox="529 1111 1366 1178">State Environmental Planning Policy (Resilience & Hazards) 2021</p> <p data-bbox="529 1180 1414 1317">The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p data-bbox="529 1415 663 1449">Comment:</p> <p data-bbox="529 1480 1426 1615">On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBF Pty. Ltd. dated September 2022, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.</p> <p data-bbox="529 1686 1422 1787">As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p data-bbox="529 1886 1094 1919">Pittwater LEP 2014 and Pittwater 21 DCP</p> <p data-bbox="529 2013 922 2047">Estuarine Risk Management</p>

Internal Referral Body	Comments
	<p>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>On internal assessment, based on the recently submitted revisions, the ground floor level for the proposed additions and alterations is above the applicable EPL for the site. The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p>Development on Foreshore Area</p> <p>A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>The DA proposes no works on the foreshores area and hence, the DA does not require to satisfy the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p> <p>Assessment dated 26 October 2022</p> <p>REFUSED REQUIRING ADDITIONAL REPORT</p> <p>The subject property has been identified as being affected, among others, by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to proposed development of a new boatshed at the site. The requirements of other relevant controls under D15. 15 Waterfront Development Controls in Pittwater 21 DCP may also need to be considered. Consideration should be given to 'section B3 Estuarine Hazard Controls relating to boatsheds'.</p>

Internal Referral Body	Comments
	<p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL2.71m AHD has been adopted by Council for this property. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.07m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m. No further reduction is applicable</p> <p>The proposal is, among others, to construct a boatshed. According to 'section B3 Estuarine Hazard Controls relating to boatsheds' of the Pittwater DCP, 'All floor levels shall be at or above the Estuarine Planning Level'.</p> <p>The Finished Floor Level (FFL) of the proposed boatshed is 2.50m AHD. An Estuarine Risk Management Report is required when the FFL of the boatshed is below the EPL.</p> <p>An Estuarine Risk Management Report should consider development constraints due to estuarine hazard impacts on the land, including an assessment of the degree of inundation, effects of wave action, impacts of waterborne debris, buoyancy effects, and other emergency issues during the design event (100 ARI event). The report should also contain recommendations as to any reasonable and practical measures that can be undertaken to remove foreseeable risk associated with estuarine hazards for the design life of the development.</p> <p>An estuarine risk management report must be prepared by a specialist coastal engineer who is a registered professional engineer with chartered professional status (CP Eng) and with and with coastal engineering as a core competency and has an appropriate level of professional indemnity insurance.</p> <p>Based on above considerations, a further assessment of the DA remains pending</p>
NECC (Development Engineering)	<p>No engineering objections subject to conditions as recommended.</p> <p>Review 6/9/2023 Amended plans have been reviewed. No objections to approval subject to conditions as recommended.</p>

Internal Referral Body	Comments		
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none">• Supplied plans and reports;• Coastal Management Act 2016;• State Environmental Planning Policy (Resilience and Hazards) 2021;• Relevant LEP and DCP clauses; and• Northern Beaches Water Management for Development Policy <p>Supported with conditions</p>		
Parks, reserves, beaches, foreshore	<p>Council's Parks Reserves and Foreshores Referral is assessed against the Pittwater Local Environment Plan (PLEP) clause 7.8 Limited development on foreshore area. The development property adjoins Pittwater waterway downslope.</p> <p>The updated plans remove the previously proposed structures within the foreshore zone and the amended plans include the retention of existing landscape features within the foreshore zone. The development proposal maintains the foreshore landscape character, and as such Parks, Reserves and Foreshores raise no concerns with the development proposal.</p>		
Road Reserve	T&CI have no objections to the plans.		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	The proposal has been referred to Heritage as the property was identified as potentially being of heritage significance.		
	Details of heritage items affected		
	There is no inventory information for this property. However the property is a brick and concrete dwelling designed by the well known Australian architect Bruce Rickard in the late 1980s.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register		
	RAIA Register of 20th Century Buildings of Significance		
	Other	N/A	
	Consideration of Application		
	This response to amended plans follows on the initial discussions with the owners and their architects In which the unusual nature of		

Internal Referral Body	Comments
	<p>this house as a Rickard design - one that has not been heritage listed, but which clearly has an importance as both an exemplar of his work and part of his body of work - was freely acknowledged and indeed cited by the owners as pivotal in their decision to buy the property.</p> <p>APPROACH The extent of change - demolition and integration of new areas - within the existing house was a concern arising out of the original modification plans, and following a site meeting and inspection and discussions with the owners and their architects, comment was provided and emphasis placed upon keeping the most obvious and significant characteristics and characteristic parts of the house, while acceding that change of the comparatively simple and "lesser" parts of the house might occur, depending on design.</p> <p>While the house is not a heritage item it is clearly of heritage interest and its conservation as an example of Rickard's work - and in part, a strategic one - is more than desirable. There is, according to one's philosophy, a responsibility involved. There are very obvious resonances between this house, the Mackenzie House as its is called in the authoritative Rickard "Catalogue Raisonne", and the earlier Curry House 2 (1980) which is arguably one of Rickard's master-work domestic statements and achievements.</p> <p>To this end the preparedness of the owners and their architects to work with Council in addressing the heritage dimensions of the project is most welcome and much appreciated.</p> <p>It could be argued that the key areas of the house, and those to which significance obviously attaches, are those extending back from the "rear" east wall of the kitchen. The areas east of the stair, focussed on the entry and lesser bedrooms and service areas, are plain by comparison and while there is function as a "foil" to the more ambitious, primary statement areas of the house, there is an acknowledgeable capacity for adaptation.</p> <p>These comments examine the changes to the existing house, the link passage and central pool area, and the new garage and guest pavilion.</p> <p>THE EXISTING HOUSE The amended plans retain the main roof profile, distinguishing the addition by a lowered break roof at the current end gable. While it is regrettable that demolition extends to the kitchen area and its north bay, the new work retains the essential manner of integration with a projecting bay to the north and rear of the projecting terrace (and master bedroom) below. Revised bedrooms, bathrooms and a revised line of wall to the southern elevation complete the adapted house. The new southern side of the house allows for a</p>

Internal Referral Body	Comments
	<p data-bbox="544 309 1422 450">new line of corridor access and stairs commenting the levels, within a differentiated timber-walled lateral extension kept under the existing main roof form. The projecting corner music room is an interpretation of Rickard's opening corner of the existing house.</p> <p data-bbox="544 488 1422 730">The drawings show the ground around the projecting new lower ground living area and studio to be more level and finish-paved, where in its current perhaps less formal presentation, the ground is left more natural and unfinished. This might be contemplated in the new landscaping of this area, which will admittedly have a different relationship with the site. However in light of other changes made to better reflect Rickard's design, this matter will not be pursued.</p> <p data-bbox="544 768 916 797">LINK PASSAGE AND POOL</p> <p data-bbox="544 801 1406 1218">The linking passage between the new arrival areas and the new main circulation areas of the house has been lightened in its treatment from the original presentations. Some concern must arise from the proposed pool in its shape and landscape setting, as its scale and size in the central space, its angularity and that of the associated walls are all something of a strong departure from the simple shape and settings of Rickard's pools, which suggest that a simpler, orthogonal character for the pool and its containing walls would be more appropriate. Its angularity and shapes reflect the new garage/guest pavilion but are arguably promise a discordant and divergent character from the house, with which it will read strongly.</p> <p data-bbox="544 1256 919 1285">GARAGE/GUEST PAVILION</p> <p data-bbox="544 1290 1422 1641">In its scale, bulk and dramatic presence this element of the proposal represents the most challenging and obvious change to the setting of the Rickard house. Like the pool, the angularity of the pavilion's roof with its concrete prow-shaped projection to the street, is divergent from Rickard's line and character. The original building cannot be seen to great advantage from its street frontage and its substantial setback, to enjoy the best views from the land, left opening for the pavilion strategy which is now part of a way to retain and adapt the house in the context of its highly upscaled values and the current expectations of such a site.</p> <p data-bbox="544 1715 740 1744">CONCLUSION</p> <p data-bbox="544 1749 1406 1955">The heritage question to be addressed in assessment of the proposal is whether or not the significance of the house will be unacceptably compromised by the proposal. Three aspects of it require focus - the existing house, the proposed addition (garage pavilion and link) and the pool court and landscaping between the house and addition.</p> <p data-bbox="544 1993 1414 2101">The additions to the house have been negotiated to a responsive approach in the changes required. The key aspect of the house - its presentation to the Sound, recognisably its designer's work, will</p>

Internal Referral Body	Comments
	<p>remain.</p> <p>The new garage pavilion and link will be recognisably a “different work” and will constitute a different approach path and experience to the house. Their reconciliation with the retained Rickard nucleus of the house has been carefully considered. Opinions on their success will vary.</p> <p>The pool court continues design themes and character inherent in the new elements into the setting of the existing house, its alterations and particularly the retained Rickard projections to the north. In my opinion the pool court and pool could beneficially adopt a simpler, more rectangular line in its interface with the retained Rickard core of the dwelling, and I would recommend this be put to the applicants for their consideration. A reduction in the different line and angularity of the pool and associated stairs and simpler landscaping reflecting Rickard’s approach may be helpful. Heritage will condition that the pool shape be amended to straighten its edges and its setback to the north increased to allow for more soft landscaping.</p> <p>Inherent in these conclusions are the opinion that the significance and circumstances of the house do not support a greater intervention by Council. It is often a convenient excuse in such circumstances to rely on the existence of other greater and better examples of an architect’s work. This is frequently raised by heritage consultants in support of adverse approaches and impacts on significant buildings. However, the unlisted status of this house and its comparison with other works by Rickard lead to a conclusion of that effect.</p> <p>SUMMARY Therefore Heritage can support the proposal subject to two conditions being a full photographic archival recording of the site, and amending the pool shape and increasing the northern setback to allow for more landscaping.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of

External Referral Body	Comments
	Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

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.A470828 dated 26/09/2022).

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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. The proposed works do not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes. During the assessment, works proposed within the foreshore area were deleted. The proposal has been reviewed by Council's Coastal Officer, Development Engineer and Bushland & Biodiversity Officer who have raised no objection to the works and associated impacts to the surrounding natural environment.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

Council is satisfied the proposed works are designed, and can be managed, to avoid adverse impacts based upon the matters identified in this clause. The application has been reviewed by Council's Coast and Catchment Officer who has raised no objection to the works

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
- a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an
 - ii) adverse impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed development is also unlikely to cause an adverse impact to existing public open space and safe access to and along the foreshore and beach for members of the public, including persons with a disability.

The proposed development will maintain the existing, safe access to and along the foreshore and beach and will not cause any overshadowing, wind funnelling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands, will be preserved. A condition has been included to ensure that if any Aboriginal engravings or relics are unearthed as part of the development, works will cease immediately and the relevant authorities will be notified.

The proposed development will also not have an adverse impact on the cultural and built environmental heritage. Council's Heritage Officer has recommended approval as the proposal would not result in unreasonable impact to the existing house.

As such, it is considered that the proposed development has been designed, sited and will be managed to avoid an adverse impact on the aforementioned cultural and environmental aspects.

Furthermore, the proposed development is considered to be of an acceptable bulk, scale and size that is generally compatible with the existing site and surrounding coastal and built environment, which consist of low-density residential dwellings. Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions contained within this report), will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The application has been reviewed by Council's Coastal Engineer and Development Engineer who are satisfied that the development is not likely to cause increased risk of coastal hazards on other land subject to conditions.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	8.5m	8.0m	N/A	Yes

Compliance Assessment

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

Detailed Assessment

Zone C4 Environmental Living

The underlying objectives of the C4 Environmental Living Zone are:

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

Comment:

The proposed development (as amended) would retain a single dwelling house and ancillary structures within a landscaped setting. Whilst there is some tree removal required, the proposed development has been designed to retain and protect the majority of significant trees on the site the application is accompanied by an Aboricultural Impact Assessment and Flora and Fauna Assessment Report to address the proposed tree removal and impacts on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Proposed landscaping, in conjunction with existing and required landscaping by conditions, will assist to visually screen the bulk and scale of the building and integrate the built form into the landscape as viewed from the street and waterway. The proposal is set below the general tree canopy height, includes adequate building modulation, articulation and changes in finishes to minimise bulk, and provides an appropriate balance between respecting the landform and encouraging development. The proposal (as amended) limits development within the foreshore area, will be below building height and will respect the integrity of the existing dwelling.

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

Comment:

As above, the proposal (as amended) would not result in unreasonable impacts to the ecological,

scientific or aesthetic values of the area. The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Development Engineer; Water Management Officer and Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

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

Comment:

The proposed development (as amended) would retain a single dwelling house and ancillary structures within a landscaped setting. The proposal is set below the general tree canopy height, includes adequate building modulation, articulation and changes in finishes to minimise bulk, and provides an appropriate balance between respecting the landform and encouraging development. The proposal limits development and retains trees within the foreshore area, will be below building height and will respect the integrity of the existing dwelling. Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions contained within this report), will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

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

Comment:

The proposal will not unreasonably impact upon riparian or foreshore vegetation or wildlife corridors. The proposal has been assessed by Council's Bushland and Biodiversity and Riparian lands Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions. During the assessment of this application amended plans were received which removed the proposed works from the foreshore area and retained existing canopy trees within this area.

5.10 Heritage conservation

The proposal has been referred to Heritage as the property was identified as potentially being of heritage significance.

Please refer to Council Strategic and Place Planning (Heritage Officer) referral comments in this report for further details. In summary, Council's Heritage Officer has raised no objections to the proposal (as amended) subject to conditions which include amending the pool shape and increasing the northern setback to allow for more landscaping.

7.1 Acid sulfate soils

The proposed works will be located on Class 5 Acid sulfate soil and will therefore meet the requirements of this control.

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 development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

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

Comment: The development has been assessed by Council's Coast & Catchment Officer and Biodiversity Officers, who have raised no objection to the proposal subject to conditions.

(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: Council's Heritage Officer has raised no objections to the proposal (as amended) subject to conditions which include amending the pool shape and increasing the northern setback to allow for more landscaping.

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.

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

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

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The proposed development is supported by a geotechnical risk assessment, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

- (b) the consent authority is satisfied that:*

- (i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
- (ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
- (iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

7.8 Limited development on foreshore area

The proposed plans (as amended) indicate that no works are proposed within the foreshore area. A condition of consent is to be included specifying that no works are permitted within the foreshore area and that this consent does not authorise or regularise existing development within the foreshore area.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	2.3m - 8.7m (Garage) 3.3m - 14m (First floor)	65% (Max)	No
Rear building line	N/A - FBL Applies	N/A	N/A	N/A
Side building line	2.5m (N)	1.6m (Pool)	N/A	No
	1m (S)	1m	N/A	Yes
Building envelope	3.5m (N)	Within envelope	N/A	Yes
	3.5m (S)	Outside envelope	N/A	No
Landscaped area	60% (743.4sqm)	54% (677sqm)	9%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	No	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
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	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	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	No	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	No	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	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The proposed development consists of part a two/part three storey dwelling house, where the locality calls for two storey development. However, the existing development is three storeys in height and the proposed works do not result in any additional storeys.

The addition is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey as viewed from Hudson Parade. The existing dwelling and surrounding dwellings along Hudson present a mixture of two and three storey typology as viewed from the Pittwater Waterway. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance and in consideration of the existing built form, the proposal is considered consistent with the desired future character of the Avalon Beach locality.

B1.3 Heritage Conservation - General

The proposal has been referred to Heritage as the property was identified as potentially being of heritage significance.

Please refer to Council Strategic and Place Planning (Heritage Officer) referral comments in this report for further details. In summary, Council's Heritage Officer (including external heritage consultants advice) has raised no objections to the proposal (as amended) subject to conditions which include amending the pool shape and increasing the northern setback to allow for more landscaping.

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

The proposal seeks the removal of one (1) spotted gum tree (T2) to facilitate the development. The proposal is supported with a Flora and Fauna Assessment (Narla Environmental September 2023), which has concluded that a significant impact to the endangered ecological community is unlikely. The proposal (as amended) seeks to retain other spotted gum tree located on and adjoining the site.

The proposal and supporting documentation has been reviewed by Council's Bushland & Biodiversity Officer and Landscape Officer who support the proposal subject to conditions including replanting and adherence to protection measures within the submitted Aboricultural Impact Assessment.

Please refer to the comments prepared by Council's Landscape Officer and Biodiversity Officer for further information related to the tree removal.

In summary, subject to compliance with recommended conditions, the application is seen to meet the outcomes of this clause and is supported on merit

B4.22 Preservation of Trees and Bushland Vegetation

The application is accompanied by an Aboricultural Impact Assessment and Flora and Fauna Assessment Report to address the proposed tree removal and impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

Subject to compliance with recommended tree planting conditions, the application is seen to meet the outcomes of this clause and is supported on merit.

B6.1 Access driveways and Works on the Public Road Reserve

Council's Road Assets Officer and Development Engineer and Landscape Officer have reviewed the proposed works on the Road Reserve and have raised no objection subject to conditions. Such conditions ensure appropriate approval under the provisions of the Roads Act 1993 and ensure the works structurally adequate and meet appropriate engineering standards.

B8.1 Construction and Demolition - Excavation and Landfill

The proposal seeks to excavate and fill portions of the land facilitate the development. Council's Development Engineers have reviewed the proposal and submitted Geotechnical Report and have raised no objection subject to recommended conditions.

In order to ensure that there are no adverse impacts on the adjoining neighbours, conditions have been imposed which:

- Ensure structural adequacy of landfill and excavation work and retaining walls;
- Require dilapidation reports for adjoining proprieties;

- Ensure the preparation and the adherence of a Waste Management Plan;
- Ensure the recommendations of the Geotechnical report is adhered to;
- Ensure the proper installation and maintenance of sediment and erosion control;
- Ensure topsoil is stockpiled on site and stabilised during construction works;

The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; and Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

B8.3 Construction and Demolition - Waste Minimisation

The application has not been accompanied by a Waste Management Plan. To ensure the proper disposal of builder's waste, a suitable condition has been included with this consent requiring the applicant to submit a detailed Waste Management Plan to the Certifying Authority prior to the issue of the Construction Certificate. The Waste Management Plan must be prepared in accordance with Council's Waste Management Guidelines. Subject to compliance with the conditions of consent, the proposal will demonstrate consistency with the requirements and outcomes of this control.

B8.6 Construction and Demolition - Traffic Management Plan

A condition has been imposed requiring the Applicant to submit an application for Construction Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person and further conditions ensure this will be implemented during works.

C1.1 Landscaping

Please refer to the referral comments prepared by Council's Landscape Officer. The proposal would meet the requirements of this control subject to recommended conditions.

C1.3 View Sharing

Merit Consideration

One (1) submission was received from the following property which included concerns regarding view loss from a private property:

- 62 Hudson Parade CLAREVILLE

The development is considered against the underlying Objectives of the Control as follows:

- ***A reasonable sharing of views amongst dwellings.***

Comment

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004)* NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured"

Comment to Principle 1

The views from No.62 Hudson Parade that are the concern are to the north and north-west and include views of Pittwater Waterway and land and water interface. This is demonstrated in the photos below.



Photo 1: Existing views from No.62 Hudson Parade to the north (ground floor dining room).



Photo 2: Existing views from No.62 Hudson Parade to the west (ground floor living room). Views are unobstructed by the proposal.



Photo 3: Existing views from No.62 Hudson Parade to the north (ground floor balcony located off living areas).



Photo 4: Existing views from No.62 Hudson Parade to the north-west (first floor living room).



Photo 5: Existing views from No.62 Hudson Parade to the north (first floor living room).



Photo 6: Existing views from No.62 Hudson Parade to the west (first floor living room). Views are unobstructed by the proposal.



Photo 7: Existing views from No.62 Hudson Parade to the north-west (ground terrace).

2. What part of the affected property are the views obtained

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment to Principle 2

Views of concern are obtained from the "ground floor" elevated kitchen/dining and living room and the deck (and principle private open space) located off these rooms. Views are also obtained from the upper level second living/master bedroom and balcony located off these rooms. Views are further obtained from the lower ground level garden/terrace areas.

The view which is of concern is obtained from both a sitting and standing position over the northern side boundary. The expansive Pittwater views to the west remain unaffected by the proposal

3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating"

Comment to Principle 3

As viewed from No.62 Hudson Parade, the proposed dwelling additions (as amended) are not anticipated to result in any significant impacts to existing views. The westernmost section of built form of the existing dwelling, including the roof formation, is proposed to be retained as existing. The proposed works will primarily occur to the easternmost portion of the site, where the existing dwelling already impacts view corridors.

Expansive views of Pittwater Waterway are expected to be retained over and to the south and to the west of the proposal.

This can be seen within the photos above.

In consideration of the proportion of view lost in comparison to views retained, the extent of the impact is considered to be to be **negligible to minor**.

4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to Principle 4

Overall, the view loss associated with the proposal is considered negligible to minor when put in context of the entirety of views obtained from adjoining properties and the location of. As such, the proposal is not considered to result in an unreasonable view loss. The built form noncompliance's associated with the proposal have been addressed within this report and are considered to meet the objectives of the control.

During the assessment of the application, amended plans were submitted which reduced the height of the proposal and retained the existing roof form and deleted the proposed boat shed. These amendments reduced the associated view loss and is therefore considered a more skillful design.

- ***Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.***

Comment

The proposal is not anticipated to result in unreasonable view loss from the road. The works will be located behind (eastward) of the existing dwelling and the front of the site includes dense screen vegetation and canopy trees which filter existing views.

- ***Canopy trees take priority over views.***

Comment

During the assessment of the application, amended plans were received which retained canopy trees within the foreshore area. Subject to compliance with recommended tree planting conditions, the application is seen to meet the outcomes of this clause and is supported on merit.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

C1.5 Visual Privacy

Description of Non-compliance

Clause C1.5 of the P21DCP stipulates that private open space areas and windows of adjoining properties are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation. The proposed development contains side facing windows and private open space which are within 9.0m from both the northern (No.58 Hudson Parade) and southern (No.62 Hudson Parade) neighbours.

Submissions in relation to privacy have been received by both adjoining neighbours and are considered below.

Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying outcomes of the control as follows:

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

No.58 Hudson Parade (north)

Windows and balcony

The northern facade of the existing dwelling contains a large number of existing windows which result in potential overlooking to the adjoining neighbour to the north. The proposal predominately seeks to replace or retain these windows in similar locations to what currently exists. As this is an existing situation, these replacement windows are considered acceptable in this instance.

The new two storey addition, directly to the east of the existing dwelling, will contain northern facing windows. However, these windows will be suitably offset from the windows and private open space of No.58 Hudson Parade and are not anticipated to result in unreasonable privacy impacts.

The new "gallery" addition will contain windows for the entire length of the northern facade. However, these windows will be over 10m from the northern side boundary and southern facing windows of No.58 Hudson Parade. Additionally, screen planting and new pool fencing is proposed which will provide a degree of privacy. Furthermore, this "gallery" is designed as a walkway for momentary access and its narrow design does facilitate prolonged usage. Given the spatial separation and design of this gallery, as well as the implementation of screen planting, the proposed northern windows are not anticipated to result in unreasonable privacy impacts.

The proposed eastern pavilion of the development (adjacent to and above the proposed garage), proposes a terrace located off "bedroom 4". During the assessment of the application, amended plans were received which reduced the size of this terrace and increased the side setback to 5.5m. These amended plans also provided additional screen planting along the northern side boundary adjoining this terrace area. The elevation and setback of this terrace as well as proposed screen planting is considered to retain reasonable privacy from No.58 Hudson Parade's private open space. This terrace will also adjoin (and be above) a green roof which will mitigate downward overlooking and provide additional screen planting. Furthermore, this terrace would serve a bedrooms which are not considered high usage areas. If approved a condition is to be imposed to ensure the area labelled as "green roof" is to be non-trafficable for the life of the development.

Swimming pool and terrace

The proposed swimming pool and associated coping/terrace will be 1.6m from the northern side boundary and south facing bedroom windows of No.58 Hudson Parade. During the assessment of this application, amended plans were received which increased the side setback of the pool to facilitate additional screen planting along the northern side boundary. Given the fall of the land to the north, the pool fence will be elevated above these adjoining windows. As such, the location and height of the pool fence will mitigate privacy impacts and overlooking into these adjoining windows for the users of the proposed pool. Additionally, the proposed pool contains a minimal amount of decking/coping adjacent to this neighbour, which will limit overlooking opportunities. Furthermore, screen planting is proposed adjacent to this boundary which will provide additional visual and acoustic privacy. If approved conditions will be imposed requiring the northern elevation of the pool balustrade/fence to be solid or obscured glazed for the life of the development. It should also be noted that following a referral to Council's Heritage Officer, conditions have been recommended to increase the northern side setback of the pool to 2m to allow for more landscaping which will further assist to mitigate privacy impacts.

No.62 Hudson Parade (south)

Windows

The proposed southern facade contains a number of windows which will be within 9.0m from the southern (No.62 Hudson Parade) neighbour's windows and private open space. The submitted plans and supporting documents indicate that all proposed windows on the southern elevation of the

dwelling will be obscured glazed and casement windows (to max. 45 deg opening) to allow for light and ventilation. This window treatment will mitigate potential privacy impacts. This will also be secured by conditions of consent.

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

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

Comment:

The proposed development is considered capable of providing a sense of territory and safety for residents on the subject site and adjoining properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

C1.14 Separately Accessible Structures

The Pittwater 21 DCP stipulates within Clause C1.14 that separately accessible structures may be permitted provided that they are not designed for separate habitation and do not contain any cooking facilities. The application proposes alterations and additions to provide a separately accessible lower ground floor. Within this lower ground floor a new kitchenette, including cooking facilities is proposed contrary to Clause C1.14.

In order to achieve compliance with this control, the development will be conditioned over the life of the development so to ensure the lower ground floor addition will not be used for the purposes of separate habitation including a secondary dwelling or dual occupancy. An additional condition will be applied over the life of the development to to remove and prohibit the installation of cooking facilities.

In order to achieve compliance with this control, the development will also be conditioned over the life of the development so to ensure that the proposed eastern pavilion of the development (adjacent to and above the proposed garage) is not to be used for the purposes of separate habitation including a secondary dwelling or dual occupancy.

An additional condition will be applied over the life of the development to prohibit the installation of cooking and laundry facilities within this eastern pavilion.

C1.24 Public Road Reserve - Landscaping and Infrastructure

The proposed works in the road reserve have been reviewed by Council's Landscape Officer and Development Engineer and Roads Assets Officer who have raised no objections, subject to conditions.

D1.1 Character as viewed from a public place

Description of non-compliance

Clause D1.1 of the P21DCP states that parking structures should be located behind the front building line, preferably setback further than the primary building. The proposed garage would be set forward of the primary building to the Hudson Parade frontage and therefore does not comply with the

requirements of the control. Council may consider a variation for parking spaces in front of building line where site constraints limit location. With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Merit Assessment

With regard to the consideration for a variation, the proposed 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 is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to *A4.1 Avalon Locality* of the Pittwater 21 DCP.

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

Comment:

The western side of Hudson Parade accommodates examples of parking structures located forward of the front building line, most notably the adjoining neighbour No.62 Hudson Parade. Additionally, the subject site has an approved hardstand parking area and carport forward of the existing building. In this regard, the location of the structure will not be out of context with the established streetscape character. The garage will predominately be built over an existing driveway/hardstand area. Suitable vegetation and landscaping is retained within the front setback which will alleviate the visual impacts of the garage when viewed from the street and surrounding properties. Based on the above, it is concluded that the development responds to the spatial characteristics of the existing built and natural environment.

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

Comment:

The garage is sited below the established tree canopy and average eye level when viewed from the street. Further, the development will appear as single storey when viewed from the street due to the cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with surrounding development.

- ***The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation.***

Comment:

Sufficient areas of landscaping will be retained within the front setback to facilitate plantings to

minimise the built form.

- ***High quality buildings designed and built for the natural context and any natural hazards.***

Comment:

The proposal is of a high quality design that fits within the natural context. The development was accompanied by a Geotechnical report that provided recommendations to ensure it appropriately responds to the natural hazards of the site.

- ***Buildings do not dominate the streetscape and are at 'human scale'.***

Comment:

Given the significant slope of the site, the garage would be below street level and would not dominate the streetscape and would appear "human scale". The development will not dominate the streetscape of the locality.

- ***To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.***

Comment:

The proposal is not anticipated to result in unreasonable view loss from the road. The works will be located behind (eastward) of the existing dwelling and the front of the site includes dense screen vegetation and canopy trees which filter existing views.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

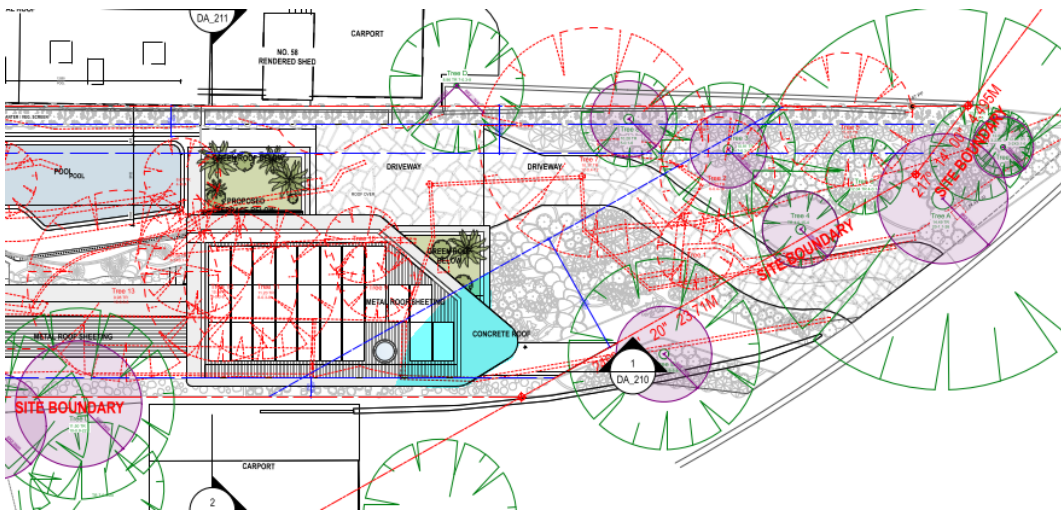
D1.8 Front building line

Description of Variation

Clause D1.8 of the P21DCP requires development (other than driveways, fences or retaining walls) to be setback at least 6.5m from the front boundary or the established building line, whichever is greater.

- The proposed garage will have a front setback of 2.3m - 8.7m
- The proposed new upper floor addition will have front setback of 2.3m (entry roof) and between 3.3m - 14m for the dwelling addition

The area which protrudes in front of the 6.5m requirement is highlighted in blue in figure 1 below:



It should be noted that the site is an irregular shaped block with a obtuse angled frontage as demonstrated in the figure above.

It should also be noted that the existing house on the subject site has been identified as having potential heritage significance. As such, in order to retain the built form characteristics of the existing dwelling, the proposed additions have been situated closer to the front boundary to retain a degree of separation between the existing house.

Merit Consideration

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

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

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Locality of the Pittwater 21 DCP.

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

Comment:

The subject site adjoins a local road, therefore, this outcome is not applicable.

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

Comment:

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. The application is also

supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal. Sufficient landscaped area has been retained along the frontage of the site to accommodate plantings to minimise the built form.

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

Comment:

A turning bay has been provided to facilitate vehicle maneuvering in a forward direction on Hudson Parade.

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

Comment:

The development will appear as single storey when viewed from the street due to the cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with development along the low side of Hudson Parade. Sufficient landscaped area has been retained along the frontage of the site to accommodate plantings to minimise the built form and maintain pedestrian amenity.

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

Comment:

The western side of Hudson Parade accommodates examples of structures located forward of the front building line, most notably the adjoining neighbour No.62 Hudson Parade. Additionally, the subject site has an approved hardstand parking area within the front setback. The area and width of the structures within the front setback will be minimal, and the vast majority of the front setback area will be retained as landscaped area. Suitable vegetation and landscaping is retained within the front setback which will alleviate the visual impacts of the structures when viewed from the street and surrounding properties. Based on the above, it is concluded that the development responds to the spatial characteristics of the existing built and natural environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P21DCP 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

Clause D1.9 of the Pittwater 21 DCP requires development to be setback 2.5m from one side boundary and 1.0m from the other side boundary. The site does not have a rear setback as the foreshore building line applies for the site. For this assessment, the 2.5m control is applied to the northern side boundary, and the 1.0m applied to the southern boundary.

The development proposes the following non-compliance:

Northern side setback- 1.6m (Pool coping/fence and deck)

Southern side setback - Complies

Rear setback - FBL Applies - Complies

It should be noted that during the assessment of this application amended plans were received which increased the northern side setback of the "games room" from 1m to 2.5m and increased the northern side setback of the pool coping and deck from 1m to 1.6m. The height of this pool deck/coping was also lowered 500mm.

It should also be noted that following a referral to Council's Heritage Officer, conditions have been recommended to increase the northern side setback of the pool to 2.0m to allow for more landscaping and for the proposal to present within a greater landscaped setting.

Merit Consideration

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

Comment

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality.

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

Comment

The pool deck and fence will be well within building height and envelope requirements. The floor level of the deck/coping will be less than 1m above existing ground level and will be of minimal bulk. Subject to conditions, requiring a 2m setback from the northern boundary, suitable areas of landscaping along the side setback will assist to minimise the perceived bulk of the structure from the adjoining neighbour.

- ***Equitable preservation of 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 adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. The side setback non-compliance will not result in unreasonable view loss.

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

Comment

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development (subject to conditions). Furthermore, subject to conditions requiring a 2m setback from the northern boundary, the proposal would allow for suitable landscaping along side boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

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

Comment

The proposed development will be softened by existing and proposed landscaping as seen from the street, waterway, public reserve and adjoining properties. The application is supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions.

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

Comment

The proposed development is sited with varying setbacks, which ensure appropriate articulation and modulation of built form. Despite non-compliance in small areas, the proposal is considered to be an appropriate response to the development of the site. Adequate pedestrian access to the site is maintained.

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

Comment

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

- ***A landscaped buffer between commercial and residential zones is achieved.***

Comment

N/A the subject site does not adjoin a commercial zoned area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 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

D1.11 Building envelope

Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries.

The proposed development extends beyond the prescribed building envelope along the southern side elevation, as indicated in the figure below.



Figure 1 - Proposed building envelope non-compliance on the southern elevation (highlighted in green).

Merit consideration

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

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

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Locality of the Pittwater 21 DCP.

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

Comment:

The proposed works are below the 8.5m height limit and is a compatible height and scale of the existing site, adjoining properties, and the wider visual catchment. The proposed non-compliance will not readily be visible as viewed from the streetscape due to its siting towards the middle/rear of the site and would be below road level. The proposed dwelling additions would be generally consistent with the form of the existing dwelling when viewed from Hudson Parade. Further, the development will appear below the tree canopy when viewed from the street due to the cross fall of the site away from the frontage. The proposed development is generally set below the height of the trees adjoining the site and in the locality.

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

Comment:

The proposal is designed to integrate with the existing dwelling. The proposed development involves modest excavation works, is set below the general tree canopy height, is below the required building height. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. The proposed tree removal has been reviewed by Council's Bushland & Biodiversity and Landscape Officers who have raised no objection subject to replacement planting. The proposal is also supported by a Flora and Fauna Assessment Report which concludes that:

"It is not anticipated that any threatened flora or fauna will be significantly impacted by the proposed development as long as the impact mitigation measures outlined in this report, are to implemented to reduce impacts to native vegetation and fauna where possible."

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

Comment:

The proposed development exhibits a compliant building height and proposes sufficient building separation. Furthermore, the proposed design of the first floor extension will compliment the existing dwelling. Therefore, the bulk and scale of the built form has been adequately minimised.

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

Comment:

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. The building envelope non-compliance is not anticipated to result in unreasonable view loss.

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

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development (subject to conditions).

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

Comment:

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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.

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The control requires a minimum of 60% (743.4sqm) of the total site to be landscaped area.

The proposed development provides **54%** (677sqm) of the total site area as landscaped area, which represents a variation of 9%.

Upon achievement of the objectives of the Control, the variations provision allows for up to 6% of the site to be impervious landscape treatment provided such areas are used for outdoor recreational purposes only. Upon achievement of the aforementioned variation, the landscape area total would increase to 60%.

It should also be noted that following a referral to Council's Heritage Officer, conditions have been recommended to increase the northern side setback of the pool to 2m to allow for more landscaping and for the proposal to present within a greater landscaped setting. This will further increase the landscaped area of the site.

Merit consideration

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

- ***Achieve the desired future character of the Locality.***

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Locality of the Pittwater 21 DCP.

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

Comment:

The site will retain a landscaped setting surrounding a built structure, which is compatible with the surrounding developments in the immediate vicinity, and within the wider community of Avalon Beach. The proposed development exhibits a compliant building height and proposes sufficient building separation and would be generally consistent with the built form of the existing dwelling. The submitted landscape plan details new and existing trees and vegetation to assist in reducing the perceived bulk and scale of the development from the public domain and adjacent properties. In this instance, the proposed development is considered to achieve compliance with this outcome.

- ***A reasonable level of amenity and solar access is provided and maintained.***

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development (subject to conditions). Furthermore, the proposal would retain suitable landscaping along the side boundaries and within the foreshore area to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

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

Comment:

Whilst there is tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. An Arboricultural Impact Assessment and Flora & Fauna Report has been submitted as part of the application which recommend a series of mitigation and management measures to protect retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

It is of further note that during the assessment of the application, amended plans were received which deleted the proposed boatshed to enable the retention of trees within the foreshore area.

- ***Conservation of natural vegetation and biodiversity.***

Comment:

As above, the proposal involves tree removal to facilitate the development, including one spotted gum tree. The proposal is supported with a Flora and Fauna Assessment (Narla Environmental September 2023), which has concluded that a significant impact to the endangered ecological community is unlikely. The proposal (as amended) seeks to retain other spotted gum tree located on and adjoining the site. The application is also supported by a landscape plan, which demonstrates an enhancement of natural vegetation. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned

replacement planting ensure that this objective is achieved.

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

Comment:

The proposal has been reviewed by Council's Development Engineer and Water Management Officer, having regard to provisions for stormwater management and has raised no objection subject to conditions included in the recommendation of this report. It is considered the pervious surface within the property is capable of reducing stormwater runoff, preventing soil erosion and siltation of natural drainage channels.

- ***To preserve and enhance the rural and bushland character of the area.***

Comment:

As above, the proposed development involves tree removal, but is not considered to impact core bushland and the proposed landscaping and tree replacements will ensure no significant net loss of vegetation. The application is supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. During the assessment of the application, amended plans were received which deleted the proposed boatshed to enable the retention of trees within the foreshore area. The application has been reviewed by Council's Bushland and Biodiversity officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions.

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

Comment:

The on-site capacity of pervious surface is considered capable of providing infiltration of water to the water table, minimising run-off and assisting with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP 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 \$22,064 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,206,369.

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 development application seeks consent for the construction of alterations and additions to an existing dwelling including a new swimming pool.

The application is referred to the Development Determination Panel (DDP) as eight (8) objections were received in response to the notification.

The concerns raised in the objections have been addressed and resolved by amended plans and additional information, as well as imposed conditions of consent.

The critical assessment issues include heritage; tree removal and biodiversity; landscaped area; front and side setbacks; building envelope; privacy; view sharing; solar access; and character.

Subject to the recommended conditions of consent, it is considered that the amended proposal will result in a development that displays reasonable size, scale and density which is compatible with the existing site and surrounding development and will not result in unreasonable amenity impacts to

surrounding properties.

Overall, the proposal is considered a reasonable response to the site constraints and relevant planning controls.

Accordingly, the application is referred to the DDP with a recommendation 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 DA2022/1715 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 56 DP 7794, 60 Hudson Parade, CLAREVILLE, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA_003	C	Site Plan	Bennett Murada Architects	28/08/2023
DA_004	C	Demolition Plans - Lower Ground + Ground	Bennett Murada Architects	28/08/2023
DA_005	C	Demolition Plans - Level 01 + Roof	Bennett Murada Architects	28/08/2023
DA_100	C	Proposed Lower Ground Floor Plan	Bennett Murada Architects	28/08/2023
DA_101	C	Proposed Ground Floor Plan	Bennett Murada Architects	28/08/2023
DA_102	C	Proposed First Floor Plan	Bennett Murada Architects	28/08/2023
DA_103	C	Proposed Roof Plan	Bennett Murada Architects	28/08/2023

DA_112	C	Cut and Fill Plan	Bennett Murada Architects	28/08/2023
DA_200	C	East + West Elevations	Bennett Murada Architects	28/08/2023
DA_201	C	North + South Elevations	Bennett Murada Architects	28/08/2023
DA_210	C	Longitudinal Section	Bennett Murada Architects	28/08/2023
DA_211	C	Cross Section	Bennett Murada Architects	28/08/2023
DA_212	A	Elevation + Section	Bennett Murada Architects	07/09/2023
DA_400	B	Calculations - Landscape Areas	Bennett Murada Architects	28/08/2023
DA_00	B	Schedules of Colours and Materials	Bennett Murada Architects	28/08/2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Flora and Fauna Assessment Report	1.0	Narla Environmental Pty Ltd	01/09/2023
BASIX Certificate (A470828)		Bennett Murada Architects	26/09/2023
Arboricultural Impact Assessment Report	Rev.B	Martin Peacock Tree Care	26/09/2023
Geotechnical Investigation Report	R.001.Rev0	Douglas Partners Pty Ltd	02/08/2022

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	31/10/2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on

Council's website 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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

"dwelling house means a building containing only one dwelling."

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. **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.

5. No Works on Adjoining Land

All approved works are to be located entirely within the subject site. No Approval is granted under this consent for any works within or on the property boundaries of adjoining privately owned land.

Reason: To ensure compliance with the terms of this consent.

6. No Approval for works within the foreshore area

No works are permitted within the foreshore area and this consent does not authorise or regularise existing development within the foreshore area.

Reason: To ensure compliance with the relevant Local Environmental Plan and to ensure the work is carried out in accordance with the determination of Council and approved plans.

7. 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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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 sewer 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.

8. **No Approval for Secondary Dwelling**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

Reason: To ensure compliance with the terms of this consent.

FEES / CHARGES / CONTRIBUTIONS

9. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$22,063.69 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 \$2,206,369.00.

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.

10. **Security Bond**

A bond (determined from cost of works) of \$10,000 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).

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

11. **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in Table 10 of the Flora and Fauna Assessment Report (Narla Environmental September 2023) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist and provided to the Certifier prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

12. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

13. Amendment of Landscape Plans

The submitted Landscape Plan is to be amended in accordance with the following:

- Deletion of the majority of plant species as they are not characteristic of the Pittwater Spotted Gum endangered ecological community, including any native cultivars.
- Replacement with species to ensure that at least 80% of any new planting incorporates native vegetation (as per species listed for the Pittwater Spotted Gum Endangered Ecological Community)
- Provision of four native replacement trees including one each of *Eucalyptus crebra* (Narrow leaved Ironbark), *Golchidion ferdinandi* (Cheese Tree), *Corymbia maculata* (Spotted Gum), and *Allocasuarina torulosa* (Forest Sheoak).
- Incorporation of the increased side setback to the swimming pool and associated redesign of pool edge.

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifier prior to issue of the Construction Certificate.

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

14. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

15. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the rear to Pittwater.

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

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

16. 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 Douglas Partners dated 2/8/2022 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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

17. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: To protect the receiving environment.

18. Water Quality Management

The applicant must install a sediment control pit that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

19. Pool Design and Setback

Amended plans shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:

- An increase to the pool's northern wall outside edge setback to 2m with the additional setback area replaced with soft landscaping; and
- The pool amended to a straightened edge design.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To provide an appropriate pool and landscaping design to the Rickard House

20. **Amendments to the approved plans**

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

- a) **Lower Ground Floor Kitchenette/Cooking Facilities:** The cooking facilities within the "lower ground floor Kitchenette" shall be deleted from the plans.
- b) **Ridge height:** The annotation "PROP RIDGE 16.35" and "BUT RAISED BY 350MM" on the northern elevation plan (DA_201 Rev.C) shall be deleted from the plans.
- c) **Southern elevation windows:** All proposed windows on the southern elevation shall be fitted with obscured glazing be designed to be fixed (non-operable) or casement with a maximum opening of less than 45 degrees.
- d) **Swimming Pool Balustrading/fence** - The proposed swimming pool to incorporate solid balustrading/fencing for the entire length of the northern elevation. This balustrading is to be constructed of nontransparent material or opaque glazing measured at a height of at least 1.0m above the finished floor level.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

21. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

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

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following

documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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 ensure no substance other than rainwater enters the stormwater system and waterways.

23. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of vehicular crossing and retaining walls in the road reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. A vehicular crossing 3.5 meters wide to be constructed in accordance with Council's standard drawing Maximum Low Skew.
2. Engineering Long sections at both edges and centerline of the driveway.
3. Structural details for the retaining structures along both sides of the roadway.
4. Sight distances are to be in accordance with AS2890.1.
5. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess all proposed works including road works and retaining walls
6. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided

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 Certifier prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

24. 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 Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property.

25. 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 Certifier prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

26. Photographic Archival Recording

A full photographic archival recording is to be made of the site (including interiors and exteriors), surrounding structures and buildings as well as their setting (including any major landscape elements). This record is to be prepared generally in accordance with the guidelines issued by NSW Heritage and must be submitted to Council's Heritage Officer for approval, prior to the issue of a Construction Certificate.

The photographic record should be made using digital technology and must include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which fully document the site cross referenced in accordance with recognised archival recording practice to catalogue sheets.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To provide an archival photographic record of this site prior to the commencement of any works.

27. Engagement of Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the Narla Environmental Pty Ltd Report (reference).

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

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR

- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

28. **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 Certifier prior to the issue of the Construction Certificate.

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

29. **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 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.

30. **Construction site management plan**

Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

31. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- Details for loading and unloading of materials
- Details for maintaining access to adjacent properties
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Location of Parking
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Take into consideration the combined construction activities of other development in the surrounding area.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- Proposed protection for Council and adjoining properties

The Construction Traffic Management Plan shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

32. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Pittwater 21 Development Control Plan and Council's Waste Management Guidelines.

Details demonstrating compliance must be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

33. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

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

a) section 9.0, including 9.1 to 9.13 inclusive.

All tree protection measures specified must:

a) be in place before work commences on the site, and

b) be maintained in good condition during the construction period, and

c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

34. Tree Removal Within the Property

This consent approves the removal of existing prescribed trees on the subject site as identified in the Arboricultural Impact Assessment, approved Plans, or as listed below:

a) T1, T2, T9, T10, and T11,

b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

35. 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.

- 58 Hudson Parade, Clareville
- 62 Hudson Parade, Clareville

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.

DURING BUILDING WORK

36. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

37. **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/Project 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 as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

38. Compliance with Ecologist's Recommendations – During Construction

All biodiversity-related measures are to be implemented during construction in accordance with those specified in Table 10 of the Flora and Fauna Assessment Report (Narla Environmental September 2023).

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

39. 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.

40. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

41. **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.

42. **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.

43. **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.

44. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

45. 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 Certifier.

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

46. 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.

47. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

48. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

49. Aboriginal Heritage

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

Department of Planning and Environment.

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

Reason: Aboriginal Heritage Protection.

50. **Stockpiling of Topsoil**

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment.

51. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (http://www.rms.nsw.gov.au/businessindustry/partners_suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

52. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

53. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plans prepared by Arcadia dated August 2023 and referenced as sheets 02 to 29, and detailed plans 000, 4000, 401, 601 and specification, all issue E, dated 23.08.23, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) any landscape works proposed for the road reserve shall be included as part of the s.138 works within the road reserve application, for approval or otherwise,
- c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plans,
- d) all *Pennisetum* species shall be deleted and replaced with non spreading species.

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.

54. Condition of Retained Vegetation - Project Arborist

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

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

Reason: Tree and vegetation protection.

55. Compliance with Ecologist's Recommendations – Post Construction

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with those specified in Table 10 of the Flora and Fauna Assessment Report (Narla Environmental September 2023).

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

56. Protection of Habitat Features – Certified by Ecologist

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

57. Fencing for Wildlife Passage

Any new permanent fencing (with the exception of swimming pool fencing) is to be made passable to native fauna through the provision of access gaps or raised fencing to provide appropriate ground clearance. Any access gaps are to be a minimum of 150mm wide x 100mm high at ground level and spaced at a minimum of 6m intervals.

Details demonstrating compliance are to be provided the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To preserve wildlife corridors.

58. Replacement of Canopy Trees

At least four locally native canopy trees are to be planted on site to replace protected trees approved for removal. Species are to include one each of *Eucalyptus crebra* (Narrow leaved Ironbark), *Golchidion ferdinandi* (Cheese Tree), *Corymbia maculata* (Spotted Gum), and

Allocasuarina torulosa (Forest Sheoak).

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

59. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

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

60. Priority Weed Removal and Management

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the development footprint are to be removed.

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

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

61. Stormwater Disposal

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

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

62. 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.

63. **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.

64. **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

65. **Acoustic Treatment of Pool Filter**

The pool filter is to be acoustically treated so that it does not emit any noise louder than 5dB (A) above background noise at the nearest residential receiver. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the acoustic amenity of the neighbouring residents.

66. **Retaining wall**

The retaining wall works in the road reserve 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 Certifier prior to the issue of an Occupation Certificate.

Reason: Public and Private Safety

67. **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.

68. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

(a) Flora and Fauna Assessment Report, dated 01/09/2023, prepared by Narla Environmental Pty Ltd.

(b) Arboricultural Impact Assessment Report, dated 26/09/2023, prepared by Martin Peacock Tree Care

(c) Geotechnical Investigation Report, dated 02/08/2022, prepared by Douglas Partners Pty Ltd

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the

issue of an Occupation Certificate.

Reason: To ensure compliance with standards.

69. **House / Building Number**

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

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

Reason: Proper identification of buildings.

70. **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 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, 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 Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

71. 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 Plans and any conditions of consent.

The approved landscape planted areas shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

72. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

73. Replacement of Canopy Trees

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

74. Maintenance of Stormwater Treatment Measures

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: To protect the receiving environment.

75. 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.

76. Swimming Pool/Spa Motor Noise

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

77. **Non-trafficable roof**

The area labelled "Green Roof " on the approved plans (DA_102 Rev.C) shall be non-trafficable for the life of the development or unless otherwise approved by Northern Beaches Council.

Reason: To ensure the visual privacy of the neighbouring residents.

78. **Plant Noise**

Any plant equipment associated with the development must be installed and operated at times so as not to cause 'offensive noise'. It must be demonstrated that the noise level will not exceed 5dBA above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

79. **Use of Eastern Pavilion**

The proposed eastern pavilion of the development (adjacent to and above the proposed garage) is not to be used for the purpose of separate habitation (including a secondary dwelling or dual occupancy) and is not to contain any cooking facilities.

Reason: To ensure that the ground floor remains ancillary to the dwelling house.

80. **Use of "Lower ground floor level"**

The proposed "Lower ground floor level" is not to be used for the purpose of separate habitation (including a secondary dwelling or dual occupancy) and is not to contain any cooking facilities.

Reason: To ensure that the ground floor remains ancillary to the dwelling house.