

From:
To:
Subject: FW: DA2021/ 1522: Key Points
Date: Wednesday, 2 February 2022 1:36:01 PM
Attachments: [image002.png](#)
[image.png](#)
[Assessment Report 20 Jan 2022.pdf](#)
[NBC Panel Advice Letter 25Jan2022.pdf](#)
[Assessment Report 01Feb2022.pdf](#)

From: Kylie Herbst
Sent: Wednesday, 2 February 2022 1:04 PM
To: Carly Sawyer <
Cc: Adam Mitchell ; [Chris Zonca](#)

Subject: DA2021/ 1522: Key Points

Hi Carly

Thank you for your time earlier. As mentioned in our telephone conversation from 12:21pm today, the key points I raised with you are summarised below and I would appreciate you drawing these to the attention of the Panel Chair. Please thank Mia for her great customer service from 12:03-12:11pm.

Point 1.

Change in information available between the deadline to submit a request to address the panel and the panel hearing.

The letter received from the council requires that individuals who wish to address the panel put the request in writing 48 hours prior. Unfortunately, an updated copy of the assessment report and further submission information has been provided. People have not been given time and opportunity to reconsider any decision not to speak at the panel. I for one would have chosen to speak. Further, where people have engaged expertise, no time and opportunity has been afforded them to review their position. for reference I have attached the Assessment Report released on 20Jan2022 and the latest dated 01Feb2022.

The screenshot shows a web browser window with the URL eservices.northernbeaches.nsw.gov.au/ePlanning/live/Public/XC.Track/SearchApplication.aspx?id=2006604. The page title is "Application Number: DA2021/1522". The interface includes a sidebar menu with sections for "Applications", "Properties", and "Planning and Maps". The main content area displays the following details:

Description:	New - Demolition works and construction of a dwelling house
Application Type:	Development Application
Status:	Notified
Submitted:	30/08/2021
Notification Period:	02/12/2021 to 16/12/2021
Cost of Work:	\$ 2,725,000
Officer:	Adam Mitchell
Submissions:	Make a submission

Below the details is a table with tabs for "Location", "People", "Events", "Documents", and "Show All". The "Documents" tab is active, showing a list of documents:

Document Name	Date
Submission - Maple-Brown & Donoghue	02/02/2022
Submission to NBLPP - Durie	01/02/2022
Submission to NBLPP - Morris	01/02/2022
Assessment Report	01/02/2022

Point 2.

The letter received regarding the panel does not make clear it is not possible to attend the panel virtually in real time. In speaking to my neighbours this has caused some confusion as people

would have connected to a real time feed if available.

Point 3.

Several photos were sent to Adam Mitchell which were to be used for assessment purposes as no height poles or templates were ever erected to provide an indication of height. Adam confirmed none would be published or be publically available which is not the case (please refer to the Assessment. No permission was later sought for the photograph to be made publically available. This is a breach of privacy. Please coordinate with Adam and the panel to remove the photograph. (Height poles can be erected on the site which would resolve all doubt about the impact of the amended design for immediate neighbours.)

Kind regards

Kylie

----- Forwarded message -----

From: **Kylie Herbst**

Date: Wed, 2 Feb 2022 at 11:08

Subject: Re: Photos with Chris and 3900mm high ladder

To: Adam Mitchell

Cc: Chris Zonca

Hi Adam

I have read the Assessment date 20 January 2022 and notice that one of the photos sent has been published online despite your advice that it would not. Also the photo used would be the least impactful of the suite sent.

Respectfully request that you remove this photo as promised or include all photos for completeness.

Kind regards

Kylie

On Mon, 17 Jan 2022 at 09:21, Adam Mitchell wrote:

Good morning Kylie,

Confirming receipt of your two emails.

Thanks for the photographs, these will assist greatly in my assessment. I will file them in our database (but not publish online).

Kind regards,

Adam Mitchell
Principal Planner

northernbeaches.nsw.gov.au



From: Kylie Herbst
Sent: Monday, 17 January 2022 8:35 AM
To: Adam Mitchell
Cc: Chris Zonca

Subject: Photos with Chris and 3900mm high ladder

Hi Adam

Here are the photos as promised. I have another swathe of photos as well from different angles if you are interested. All of these were sent to our consultant Bill Tulloch. Let me know if you would like this final tranche of photos sent through as well.

Kind regards

Kylie

Northern Beaches Council

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DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1522
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot C DP 381427, 189 Riverview Road AVALON BEACH NSW 2107 Lot LIC 567410, 189 Riverview Road AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	James Paul Durie
Applicant:	James Paul Durie

Application Lodged:	30/08/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	02/12/2021 to 16/12/2021
Advertised:	Not Advertised
Submissions Received:	56
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,725,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for the demolition of existing structures on the site, preparation works and the construction of a new dwelling house with swimming pool.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to public interest as more than 50 objections to the proposal have been received.

Concerns raised in the objections relate to impact on biodiversity and particularly, the Pittwater Spotted Gum Endangered Ecological Community. Concerns were also raised about the scale of the building and consequent amenity impacts on both the public and private domain.

The applicant elected to redesign the proposal in response to community and Council concerns that had been raised. The subsequent amended plans reduce the footprint of the building, redesign the facades and reduce the quantum of tree removal from 17 trees to 11 trees. Tree removal is the most contentious issue raised by the community and therefore, the following notes provided by Council's Landscape Officer are relevant with regards to the 11 trees to be removed:

- Tree T1, T2 and T3 - these are exempt species and can be removed without Council's approval.
- Trees 3b, 10, 11 and 20 - these trees are all identified as being in poor health with a low retention value as a result of being suppressed by more significant canopy trees, as well as the presence of borers and termites.
- Tree T18 - is identified as being in poor health with a number of dead limbs and a termite nest in the lower canopy.
- Tree T21 - is identified as being impacted by termites with visible decay present.
- Tree T28 - is identified as having a poor canopy development, likely a result of previous construction works that saw hard surfaces and retaining walls within its TPZ.

Tree T38 - is identified as having visible decay and is in a period of decline.

The above comments refer to all of the trees that are proposed to be removed.

This report therefore considers that the proposed impacts on vegetation are acceptable and are appropriately compensated via conditions and new plantings. The impacts caused by the development upon adjoining land have been significantly lessened in the amended plans and, consequent of those, are considered to be acceptable subject to conditions.

The public interface of the development to Riverview Road and to the Pittwater waterway is considered to be acceptable and maintains the bushland character of the locality.

The proposed development has been designed to be capable of being the first residential dwelling in Australia to be accredited by the Green Building Council of Australia.

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

PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for the demolition of the existing dwelling and for the construction of a new detached dwelling house inclusive of an elevated swimming pool.

Specifically, consent is sought for the following works:

- Demolition of existing two-storey dwelling, stone driveway and pathways on the eastern half of the lot.
- Excavation and fill works to the existing lower-ground floor level of the current dwelling (approx. 382m³).
- Removal of eleven (11) trees including three (3) exempt species that do not require Council approve to be removed (identified as Trees 1, 2 and 3), four (4) trees identified as being in poor health with a low retention value (Trees 3b, 10, 11, 20), two trees that are identified as being impacted by termites (Tree 18 and 21), and two (2) trees with poor development and/or decline (Tree 28, 38).
- Construction of a tiered dwelling house across six levels.
- Construction of an elevated swimming pool on 'Level - 2'.
- Construction of external timber stairs and inclinator to the northern edge of the dwelling.
- Associated landscaping works including the planting of sixteen (16) new canopy trees and 1,742 other plants as specified in the Planting Schedule.

The building proposed is to be finished with glazing, vertical gardens, sandstone cladding, semi-open breezeblock walls and timber batons. The building is to be topped with a 304m² living green roof.

AMENDED PLANS

Council wrote to the applicant on 22 October 2021 outlining a number of concerns with the application that had been identified by Council and the community. The applicant responded to these concerns in late November by submitting a revised design and accompanying documentation. The revised plans (as described above) were re-exhibited and form the basis of this assessment.

Herein, these revised plans are referred to as the 'development'.

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 - 5.7 Development below mean high water mark

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 21 Development Control Plan - A4.1 Avalon Beach Locality

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 - 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 - C1.19 Incline Passenger Lifts and Stairways

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

<p>Property Description:</p>	<p>Lot C DP 381427, 189 Riverview Road AVALON BEACH NSW 2107 Lot LIC 567410, 189 Riverview Road AVALON BEACH NSW 2107</p>
<p>Detailed Site Description:</p>	<p>The subject property is legally described as Lot C in Deposited Plan 381427 and is known as 189 Riverview Road, Avalon Beach.</p> <p>The site falls within the C4 Environmental Living zone pursuant to the Pittwater Local Environmental Plan. The very western edge of the site is bound by the W1 Natural Waterways zone.</p> <p>The site is generally trapezoidal in shape with a width to the street of 18.2m and depths of 60.35m and 59.13m.</p> <p>The site presently accommodates a stone driveway and parking platform to the front of the site. A one and two storey older dwelling sits centrally within the site. The western half of the site has been newly landscaped with a series of pathways and stairways leading to a timber jetty and slipway on the waters edge.</p> <p>Topographically the site slopes steeply from the street to the water (east to west) by 32m via a reasonable consistent slope. Several large rock outcrops and rock shelves, including a cave, exist on the site, generally in the western half of the site.</p> <p>The site accommodates mature vegetation throughout including numerous established native trees that form part of the wider Pittwater Spotted Gum endangered ecological community.</p> <p>Surrounding properties consist of other detached dwelling houses of varying age, size and construction.</p>

Map:



SITE HISTORY

PLM2021/0118

A meeting was held with Council on 08 June 2021 to discuss a proposal for the construction of a new dwelling house. That proposal was of a form generally similar to the submitted development application plans, but was larger in floor area and of a more square appearance. In the meeting notes Council advised that the design, in its proposed form, was not supported based on numerous non-compliances with the PLEP and P 21 DCP controls.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested and provided by the applicant in November 2021, and was re-notified to surrounding neighbours.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 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 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited on two occasions with the most recent public exhibition from 02/12/2021 to 16/12/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 56 submission/s from:

Name:	Address:
Mr Christopher John Zonca Mrs Kylie Herbst	174 Riverview Road AVALON BEACH NSW 2107
Mr Anthony Craig Boaden	34 Trappers Way AVALON BEACH NSW 2107
Henry Coleman	12 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Premananda Grace	Address Unknown
Mr Darren Joseph Drew	166 Riverview Road AVALON BEACH NSW 2107
Mr Keith James Woodward	182 Riverview Road AVALON BEACH NSW 2107
Mr Eric Leon Gumley	724 Barrenjoey Road AVALON BEACH NSW 2107
Ben Reay	4 Bilga Avenue BILGOLA PLATEAU NSW 2107
Harrison West	22 Coonanga Road AVALON BEACH NSW 2107
John Sheehan	Address Unknown
Avalon Preservation Trust Incorporated as Avalon Preservation Association	24 Catalina Crescent AVALON BEACH NSW 2107
Mrs Helen Jean Mackay	53 Hilltop Road AVALON BEACH NSW 2107
Mr Peter Allan L'Green Mrs Vicki Ann L'Green	1 Shore Brace AVALON BEACH NSW 2107
Ms P King	38 Riverview Road AVALON BEACH NSW 2107
Mrs Marita Ann Macrae	24 Catalina Crescent AVALON BEACH NSW 2107
Dr Rohan Thomas Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Mrs Michele Lillian Petrie	185 Riverview Road AVALON BEACH NSW 2107
Mrs Karen Lorraine Alchin	49 Riverview Road AVALON BEACH NSW 2107
Ms Linda Anita Jansen	4 Mariposa Road BILGOLA PLATEAU NSW 2107
Mr Mark Ernest Alchin	49 Riverview Road AVALON BEACH NSW 2107
Mr Mark Graham Pearsall	10 Beauty Drive WHALE BEACH NSW 2107
Mr Stuart Mackenzie Walker	28 Riviera Avenue AVALON BEACH NSW 2107
Pittwater Natural Heritage Association	PO Box 187 AVALON BEACH NSW 2107
Kathrin Zeleny	24 Edward Street NORTH SYDNEY NSW 2060
Ms Danielle Janice	13 York Terrace BILGOLA PLATEAU NSW 2107

Name:	Address:
Bressington	
Mr Hubert Reinhold Habicht	1 B Urara Road AVALON BEACH NSW 2107
Mrs Debbie Anne Banham	29 Binburra Avenue AVALON BEACH NSW 2107
Ms Karin Locke Richards	PO Box 293 AVALON BEACH NSW 2107
Sylvia Saszczak	Address Unknown
Ms Beverley May Wilson	29 Elvina Avenue AVALON BEACH NSW 2107
Mrs Prudence Wawn	47 Riverview Road AVALON BEACH NSW 2107
Ms Susan Mary Holliday	16 Cabarita Road AVALON BEACH NSW 2107
Ms Maryse Dinusha Peiris	203 Riverview Road AVALON BEACH NSW 2107
Vanessa Louise Lenthall	67 Hastings Parade NORTH BONDI NSW 2026
Planning Progress	Po Box 213 AVALON NSW 2107
Mr Robert Harold Lawrenson	193 Riverview Road AVALON BEACH NSW 2107
Mr Robert Hamilton Reeves	176 Riverview Road AVALON BEACH NSW 2107
Ms Amanda Barton Maple-Brown	168 Riverview Road AVALON BEACH NSW 2107
Mr Brendan James Donoghue	168 Riverview Road AVALON BEACH NSW 2107
Ms Margaret Jean Richardson	15 Trappers Way AVALON BEACH NSW 2107
Nathalie Cuthbertson	4 Coonanga Road AVALON BEACH NSW 2107
Clareville & Bilgola Plateau Residents Association	PO Box 292 AVALON BEACH NSW 2107
Ms Miranda Maragret Korzy (recently elected Councillor)	80 Wandeen Road CLAREVILLE NSW 2107
Wendy Gleen	Address Unknown
Mrs Lillian Elaine Walter	30 Trappers Way CLAREVILLE NSW 2107
Ms Robin Anne Plumb	35 George Street AVALON BEACH NSW 2107
Ms Sandra Kay Tyson	27 Catalina Crescent AVALON BEACH NSW 2107
Councillor Kylie Ferguson (Former Councillor)	Address Unknown
Ms Diana Smythe	207 Riverview Road AVALON BEACH NSW 2107
Mr Michael Brian Hall	201 Riverview Road AVALON BEACH NSW 2107
Natalie Cuthbertson	4 Coonanga Road AVALON BEACH NSW 2107
Mrs Susan Christine Martin	19 Hudson Parade AVALON BEACH NSW 2107
Mrs Chelsey Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Francis Benjamin Welsh	33 Hilltop Road AVALON BEACH NSW 2107
Mrs Kirsten Anne Welsh	33 Hilltop Road AVALON BEACH NSW 2107
Mr Philip Cohen	15 Cabarita Road AVALON BEACH NSW 2107

The application was publicly exhibited twice (the second (and most recent) being consequent of the amended plans).

47 submissions were received in response to the first exhibition of the application (noting that several of

those are duplicates). 18 submissions were received in response to the second exhibition of the application regarding the revised plans. Of the total submissions received, two (2) were received in support. The content of the submissions between the first and second exhibition did not materially change, and the objections received remain.

The issues raised in the submissions have generally been categorised under the following themes, and each are addressed below:

- **Impact on vegetation, tree removal, Pittwater Spotted Gum EEC**
- **Built form compliance, building bulk and size of dwelling**
- **Site frontage and views from Riverview Road**
- **View sharing from private properties**
- **Visual and acoustic privacy**
- **Overshadowing**
- **Land use**
- **Rainwater absorption and stormwater management**

- **Erection of height poles**
- **Impact on property value**
- **Creation of a precedent**
- **Floor Space Ratio and Desired Character**
- **Aims of the Plan (PLEP)**
- **Objectives of the zone**
- **Consideration of DA2020/1338 & DA2019/0380**
- **Traffic congestion and management of construction traffic**

The matters raised within the submissions are addressed as follows:

- **Impact on vegetation, tree removal, Pittwater Spotted Gum EEC**

Comment

Every submission received raised concern to the removal of vegetation, particularly the Pittwater Spotted Gum Endangered Ecological Community.

The revised plans minimise the number of trees required to be removed. A number of submissions received are of the opinion that the revised plans have not encompassed any noteworthy change, however that position is not agreed with as it is found that significant alterations to the footprint of the building and extensive root mapping has determined the building's location.

Detailed commentary on these matters can be found later in this report by Council's Landscape Officer and Bushland and Biodiversity Officers who, after review of all revised documentation, are satisfied with the proposal subject to stringent protection conditions for the lifetime of the development.

- **Built form compliance, building bulk and size of dwelling**

Comment

A number of submissions received object to the proportions of the dwelling and attribute that massing to built form non-compliances.

The proposal does not display any level of non-compliance to the built form controls that would be unexpected given the topographical constraints of the land. The proposal does not comply with the building envelope, front setback, landscaped area and (for an external staircase) the side setback. Each of these matters is discussed in detail under their respective clauses later in this report.

In summary it is found that each of the non-compliances is acceptable and, in most instances, is supported by variation provisions built into the Pittwater 21 Development Control Plan.

- **Site frontage and views from Riverview Road**

Comment

Concern is raised in a number of submissions regarding the site's frontage with regards to the built form treatment and the impact on public views. This matter is discussed in detail throughout this report but in summary, the garage is considered to be acceptable and well-designed but the front fence is considered excessive in height (2.1m) and is conditioned to be lowered to a maximum height of 1.0m.

- **View sharing from private properties**

Comment

Concern has been raised from Nos. 187 and 174 Riverview Road that they will experience view loss caused by the proposed development. This matter is discussed in detail later in this report. In summary the extent of view loss caused by the development is not considered sufficient to warrant the refusal of the application.

- **Visual and acoustic privacy**

Comment

Concern has been raised by adjoining properties that the proposal, particularly the swimming pool area, may detract from their existing provision of visual and acoustic privacy.

Visually it is not considered that the swimming pool or decks throughout the building would cause any unreasonable degree of overlooking into neighbouring properties. Where a minor impact may exist it could be remedied through the use of privacy screening, however that may result in a more severe view or visual bulk impact. On that basis visual privacy is considered acceptable.

The use of the site for the purpose of a dwelling house is not considered to cause any unreasonable acoustic impacts to neighbours. A condition is imposed which requires the swimming pool equipment to be located or designed in such a fashion to minimise any acoustic intrusion.

- **Overshadowing**

Comment

Concern is raised by the property to the south that the proposal would unreasonably overshadow their home. The revised plans received have pulled the built form away from the southern boundary at several levels which have significantly reduced the degree of overshadowing experienced at mid-day (the period where the most significant degree of

overshadowing was occurring). The amended plans include detailed shadow analysis which demonstrate compliance with the requisite DCP controls and as such, this matter does not warrant the refusal of the application.

- **Land use**

Comment

Several submissions received query whether the proposal is a "family home" (dwelling house) given the lower two levels of the house that are not internally connected to the rest of the building. No approval is sought for any use other than a dwelling house and a condition is recommended to be imposed requiring such a use. Should that use be changed in the future it will be subject to a development application.

- **Rainwater absorption and stormwater management**

Comment

Concern is raised that the footprint of the building will minimise the degree of rainwater absorption commensurate to the existing building. It is true that the building footprint is larger than the existing building, however the stormwater management system and rainwater absorption has been assessed as satisfactory.

- **Erection of height poles**

Comment

Several submissions received requested height poles to be erected to ascertain view loss from both the public and private domain. The applicant was not requested to erect height poles for several reasons including the fact that the purported view loss is understood without the need for height poles (i.e., the garage), the topography of the land causing difficulties in erecting and maintaining height poles and, given that the site is heavily vegetated currently which lessens the ability to see the poles themselves from neighbouring properties.

Sufficient information has been supplied by objectors and has been observed on site to ascertain an accurate depiction of view loss, which is elaborated upon later in this report.

- **Impact on property value**

Comment

Several submissions raise concern that the development will devalue their properties. Property value is not a matter for consideration under the section 4.15 of the Environmental Planning and Assessment Act 1979.

- **Creation of a precedent**

Comment

Concern is raised in several submissions that the scale of the proposed dwelling may become a precedent for future developments within the locale. Precedence is not a metric used to assess development applications, rather the applicable DCP and LEP controls are. In this respect, the development does not create a precedent and this matter does not warrant the refusal of the application.

- **Floor Space Ratio and desired character**

Comment

A submission received states that the Floor Space Ratio (FSR) of the development is 0.65:1 and is therefore incongruous with the desired character of the locale. FSR is not an applicable control under the relevant environmental planning instruments.

- **Aims of Plan (PLEP)**

Comment

The aims of the Pittwater Local Environmental Plan 2014 are considered to be satisfactorily achieved.

- **Objectives of the zone**

Comment

The objectives of the C4 Environmental Living zone are considered to be satisfactorily achieved.

- **Consideration of DA2020/1338 and DA2019/0380**

Comment

A submission received refers to recent view loss assessments in the above-mentioned development applications. A comparison between applications is not a practical exercise as each application is considered on its own merits. The consideration of one application does not translate to policy or guidance in how every application must be considered.

- **Traffic congestion and management of construction traffic**

Comment

Concern is raised that the construction of the development may cause traffic congestion. The Riverview Road and Cabarita Road northern peninsula is commonly subject to houses renovating and therefore construction traffic is nothing new on this road. Notwithstanding that, a condition is included in the recommendations of this report that a Construction Traffic Management Plan be prepared and approved prior to the commencement of works.

REFERRALS

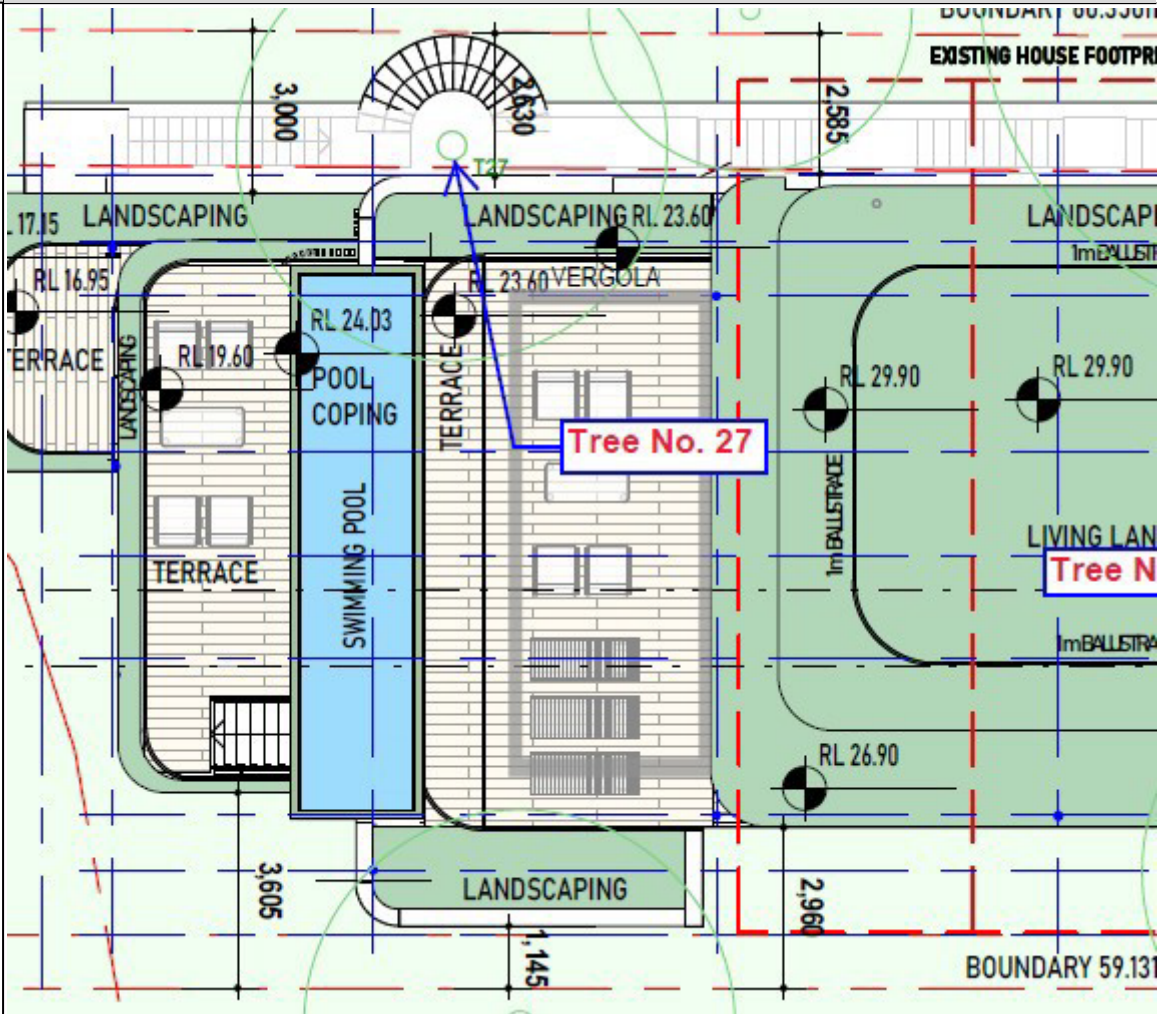
Internal Referral Body	Comments
Landscape Officer	<p><i>Supported, with conditions</i></p> <p>Final Landscape Comments - 17/01/2022</p> <p>Following issue of updated and amended plans and reports, the Landscape Referral is a</p>

Internal Referral Body	Comments
	<p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan (not limited to):</p> <ul style="list-style-type: none"> - B4.22 Preservation of Trees and Bushland Vegetation - C1.1 Landscaping - D1 Avalon Locality, including: D1 Character as viewed from a public place. <p>The site is located in the C4 Environmental Living zone, requiring development to achieve a natural environment, including the retention of natural landscape features and existing trees.</p> <p>A Landscape Plan and an Arboricultural Impact Assessment is submitted with the development conditions of consent. Locally native tree replacement is proposed as well as mass planting on lower slopes, identified as tree numbers 31, 33, 34, 35, 36, 27, 38 and 39 in the Arboricultural Impact Assessment. The preservation of natural landscape features to satisfy the objective of the property includes the retention of existing trees in proximity to the proposed development. Following tree root investigations of the arboricultural impacts and concludes the existing trees to be retained.</p> <p>The Arboricultural Impact Assessment report dated November 2021 provides tree root protection zone and structural tree protection measures. The report notes that the tree protection zone and structural tree protection measures and exposed floaters/outcrops and site review of tree root impact is based on site specific information.</p> <p>The following arboricultural assessment is submitted in the Arboricultural Impact Assessment. The assessment proposed for removal due to development impact or tree health issues (excluding any trees to be retained). The Arboricultural Impact Assessment concludes that existing trees located within adjoining properties, where necessary, are not impacted by the development works, subject to tree protection measures.</p> <p>A Project Arborist shall be engaged to supervise and approve all development works within adjoining properties.</p> <p>Of concern, but ultimately subject to the Planning Officers assessment, is the proposed D1 Character as viewed from a public place, "Garages, carports and other parking structures from a public place" and there is no landscape treatment to soften the proposed development outcomes to preserve and enhance local views is lost.</p>

Internal Referral Body	Comments
	<p>Should the Planning Officer consider the development to be acceptable on planning merits?</p> <p>Second Landscape Comments – 20/12/2021</p> <p>Following original concerns raised regarding significant tree removal and the impacts of proposed works, an Arboricultural Impact Assessment has been provided with the application.</p> <p>The Arboricultural Impact Assessment and subsequent tree report provided with the application identified thirty-nine trees on the property to the north, four are located in the adjoining property to the south, two in the road reserve. Of these thirty-nine trees identified, eleven trees, including Tree No. 1, 2, 3, 3b, 10, 11, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, have been identified as exempt species, and therefore do not require Council's approval to be removed. Trees No. 3b, 10, 11 and 20 have all been identified as being in poor health with a low retention value. Trees No. 18 and 28 have also been identified as being in poor health with a low retention value. Tree No. 18 contains a visible termite infestation. Tree No. 18 has also been identified as being in poor health with a low retention value. Tree No. 28 has been identified as having a poor canopy development, likely a result of previous canopy loss. Tree No. 38 has been identified as having visible decay and in a period of decay. In addition to the information, the removal of these trees can be supported as it is clear these trees have likely decayed and possibly pose a risk to both property and life. It is noted the Landscape Plan provided proposed works to return landscape amenity and canopy coverage to the site.</p> <p>Concern is raised as a number of trees, including Tree No. 4, 5, 7 and 8, have not been identified in the Arboricultural Impact Assessment and 5 are existing street trees located within the road reserve at the front of the property. Tree No. 4 is a driveway and stone retaining wall located at the front of the site within the TPZ and SRZ. Tree No. 7 and 8 impact the health and potentially the structural integrity of these trees which is not likely to be resolved. Tree root investigation also taking place where the proposed pier footing is to be located. Tree No. 5 are to be removed; however, this hole, identified as Hole 1, has uncovered a large tree root. The width of this root has not been identified in the Arboricultural Impact Assessment. No disapproval or concern is raised regarding the on-going health of these trees should proposed works proceed.</p> <p>As there have been no discussions of proposed works and the likely impacts on these footings, for this reason, it is recommended that an amended Arboricultural Impact Assessment be prepared for these trees. Should investigations determine these trees cannot be safely retained and preserved, they should be removed.</p> <p>Following concerns raised regarding the impacts of proposed works on trees in adjoining properties, investigations, excluding Hole 1, have not identified any significant roots, hence the impacts on trees in these adjoining properties. Subject to recommended tree protection measures, the impacts on these trees are manageable and can be supported.</p> <p>The two most significant trees located within the site, identified as Trees No. 13 and 27, have been identified as being in poor health with a low retention value. To determine the likely impacts of proposed works on existing root structures. Although this is still raised as these trees, in addition to Trees No. 7 and 8, fall within 2 metres of the proposed works, Trees No. 13 and 27 may all be removed without approval under the tree removal provisions outlined in the Arboricultural Impact Assessment. The likely impacts of proposed works on existing root structures are likely to be removed increases, including the two most value, biodiversity rich trees within the site. It is recommended that proposed works are at least 2 metres clear of proposed works to not only maintain the health of these trees but also ensure that proposed works can be seen in the image below:</p>

Internal Referral Body

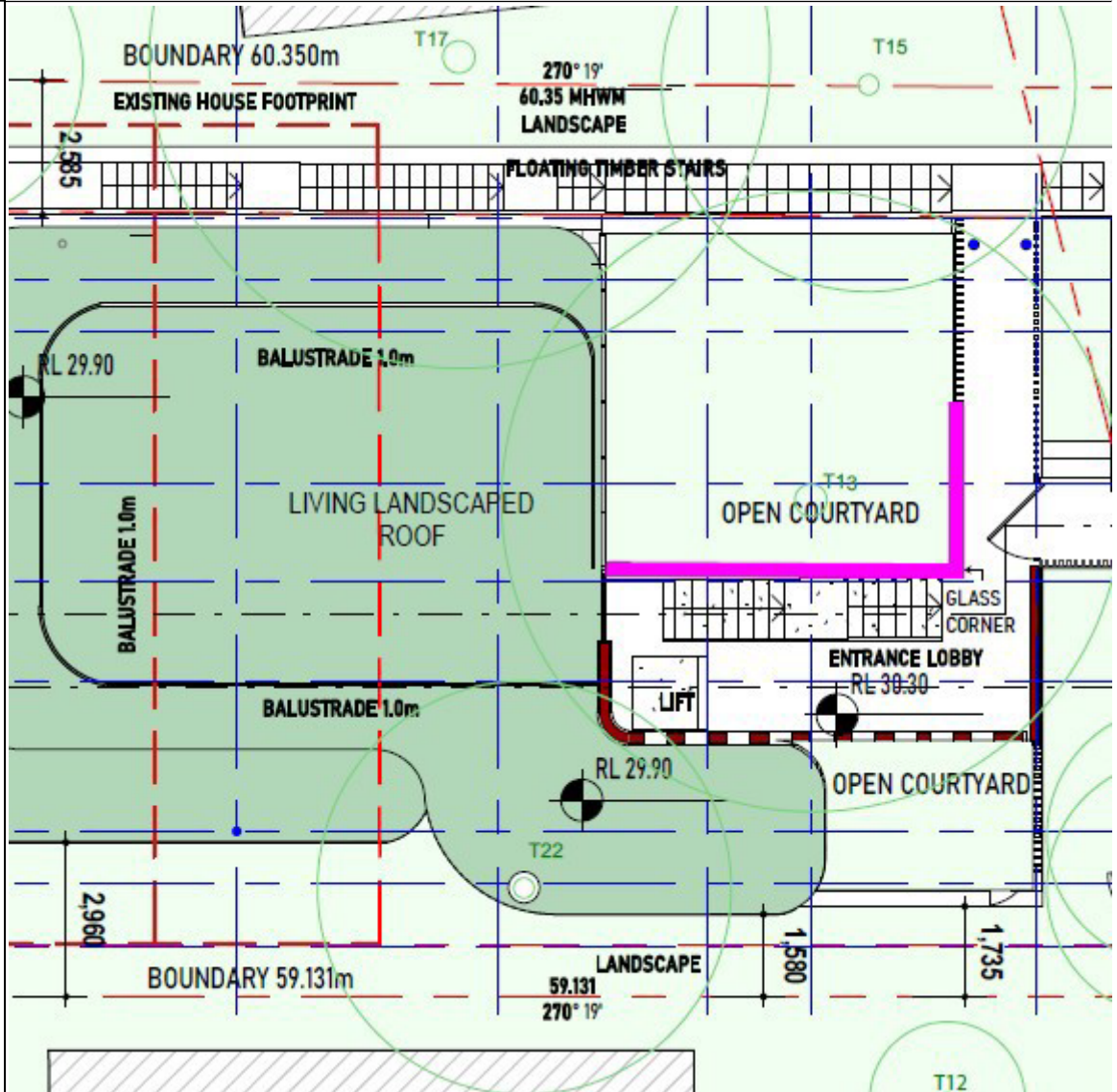
Comments



It is noted tree root investigations have taken place adjacent to Trees No. 13 and 27; how completed on the edge of proposed works. Hence, these investigations do not provide an proposed works. In order to ensure proposed works do not impact significant roots of the the locations as depicted by the PINK line in the below images. Should design alterations should take place on the edge of the proposed works, similar to that depicted in the belo

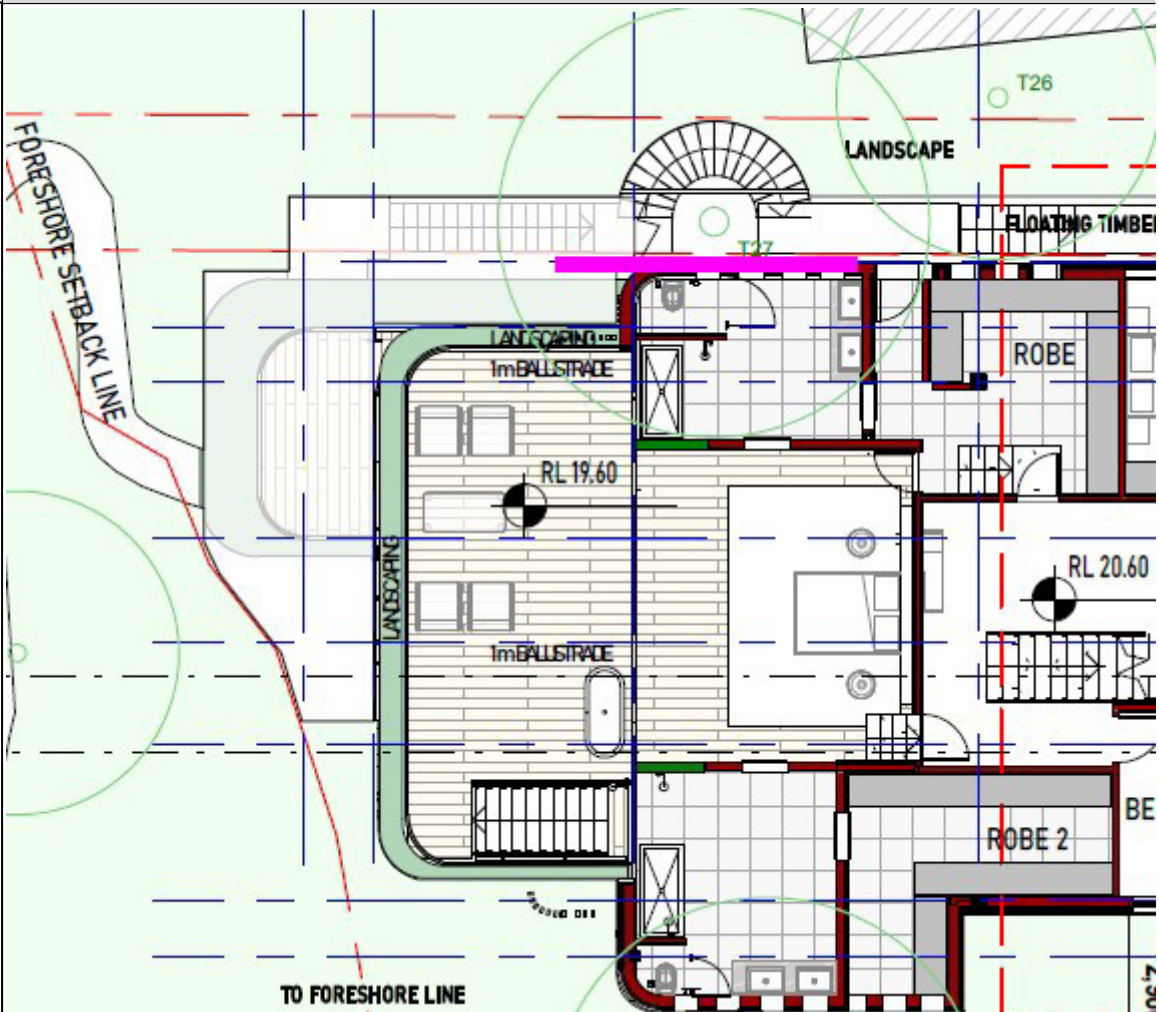
Internal Referral Body

Comments



Required tree root investigation location for Tree No. 13.

Internal Referral Body	Comments
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Required tree root investigation location for Tree No. 27.

In light of the above concerns, the landscape component is therefore not currently supported detailing the likely impacts of proposed works on Trees No. 4, 5, 7 and 8, with successfully retained and adequately protected. Should this investigation find proposed tree root investigations are required in accordance with AS4970-2009, specifically Clause 4.2.1, a layout be sought ensuring that proposed buildings are located at least 2 metres from tree roots. Additional tree root investigations are required to take place in the locations depicted in the plan to determine no significant roots are found and no detrimental impacts on these trees is likely of consent.

Upon the receipt of the required information, further assessment can be made.

Original Landscape Comments - 10/09/2021

This application is for demolition of an existing residential dwelling, and the construction of landscape works.

Councils Landscape Referral section has considered the application against the Pittwater

- B4.22 Preservation of Trees and Bushland Vegetation

Internal Referral Body	Comments
	<ul style="list-style-type: none"> - C1.1 Landscaping - D1.14 Landscaped Area - Environmentally Sensitive Land - D1.20 Scenic Protection Category One Areas <p>The Statement of Environmental Effects provided with the application notes that a number of trees to be retained is largely supported by the Architectural Plans as it is evident a significant number of trees has been provided alongside the application, however an Arboricultural Impact Assessment has not been provided.</p> <p>Generally, there are a number of concerns raised with the proposal, largely relating to the proposed works on those trees proposed to be retained. The Ecology Report provided has noted that the site is adjacent to the Pittwater Spotted Gum Forest, an Endangered Ecological Community (EEC). No trees are to be retained within the Building Line. Two additional trees also appear to be retained within the road reserve at the site.</p> <p>It is noted that a Pre-Lodgement Meeting was conducted for this site, with Biodiversity Advice No. 13 and 27 to be retained. Tree No. 13 and 27 are of particular high value, and efforts should be made to ensure an alternative building layout be sought, particularly in the eastern portion of the site, prior to any design has occurred, as both of these two high value trees, as well as trees towards the building, it is recommended again that the site layout be re-visited, exploring opportunities for this is to be determined following advice by both the Planning and Biodiversity Teams.</p> <p>Further concern is raised regarding the impacts of proposed works on trees to be retained within the road reserve. Trees in neighbouring properties are considered prescribed, irrespective of the proposed works. Any negative impacts towards the short-term and long-term health of these trees to be retained within the proposed dwelling is to have an encroachment of 8.97% into the Tree Protection Zone (TPZ) for Tree No. 26. These encroachments into the TPZ of Trees No. 24 and 26 meaning Tree No. 24 has a total encroachment of 17.69%, with the total for Tree No. 26 to the eastern boundary and have expected TPZ encroachments of 23.41% and 22.23%. Tree No. 23, located in the neighbouring property to the south is also likely to be impacted by the proposed TPZ, an increase of 15.53% when compared to the existing dwelling and site conditions. This has the potential to negatively impact the health and vitality of these existing trees long term as these works are not fully known. For this reason, it is therefore recommended that an Arboricultural Impact Assessment be sought in accordance with Councils Development Application Lodgement Requirements. This Arboricultural Impact Assessment should determine the likely impacts these are to have on existing trees to be retained. Any encroachment into the SRZ, is deemed to be major, and therefore requires a tree root investigation in accordance with Councils Development Application Lodgement Requirements.</p> <p>The retention of existing native canopy trees is vital to satisfying control B4.22 as key objectives include "to establish urban forest through professional management of trees", "to protect, enhance and maintain species populations and endangered ecological communities", as well as "to protect and enhance the natural environment of Pittwater as a locality". The retention of existing vegetation is also necessary to satisfy control D1.20, a Scenic Protection Category One Area, as well as "to maintain and enhance the natural environment of Pittwater as the locality".</p> <p>The landscape component of the proposal is therefore not currently supported due to the proposed works. It is recommended that an alternative building design and site layout be sought, exploring the significant vegetation towards the eastern boundary. In addition, it is also recommended that an Arboricultural Impact Assessment be sought in accordance with Councils Development Application Lodgement Requirements. This Arboricultural Impact Assessment should determine the likely impacts these are to have on existing trees to be retained. Any encroachment into the SRZ, is deemed to be major, and therefore requires a tree root investigation in accordance with Councils Development Application Lodgement Requirements.</p>

Internal Referral Body	Comments
	Upon the receipt of the required information and documentation, further assessment can
NECC (Bushland and Biodiversity)	<p>Supported, with conditions</p> <p>The application seeks approval for the demolition of an existing dwelling, and construction have reviewed the application for consistency against the relevant environmental legislation</p> <p>Biodiversity Conservation Act 2016 (BC Act) and Regulation 2017 State Environmental Planning Policy (Coastal Management)</p> <ul style="list-style-type: none"> - Coastal Environment Area <p>Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> - 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> - B4.7 Pittwater Spotted Gum Forest <p>Final Comments - 11/01/2022</p> <p>Council's Biodiversity referral team note the submission of an amended Architectural Plan Management Plan (Botanics 2021) and Biodiversity Development Assessment Report (A</p> <p>On review of the amended plans against the concerns raised by Council's Biodiversity re</p> <ol style="list-style-type: none"> 1. A finalised Arboricultural Impact Assessment and Management Plan has now been 2. Impact assessment and species identification is now consistent between the sub Assessment. 3. Additional measures to avoid and minimise biodiversity impacts have been included in the BDAR. <p>According to the amended Arboricultural Impact Assessment and Management Plan, the</p> <ul style="list-style-type: none"> - T1, 2 & 3 - <i>Ligustrum lucidum</i> (exempt - species) - T3b, 10, 11, 20 & 21 - <i>Allocasuarina torulosa</i> - T18 - <i>Eucalyptus umbra</i> - T28 & 37 - <i>Corymbia maculata</i> <p>All trees proposed for removal appear to be located within the site and are located within the site boundary (Drawing 001-120). Inadequate justification is provided for the removal of trees (Drawing 001-120). Inadequate justification is provided should be amended within the submitted Arboricultural Impact Assessment and Management Plan (Drawing 001-120).</p> <p>Tree 1, 2 and 3 (<i>Ligustrum lucidum</i>) are a former noxious weed species and are exempt</p>

Internal Referral Body	Comments
	<p>trees proposed for removal are prescribed, and require approval for removal.</p> <p>The Project Arborist has determined that of the 42 trees assessed, a total of 31 (or 32 inc within the property and above the foreshore building line (i.e. the developable portion of t</p> <ul style="list-style-type: none"> - T7, 8, 13, 22 - <i>Corymbia maculata</i> (retained in-situ) - T27 - <i>Eucalyptus paniculata</i> (retained in-situ) - T29 - <i>Allocasuarina torulosa</i> (retained in-situ) - T19 - <i>Ceratopetalum gummiferum</i> (retained via transplantation) - T9, 16 - Exempt or non-locally native species (retained via transplantation) <p>Depending on tree species and size, transplantation commonly has a high failure rate, ho species are non-locally native, exempt, or otherwise do not form a part of <i>Pittwater and W</i> community (EEC). Below the foreshore building line, and subject to the retention of Tree persist (T.31, 32, 33, 34, 35, 36 & 37).</p> <p>Based on the review undertaken, it is understood that the extent of locally-native and pre (33%) throughout the entire property, or 7 of 14 (50%) above the foreshore building line o (T.3b, 10, 11, 18, 20, 21) proposed for removal have decay, borers and/or termites. T.18 Biodiversity Officer onsite.</p> <p>It is understood that the proposed architectural design has been amended to retain high- for retention, which is consistent with the advice provided by the Biodiversity Officer at pr retained trees will be in close proximity (<2m) from the proposed dwelling, and therefore Landscape referral team. However the Council's Biodiversity Unit raise no objection subj</p> <p>In a review of the amended proposal against Section 7 of the Biodiversity Assessment M</p> <ul style="list-style-type: none"> - The proposed removal of 33% of canopy (tree count) within the site, with the rete developable area of the site) - The proposed replanting of 6 trees (2 <i>Angopohora costata</i>, 1 <i>Corymbia maculata</i>, 3 L EEC within the site depending on the success of the transplantation of Tree 19. - Adequate evidence of avoidance and minimisation through retention of high value area and are now planned for retention. <p>The amended design allows for retention of high-value trees within the site, and although decay, borers or termites and may otherwise be approved for removal under the s8(1), (2 2017, therefore removal of these trees is considered acceptable subject to replanting pro the site. A Vegetation Management Plan and Tree Protection Plan will be conditioned to infested understorey per the recommendation of the Biodiversity Development Assessme</p> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to b</p> <p>Original Comments- 7/10/2021</p> <p>Council's Biodiversity Unit do not support the proposal in its current form.</p>

Internal Referral Body	Comments
	<p>The key concerns raised by Biodiversity include:</p> <ol style="list-style-type: none"> 1. A finalised Arboricultural Impact Assessment is not provided with the application. 2. The Biodiversity Development Assessment Report (BDAR) relies on the unfinalis assessment of nearby tree impacts. 3. The BDAR does not demonstrate adequate avoidance or minimisation of biodiver 4. The proposed impacts to Pittwater Spotted Gum Forest within the site are consid Management), Clause 7.6 of the Pittwater Local Environmental Plan 2014 and B4 <p>Further detail on point (1) - (4) is provided below.</p> <p>(1) The recently submitted 'Pre DA Impact Assessment and Management Plan' and 'Tree provide an assessment of all trees within 5m of the proposed works. An updated report, the proposal is required. The report must clearly state which trees are proposed for remo supported, and must be clearly assessed by an AQF5 Arborist in accordance with PDCP</p> <p>Council's Biodiversity Unit have undertaken a review of the submitted plans, and note tha</p> <ul style="list-style-type: none"> - T1 - T3 <i>Ligustrum lucidum</i> (exempt - species) - T16. <i>Pittosporum undulatum</i> (exempt - height <8m) - T18. <i>Eucalyptus robusta</i> (prescribed) <p>No objection is made by Council's Biodiversity Unit to the removal of T1, 2, 3 & 16 given identification of T18 and the below referenced trees:</p> <ul style="list-style-type: none"> - T5 & 18 <i>Eucalyptus robusta</i> (identified by Council's Biodiversity Officers as <i>Eucal</i> - T8, 10, 11, 20, 21 & 29 <i>Casuarina glauca</i> (identified by Council's Biodiversity Offi - T27 <i>Eucalyptus microcorys</i> (identified by Council's Biodiversity Officers as <i>Eucaly</i> <p>The correct species identification must be included in any finalised Arboricultural Impact T.18, or any other tree determined to be a 'Risk to Life or Property' by an AQF5 Arborist <i>Planning Policy (Vegetation in Non-Rural Areas) 2017</i>. The planning pathway is separate applicant or their Arborist rely on this approval pathway. This process requires a concurr Species or Ecological Community from DPIE should the applicant wish to remove a tree https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-c</p> <p>If an approval under SEPP (Vegetation in Non-Rural Areas) has not been sought and ap under Part 4 of the EP&A and will be subject to the Biodiversity Offset Scheme and asse</p> <p>2) The Biodiversity Development Assessment Report (BDAR : ACS Environmental 2021) <i>maculata</i>, 2 <i>Eucalyptus umbra</i>, 5 <i>Allocasuarina torulosa</i>, 1 <i>Eucalyptus punctata</i>, 1 <i>Cerat</i> references to this information having been collated from the <i>Tree Table and Pre-DA Impa Beach</i> (Botanics Tree Wise People 2021) however this report appears to be conceptual of the Arboricultural Impact Assessment, the BDAR must be updated to reflect the impac</p>

Internal Referral Body	Comments
	<p>(3) The proposal seeks to remove native vegetation from the Department of Planning, In Accredited Assessor in accordance with BAM 2020 is noted within the submitted docume</p> <p>Section 4.3.7 of the BDAR provides an assessment of Section 7.1.2 of the BAM (2020) w <i>by the proponent to avoid or minimise clearing of native vegetation and threatened speci ancillary construction and maintenance facilities."</i></p> <p>The assessment provided by the Accredited Assessor is limited and the impacts to the e retention of cave structures. The same cave structures have also been determined to be accordance with s.5.2.3(2)(a)(ii) of the <i>Biodiversity Assessment Methodology 2020</i> for th be retained, the assessment provided by the Assessor that "<i>Avoidance of impacts have Foreshore Building Line</i>" is considered inaccurate. Further, the position that 'minimisation Management Plan (Botanics Tree Wise People 2021) which provides measures to avoid permissible without relevant owners consent, is also considered inaccurate.</p> <p>No evidence of lower impact design options have been presented with the proposal, and</p> <p>In a review of the proposal against Section 7 of the BAM (2020), Council's Biodiversity O</p> <ol style="list-style-type: none"> 1. TPZ Encroachment of over 10% of up to 5 trees proposed for retention, including detailed in Council's Landscape Unit referral. 2. The proposed removal of 64% of canopy within the site, including all trees above 3. The proposed replanting of 6 trees, in existing vegetated areas, or otherwise grow of canopy and TEC within the site. 4. Limited evidence that impacts to significant biodiversity features such as Tree 13 Biodiversity Officer at pre-lodgement. 5. The 'avoided' cave structures cited within the BDAR are located below the Foresh ancillary structures (e.g. paths) have been supported by Council in accordance w <p>(4) Citing Pittwater DCP B4.7, advice provided by Councils Biodiversity Officer at pre-lod</p> <p><i>"At this stage, the proposal is therefore considered to be inconsistent with the control. Th arboricultural advice to enable retention of high significance trees, particularly Trees 13 a</i></p> <p>Impacts to biodiversity have not substantially changed from those proposed at pre-lodge application seeks to remove up to 64% of canopy (including TEC), while proposed lands considered inconsistent with PLEP7.6 and PDCP 4.7; <i>Development shall result in no sig</i></p> <p>The site is subject to cl.13(1)(a) of State Environmental Planning Policy (Coastal Manage</p> <p><i>"(1) Development consent must not be granted to development on land that is within the proposed development is likely to cause an adverse impact on the following: (a) the inte ecological environment"</i></p> <p>No assessment of the proposal against the cl.13(1)(a) is provided with the application, an and resilience of the ecological environment.</p> <p>As the plans have not changed substantially since pre-lodgement, the advice provided b</p>

Internal Referral Body	Comments
	supported and the footprint of the building should be re-designed to minimise the loss to options that retain the significant biodiversity features within the site and utilise the existi
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the DA. The proposed development is consistent with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject site has been identified as being within the NSW Coastal Zone and therefore the Coastal Management Act 2016 (CM Act) is applicable to the proposed development. The subject site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, clauses 13, 14 and 15 as well as other relevant clauses of the CM SEPP will apply to this DA. On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Boston Blyth Fleming Pty. Ltd. dated October 2021, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018 subject to conditions.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP Estuarine Risk Management 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. As the lowest floor level of the dwelling is proposed to be at 14.30m AHD, which is well above the Estuarine Planning Level adopted by Council for the site (2.66m AHD), the proposed development satisfies the requirements of the B3.7 Estuarine Hazard Controls and the Estuarine Risk Management Policy for Development in Pittwater.</p> <p>Development on Foreshore Area The subject property is affected by the foreshore building line and Part 7, Clause 7.8 – Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. As no development is proposed within the foreshore area the DA satisfies Part 7, Clause 7.8 of the Pittwater LEP 2014.</p>
NECC (Development Engineering)	<p>Supported, with Conditions <i>JK Geotechnics Engineer's addressed the concerns raised previously in regards to joint block. The Geotechnical Engineers has certified an Acceptable Risk can be achieved for the development. Proposed Driveway is within the proximity of large trees located in the road reserve. The structural design for the vehicular crossing is required to be supported by an Arborist. Engineering conditions have been recommended in this regards.</i></p> <p><i>Planner to seek Council's Landscape Officers comments with respect to recommended Engineering conditions relating to Council's Tree. No Development Engineering objection subject to conditions and Landscape Officers comments/approval requested above.</i></p> <p><u>Planner comment:</u> Development Engineers have recommended that an Arborist Report be produced regarding the structural design of the driveway in proximity to existing street trees on Council land. The engineers have requested that this condition be revised by Council's Landscape Officers.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Supported, without conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1227940S_02 dated 18 November 2021).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	59

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment

The proposal was referred to Ausgrid who raised no objection to the development application.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 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:*
- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - coastal environmental values and natural coastal processes,*
 - 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,*
 - marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - 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,*
 - Aboriginal cultural heritage, practices and places,*
 - the use of the surf zone.*

Comment

The entirety of the site is identified as being within the coastal environment area, similar to any waterfront property on the Northern Beaches. The development application has been assessed and not being likely to cause an adverse impact on any of the criterion stated within Clause 13 (1) (a) through to (g).

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - 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.*

Comment

The consent authority may be satisfied that the development is designed, sited and will be managed to avoid the aforementioned adverse impacts.

14 Development on land within the coastal use area

- (1)
 - (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 platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *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 entirety of the site is identified as being within the coastal use area. No public access is readily available to the foreshore area at the front of the site and, in the event that it was, the development in question would not impede said access given that the building is landwards of the foreshore building line. The works are not considered to have an adverse impact on the above-listed criterion and will be appropriately managed to avoid said impact.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 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 consent authority may be satisfied that the proposed development is not likely to cause increased risk of coastal hazards on the site or other surrounding land.

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
4.3 - Height of Buildings	8.5m	9.7m	14.1% (1.2m)	No (see Clause 4.3(2D))
4.3(2D) - Height of Buildings	10.0m		N/A	Yes

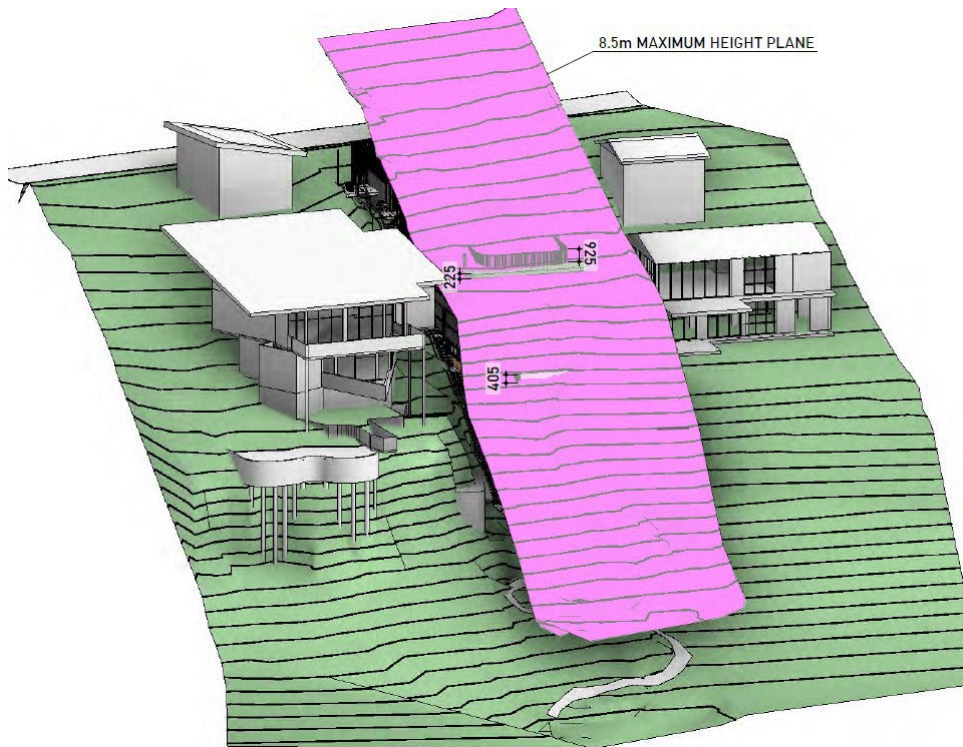
Consideration against Clause 4.3(2D)

Clause 4.3(2D) stipulates that development on land that has a maximum building height of 8.5 metres may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.

Comment

The project architect has prepared the below height blanket diagram taken at a height of 8.5m above ground level:



The extent of encroachment and the elements encroaching the 'blanket' in pink above are the elements subject of the below assessment, and those elements are considered to be minor.

(b) the objectives of the clause are achieved.

Comment

The Objectives of the Clause are addressed as follows:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.

The height of the proposed dwelling house is generally consistent with the development controls and with the proportions of newer dwellings within the locality.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.

The height and scale of the proposal is consistent with what could be developed on adjoining sites under the current planning controls. Whilst the two immediately adjoining properties are not developed to the same extent that this proposal seeks, the proportions of the build are not incompatible with their heights.

(c) to minimise any overshadowing of neighbouring properties.

The development provides a compliant level of solar access to neighbouring properties.

(d) to allow for the reasonable sharing of views.

View loss is discussed elsewhere in this report. The minor building elements that may impact upon views do not exceed the height limit.

(e) to encourage buildings that are designed to respond sensitively to the natural topography.

The building is designed to step down the slope of the land and does not necessitate an excessive degree of excavation, commensurate to other developments on similarly sloping sites.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The building is not considered to have an adverse visual impact when viewed from the private domain, street or Pittwater waterway. The building is largely screened by landscaping, which will continue to grow and further screen the building in longevity.

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).

Comment

The slope of the land is calculated to exceed 40%.

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment

The development is considered to be designed and sited to take into account the slope of the land to minimise the need for cut and fill.

The above considerations confirm that the 10 metre height limit may be applied in this particular instance and no Clause 4.6 Variation is necessitated..

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	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

5.7 Development below mean high water mark

No works are sought under this cover that are below the mean high water mark.

7.2 Earthworks

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

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

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

Comment

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

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

Comment

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

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

Comment

The excavated material will be processed according to the Waste Management Plan for the

development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

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

Comment

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

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

Comment

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

(f) the likelihood of disturbing relics

Comment

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

7.6 Biodiversity protection

Refer to comments from Council's Biodiversity Officer.

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, architectural plans, 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 wastewater, 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 from a geotechnical perspective, 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.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	(east) 6.5m	Garage - 0.3m	95%	No – however meets DCP objectives for sloping sites and garages
		Entrance Lobby - 7.8m	-	Yes
Rear building line	FSBL	> FSBL	-	Yes
Side building line	(north) 2.5m	Dwelling - 2.58m	-	Yes
		Exterior Stairs - Nil to 1.5m	100%	No – stairs and inclinators located within side setback area
		Garage - 1.3m	-	Yes
	(south) 1m	Dwelling - 1.14m to 2.96m	-	Yes
		Pool - 3.1m	-	Yes
Building envelope	(north) 3.5m	Outside envelope	N/A	No –

				however DCP allows variations where site slope exceeds 16 degrees
	(south) 3.5m	Outside envelope	N/A	No – however DCP allows variations where site slope exceeds 16 degrees
Landscaped area	60% (642.6m ²)	Deep soil - 54.7% (586m ²) Landscaping over structures- 32.74% (304.34m ²)	9% N/A	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - 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
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	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
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The Desired Future Character statement of the Avalon Beach Locality reads as follows:

- *The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.*

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.

Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses.

Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. Special front building line setbacks have been implemented along Avalon Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.

The design, scale and treatment of future development within the Avalon Beach Village will reflect the 'seaside-village' character of older buildings within the centre, and reflect principles of good urban design. External materials and finishes shall be natural with smooth shiny surfaces avoided. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors. The natural landscape of Careel Bay, including seagrasses and mangroves, will be conserved. Heritage items and conservation areas indicative of early settlement in the locality will be conserved, including the early subdivision pattern of Ruskin Rowe.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

Comment

The ability to achieve the intent of the Desired Future Character statement (DFC) forms an integral part of the development controls within the Pittwater 21 Development Control Plan 2014 (**P 21 DCP**) and thus it is pertinent to establish whether or not this development, as a whole, can appropriately be described as achieving the DFC.

Whilst the DFC does state the dwellings should be a maximum of two storeys in any one place this control is not imbedded within any of the built form controls in the LEP and DCP and, generally seeks to limit three storey houses or flat blocks. Such a control is difficult to achieve on a sloping block such as that of the subject development site, however the massing of the built form is considered to be appropriately distributed to minimise unreasonable impacts of bulk and scale and, any actual impact of such would be largely ameliorated by the facade design of the building. In this instance an exceedance of two storeys is accepted and congruous with surrounding buildings.

The height of the proposed development is lesser than existing canopy trees. The design incorporates a biophilic architecture with plantings on the walls and roof which will, over time, largely screen the majority of the built form from view. The extensively landscaped western half of the site (adjacent to the waterway) is to remain and accommodates vegetation that will screen the development.

The development proposes a fence and garage door for the width of the front boundary, both to be constructed of open timber batons. This fence is discussed in greater detail later in this report and is altered via condition, and thus does not materially alter the DFC of the locale, nor the development's ability to achieve that.

In consideration of all factors it is found that the development appropriately achieves a balance between the existing landforms and vegetation, the reasonable development expectations of the land and the establishment of new green infrastructure to benefit the ecology and biodiversity of the locale in longevity.

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Refer to comments from Council's Landscape Officer and Bushland and Biodiversity Officer.

B4.22 Preservation of Trees and Bushland Vegetation

Refer to comments from Council's Landscape Officer and Bushland and Biodiversity Officer.

C1.3 View Sharing

Objections claiming view loss have been received from the following properties:

1. 187 Riverview Road, Avalon (south), and
2. 174 Riverview Road, Avalon (east, across the street).

The development is considered against the underlying Outcomes 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

187: From 187 to the south the views to be affected can generally be described as tree tops in the foreground and water views in the background. The views to be affected do not consist of land-water interface (except for on the distant western side of Pittwater) but do consist of otherwise uninterrupted panoramic views of Pittwater to the west.

174: From 174 the development site sits to the opposite side of the road. The views from 174 are wholly atop of their neighbouring properties to the west. The views to be affected consist of filtered water views, being filtered by vegetation on the site itself and built forms at other neighbouring properties (fences and carports).

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

187: The views are enjoyed from both a sitting and standing position, although standing provides a greater breadth of view. The views in question are across a side boundary (the south side of the development site).

174: The views are visible from a standing position and are heavily filtered from a sitting position. The views are obtainable over the front boundary to the rear boundary of the development site.

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

187: 187 is designed in a manner that all rooms generally enjoy an easterly outlook onto Pittwater and beyond. The principle areas in question in this assessment at the ground floor (top floor) kitchen and living/dining areas that open up onto a deck area which accommodates an inclinor platform. The deck is bound by privacy screens to both flank (north and south) edges. To the north, the privacy screen projects approximately 800mm beyond the western edge of the deck. The effect of this screen makes the existing house at 189 Riverview largely unseen. The screen is estimated to have a height of 2m which, when taking into consideration the floor level of the deck, results in an approximate maximum RL of 28.2 (note: the survey provided with this DA and a survey provided with a recent DA for 187 have differing RLs, i.e., the ridge of the subject house is RL27.2 whereas the neighbouring DA survey marks is as RL28.29 thus being a 1.29m difference. For the purpose of this assessment the RLs on the subject application survey are deemed to be correct).

The relationship between the two properties is visible on the below image (source: nearmaps January 2021)



In this image the privacy screen (shadow) can be seen on the northern edge of the deck. Generally, the deck aligns with the existing house. The objection includes the following photograph which displays the deck, view and privacy screen:



In the location of the existing house the building is to increase in height by approximately 2.5m - that storey (which is entirely void space and glass) will be visible atop of the privacy screen. The void space aligns with the westernmost edge of the deck at no. 187.

Located west of the deck is a lightweight vergola structure at RL26.6 which is 400mm higher than the deck. Below the vergola are several more stepped floors of the building that site at

least 3m below the height of the vergola.

From the above photograph, it is considered that the vergola may be visible and would project at near the balustrade height of the above photo towards the water. The rest of the dwelling is not considered to cause view loss as, from standing on the edge of the deck looking downwards into the development site, views are heavily obstructed by existing vegetation both mature and newly planted.

On balance it is acknowledged that the proposed dwelling will be seen from the neighbouring house, however that is a reasonable expectation living in an urban area. The extent of impact is limited to a lightweight vergola structure, as the majority of the built form has been pushed as eastwards as possible. In the event that the discussed privacy screen were to be removed (as it does not appear to be required by any condition of consent) then the analysis of this assessment would not materially change, as it is not expected that the screen obstructs a large portion of water views. On balance of all factors it is considered that the view loss could best be described as minor.

174: No. 174 sits on the eastern side of Riverview Road and has a wide frontage the equivalent of both nos. 189 and 191 Riverview. The extent of impact to the views from 174 is largely limited to the proposed carport and front boundary treatment as well as proposed tree plantings. The view is best enjoyed from the front garden / driveway and parking area and less-so from inside the house, however views of the water are still obtainable from bedroom / studies and living spaces. The objector contends that the predominant loss of views will be from their home office which they work in every day. From the top of the driveway, the current view is as per the below photograph:



From a comparative analysis of the sites and documentation submitted for the current DA and an older (2020) DA at 174, the following facts have been established:

- FFL of 174 is RL 38.39
- Driveway at boundary of 174 is RL 36.00
- Driveway at kerb of 174 is RL 33.90-34.10
- Riverview Road is approx. RL 34 (varies)
- Driveway at boundary of 189 is RL 32.60
- Existing parking pad at 189 is RL 29.60 (varies slightly)
- Existing carport roof at 191 is approx. RL 35.20 (taking surveyed FFL of 32.19 and assuming 3m height)
- Proposed garage FFL - RL 32.40
- Proposed garage parapet - RL 35.50

The garage in question is on the southern portion of the site, i.e., the left hand side of the photo, and sits 1m away from the brushbox fence to the left - that fence is surveyed as sitting on Council land and at the corner has a height of RL 33.32, and along the street an RL of 33.88.

In the above photograph, the carport is generally in the location between the brushbox fence and the nose of the white truck which roughly is described as the large clump of vegetation that does not provide views.

The proposed parapet height of the garage sits 1.5m higher than the road level, and sits approx. 3m lower than the floor level of 174.

The views to be affected consist of the foreground water views that are impeded by vegetation. It is not considered that any views of the western foreshore district will be impacted.

The objector has provided photographs with an estimation of height poles as below, with the top of the ladder being outstretched to a length of 3.9m measured from the base:



The height of 3.9m is derived from earlier sets of plans, the revised parapet height of the garage measured from the FFL is 3.5m. The approximate location of the person holding the ladder is surveyed to be RL 33.02 and therefore the top of the ladder is at RL 36.92. This height is 1.4m greater than the proposed parapet height of RL 35.50, consequent of the revised plans.

On balance and for reasons explained in Step 4 below, the view loss is deemed to be minor to moderate.

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

187: In a holistic sense the portion of building which may cause view loss is minor commensurate to the build as a whole, which is reflective of the attempts to minimise such impacts. The extent of impact is not considered to be severe and is caused by a lightweight and openable shade structure to provide shade and amenity to the principal private open space of the development site which would otherwise be exposed to westerly sun. It is not considered that the element causing view loss is unreasonable.

174: The impact of views from 174 is consequent of the location of the garage on the boundary which is tied to the view loss issue in their submission. The topography of the land makes providing compliant vehicular access beyond the front setback line difficult, notwithstanding the current layout of the site. Such difficulties are displayed on numerous other garages on the street.

The garage structure could be pushed further into the site to increase the compliance with the front setback, and remain below the height limit, however this would cause a greater impact on the existing views enjoyed.

It is noted that the garage is to be constructed of visually permeable materials on all four sides and is topped by a large living green-roof. The extent of view loss does not warrant a redesign of the proposal and the outlook from 174 will remain characterised by water and bushland views, enhanced by the green roof. It is not considered that the proposed garage is unreasonable, and it is found that all reasonable attempts have been made to minimise impact by lowering the height of the structure to a minimum, opening up all four sides, and providing a green roof.

The submission from 174 goes on to object about view loss from proposed trees. The provision of trees prevails over views.

- *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

From the street it is considered that the development does not cause any unreasonable obstruction of views to Pittwater and West Head. The relevant levels of the garage commensurate to the roadway are described above.

The materiality of the garage and front fence is widely spaced timber battens that permit views through to the waterway but provide a degree of privacy and security to occupants of the dwelling. However, the proposed front fence measures approximately 2.1m in height which is unacceptable. A condition of consent is recommended to reduce the height of this front fence from 2.1m to 1.5m which will allow for pedestrian views over the fence towards the water but will limit downward views into the property.

- *Canopy trees take priority over views.*

Comment

The development does not seek to remove trees for the purpose of obtaining views. Whilst concerns have been raised in submissions about the proposed tree plantings, the retention and establishment of canopy trees take priority over views and this issue therefore does not warrant the refusal of the DA.

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

C1.5 Visual Privacy

The proposal is not anticipated to cause any detriment to the provision of privacy currently enjoyed by neighbouring properties. The building has been designed with screening on most side window and landscaping to filter any sightlines. It should be noted on perspectives and elevations that the central level is a double height void space, and thus impacts from those windows is not considered unreasonable.

C1.14 Separately Accessible Structures

The lowest two levels of the dwelling are not internally accessible from the main building, however these floors host ancillary rooms to the principal dwelling including bedrooms, rumpus room, a bathroom and a home gym. These spaces are not considered capable of independent habitation and a condition will be imposed on any consent requiring the property to only be used as one dwelling house.

C1.19 Incline Passenger Lifts and Stairways

Clause C1.19 requires inclinators and stairways to be located 2m from the side boundary of a site. The proposal does not achieve compliance with this requirement, and the non-compliance is discussed in detail later in this report under Clause D1.9 Side and rear building line.

D1.8 Front building line

Description of Non-Compliance

Clause D 1.8 Front building line of the P 21 DCP prescribes a 6.5m setback requirement for all structures, but does permit a variation on steeply sloping or constrained sites for Council to consider reduced or nil setbacks for car parking structures, however all other structures on the site must satisfy or exceed the minimum building line.

In this instance the site is deemed to be steeply sloping and constrained and therefore the variation provision is applicable. The proposed garage has a setback to the front boundary of 0.3m and the entrance lobby and rest of the house has a minimum front setback of 7.8m.

Merit Consideration

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

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

Comment

It is established elsewhere in this report that the development can achieve the desired future character of the locality.

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

Comment

The concerns raised by the community and Council's Landscape Officer with regards to public views and the general treatment of the front of the site is noted.

The proposed garage takes up half the width of the sites frontage with the remaining half being bound by a 2.1m high timber open baton fence.

Along Riverview and Cabarita Road views in westerly direction and enjoyed from most of the street. There are numerous examples of solid and bulky garages being built on or in proximity to the front boundary, often for more than half the width of a frontage, however these poor examples are not reason or precedent to repeat such a design.

The garaging is located in the most sensible location on the site given tree locations and the topography, and thus no objections are raised to its location.

The front (street-facing) and rear wall of the garage are to be constructed of open timber batons that permit partial views through from the street to the water. The flank facades of the garage are constructed of a 'hit and miss' breezeblock design which equally permits vistas through. The level of visibility through the garage (for half the site's width) is considered acceptable. The structure itself also benefits from a large living green roof which is (to the author's knowledge) the first along Riverview Road and will provide visual interest.

However, it is considered that there is no reasonable need for a 2.1m high front boundary fence in this location. If the intent of that fence is to provide privacy to the occupants then the window arrangement should be redesigned. A fence of some degree is required in this location given the drop in land, and therefore a condition is imposed which limits the fence to be no greater than 1m in height. This reduced height will not obstruct public views, and pedestrians will be able to see over the fence and over the top of the building thus preserving views and vistas.

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

Comment

N/A Riverview Road is not a main road.

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

Comment

The encroachment of the garage into the front setback area is directly caused by the retention of two trees (Tree T7 and T8) to the rear of the garage. The structure has been designed to be of minimal dimensions and curved around these tree trunks to allow for their retention.

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

Comment

Not achieved however, given the reasonably quiet nature of Riverview Road, not considered to be essential.

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

Comment

The presence of a garage in the front setback area is not considered to detract from the bushland character of the locality. The material palette and green roof is considered to enhance the character.

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

Comment

The encroaching elements do not exceed the height of trees and are of a minimal height.

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

Comment

The proposal is considered to be a positive addition to the street scape and will present as an attractive building. The works will not harm pedestrian amenity.

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

Comment

Achieved.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant Outcomes of the Pittwater 21 Development Control plan 2014 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 Side and rear building lines of the P 21 DCP 2014 prescribe required side setbacks of 1m to one side and 2.5m to the other side and, in this instance, a foreshore building line applies rather than a traditional numeric rear setback control.

The proposed dwelling is compliant with all side and rear setback requirements, however the proposed external staircase and inclinor line to the northern edge of the site encroaches into the setback area.

Merit Assessment

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

Outcomes of the Control as follows:

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

Comment

It has already been established in this report that the development achieves the desired future character of the Locality.

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

Comment

The non-complying elements consist of floating timber stairs and an inclinator line. These elements are deemed to minimally contribute to any bulk and scale given the actual proportions of those elements, and their positioning close to ground level.

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

Comment

The non-complying elements are not considered to cause any view loss. View loss is discussed in greater detail elsewhere in this report.

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

Comment

As above.

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

Comment

The majority of properties within the vicinity have similar access arrangements to that proposed; indeed similar to a house on a flat block of land having side access. The stair and inclinator are not considered to detract from the amenity of neighbours.

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

Comment

Landscaping is discussed elsewhere in this report.

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

Comment

The placement of stairs and inclinator is considered to be logical in this instance and is not

found to result in any impacts to neighbouring amenity, and thus flexibility in their siting is supported.

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

Comment

Vegetation retention is discussed elsewhere in this report.

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

Comment

Not applicable as there is not adjacent commercial zone.

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

D1.11 Building envelope

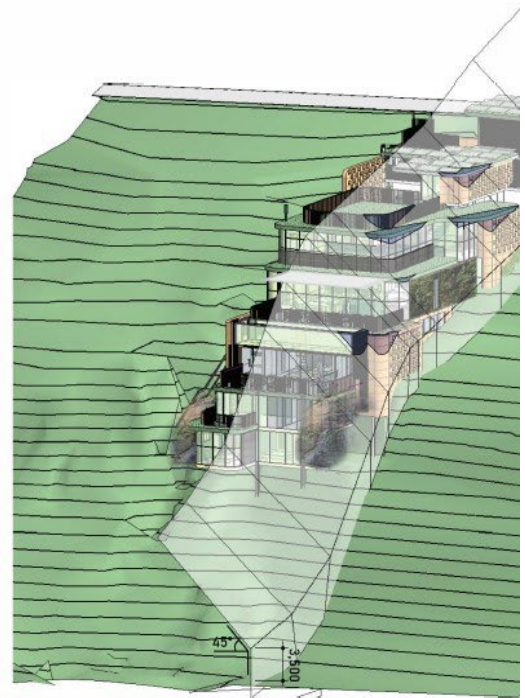
Description of Non-Compliance

Clause D1.11 Building envelope of the P 21 DCP prescribes a 3.5m high envelope measured from the outer edges of the site before turning inwards at a 45 degree angle. Elements of the building should not project beyond this theoretical envelope. The control does include a variation provision that states that where a building footprint is situated on a slope of 16.7 degrees, a variation may be considered on a merit basis.

The proposal exceeds the prescribes envelope on both the northern and southern elevations as depicted on the below overlay plans prepared by the architect:



NORTHERN ENVELOPE SETBACK SHOWN AT 3.5m HEIGHT AT 45°



SOUTHERN ENVELOPE SETBACK SHOWN AT 3.5m HEIGHT AT 45°

It is noted that the proposed vergola adjacent to the swimming pool appears to project beyond the envelope but it not shown as doing so on the above diagram.

Merit Consideration

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

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

Comment

It has already been established in this report that the development achieves the desired future character of the Locality.

- *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 encroachment to the building envelope does not manifest on the street elevation and does not materially alter the streetscape. The overall height and scale of the proposal is lesser than that of trees which will continue to tower over the built form.

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

Comment

Designing a building on a sloping site poses many challenges which is why the P 21 DCP includes variation provisions, for circumstances such as those posed by this application. As evident in the above diagrams the building steps back eastwards at each level and, in part,

steps inward from the levels below on the flank elevations to minimise envelope encroachments. This, coupled with the design curving around existing trees to facilitate their retention, is considered to be sufficient grounds to say that the development can spatially relate to the natural environment.

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

Comment

The encroachments to the building envelope do not amount to any unreasonable bulk and scale commensurate to the compliant development.

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

Comment

Views are discussed elsewhere in this report.

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

Comment

The revised plans under assessment have significantly stepped in the southern edge of the building away from the boundary to improve solar access and improve visual privacy to the dwelling to the south. Other encroaching elements of the building envelope are not considered attributable to any amenity impacts upon adjoining land.

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

Comment

Vegetation retention is discussed elsewhere in this report.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P 21 DCP 2014 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

Clause D1.14 Landscaped Area of the P 21 DCP prescribes a required landscaped ratio of 0.6:1 or 60%. The intent of that control is that calculable landscaped open space be located at ground level, and therefore roof gardens, planter boxes and the like are not included within that numeric.

The applicant contends that a deep soil landscape area of 645sqm or 60.2% is provided. Council's calculation of this falls slightly short of this figure, and instead is 586sqm or 54.7% thus resulting in a 9% variation to the control requirements. It should be noted that the architect's CAD software is likely more accurate than Council's measurement software, however in any instance the quantum of landscaped area will be assessed against the objectives of the control.

In furtherance to the above, and notwithstanding that it does not count towards the above calculable

landscaped area, the proposal includes a living green roof on all roofs of the building, equating to an additional 304.34sqm (or 32.74% of the site over and above deep soil landscaping) being considered as landscaping over structure. This element is important to note in preface to the below merit assessment.

Merit Consideration

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

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

Comment

Established earlier in this report.

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

Comment

The calculated shortfall in landscaped area is not attributable to any unreasonable perception of bulk and scale. That is, the perceived bulk and scale of the development is not likely to be markedly different if a compliant provision of landscaped area was provided. In any case, the bulk and scale of the built form is considered to be appropriately minimised by way of unique fenestration detailing to both flank facades, the inclusion to living green walls and green roofs, the reasonably open front facade (discussed elsewhere in this report) and the wide foreshore building line which the development sits behind.

Temporally the built form will become increasingly disguised and subservient to vegetation which will further minimise bulk and scale in longevity.

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

Comment

The proposed development is found to provide a reasonable level of amenity and solar access to neighbouring properties. It is not considered that there be would any marked improvement in neighbouring amenity were a compliant provision of deep soil landscaping be provided. Instead, it is considered that the alternate forms of landscaping proposed (other than deep soil landscaping) will significantly enhance the amenity of neighbours by way of improving their visual outlook and making a contribution to lessening to urban heat island effect.

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

Comment

Vegetation retention is discussed elsewhere in this report in detail.

- *Conservation of natural vegetation and biodiversity.*

Comment

Vegetation retention (conservation) is discussed elsewhere in this report.

This biophilic nature of the proposed design is considered to be beneficial to the local biodiversity and shall provide alternate habitats for creatures and insects, beyond the typical habitats found within the general locale.

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

Comment

Council's Development Engineer has raised no objections to the proposed stormwater dispersal methodology. It is noted that the majority of stormwater runoff from the site would flow towards the waterway, in which it is forced to traverse through sand-stone filled gabion walls which both prevents soil erosion and provides nutrition to the receiving downstream plants.

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

Comment

The Clareville / Avalon Beach locale would not readily be described as 'rural' but it certainly has a bushland character and quality to it. The proposed development as a whole is considered to be complementary and enhancing to the existing character both at the inception of the building, but moreso in longevity as vegetation matures and envelops the built form.

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

Comment

As described above.

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

D1.16 Fences - Flora and Fauna Conservation Areas

The site is identified as being located within the Flora and Fauna Conservation Area Category 2.

This control requires that front fences shall not exceed a height of 1m above existing ground level, shall be compatible with the streetscape character and shall not obstruct views available from the road.

The application proposes a 2.1m high timber batten screen fence for the length of the frontage northwards of the proposed garage. It is assumed that this height has been chosen to match-in with the garage door (which is to slide horizontally like a gate) and to provide privacy to occupants of the dwelling.

The fence, at this height, does however unreasonably impede on public views and creates a sense of enclosure at the street edge for the total width of the site which is unacceptable.

Therefore, as described elsewhere in this report, a condition is impose requiring the fence to be

reduced in height to be no greater than 1m.

Subject to this condition, the proposal would comply with this clause.

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$27,250 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,725,000.

CONCLUSION

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

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

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

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

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

The assessment of this application and this report acknowledge that there has been a significant community interest in the proposal, namely around impacts to vegetation. This report has demonstrated that the 11 trees sought for removal are all in a poor condition and are appropriate for removal and

replacement.

The impacts caused by the development on the private amenity of adjacent land are considered to be acceptable for a residential development.

This report concludes with the recommendation that the Northern Beaches Local Planning Panel grant conditional approval to the development application.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent **approves** Development Consent to DA2021/1522 for Demolition works and construction of a dwelling house on land at Lot C DP 381427, 189 Riverview Road, AVALON BEACH, Lot LIC 567410, 189 Riverview Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
001-101 Rev. K - Site Plan	15 November 2021	Durie Design
001-120 Rev. K - Existing and Demolition Plans	15 November 2021	Durie Design
001-200 Rev. K - Ground Floor	15 November 2021	Durie Design
001-201 Rev. K - Level-1	15 November 2021	Durie Design
001-202 Rev. K - Level-2	15 November 2021	Durie Design
001-203 Rev. K - Level-3	15 November 2021	Durie Design
001-204 Rev. K - Level-4	15 November 2021	Durie Design
001-205 Rev. K - Level-5	15 November 2021	Durie Design
001-206 Rev. K - Roof	15 November 2021	Durie Design
001-210 Rev. K - Level-2 Pool Detail	15 November 2021	Durie Design
001-211 Rev. K - Pool Detail Section and Elevations	15 November 2021	Durie Design
001-212 Rev. K - Garage Detail	15 November 2021	Durie Design
001-300 Rev. K - North Elevation	15 November 2021	Durie Design
001-301 Rev. K - South Elevation	15 November 2021	Durie Design
001-302 Rev. K - West Elevation	15 November 2021	Durie Design
001-303 Rev. K - East Elevation	15 November 2021	Durie Design
001-310 Rev. K - Section A-A	15 November 2021	Durie Design
001-311 Rev. K - Section B-B	15 November 2021	Durie Design

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment and Management Plan	November 2021	Botanics Tree Wise People Pty Ltd
BASIX Certificate No. 1227940S_02	18 November	Gradwell Consulting

	2021	
Revised Biodiversity Development Assessment Report (BDAR)	16 November 2021	ACS Environmental Pty Ltd
Geotechnical Assessment (ref: AG20235)	23 September 2021	Ascent Geotechnical Consulting

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

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
L001 Rev. C- Ground Floor Landscape Plan	10 November 2021	Durie Design
L002 Rev. C - Level-1 Landscape Plan	10 November 2021	Durie Design
L003 Rev. C - Level-2 Landscape Plan	10 November 2021	Durie Design
L004 Rev. C - Level-3 Landscape Plan	10 November 2021	Durie Design
L005 Rev. C - Level-4 Landscape Plan	10 November 2021	Durie Design
L006 - Rev. C - Roof Level Landscape Plan	10 November 2021	Durie Design
L007 Rev. C - Planting Schedule	10 November 2021	Durie Design
L008 Rev. C - Planting Details	10 November 2021	Durie Design

Waste Management Plan		
Report Title	Dated	Prepared By
Site Waste Management Report (SW21/06097)	17 June 2021	Senica Consultancy Group

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

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

2. **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.

A dwelling house is defined as:

"A building containing only one dwelling."

(development is defined by the Pittwater Local Environment Plan 2011 (as amended) Dictionary)

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.

3. **Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

management system.

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$27,250.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$2,725,000.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

6. 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 Certifying

Authority prior to the issue of the Construction Certificate.

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

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

7. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$95000.00 as security against any damage or failure to complete the construction of any vehicular crossings, road shoulder any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

8. **On slab Landscape Works**

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

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

The following soil depths are required to support landscaping:

i) 300mm for groundcovers

ii) 600mm for shrubs

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

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

9. **Transplanting Methodology**

A Transplanting Methodology Plan, prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture, shall be documented to demonstrate the requirement for transplanting the proposed tree number 9 Queensland Firewheel Tree and tree number 19 NSW Christmas Bush, including:

- i) Preparation of the trees/palms to be transplanted,
- ii) transplanting methodology and installation works,
- iii) post-transplanting care and duration,
- iv) ongoing maintenance program,
- v) replacement strategy if transplanting fails in the long term.

The Transplanting Methodology is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate

Reason: Tree protection.

10. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of in accordance with Northern Beaches Council's "WATER MANAGEMENT for DEVELOPMENT POLICY". Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics dated 20 October 2020 and ASCENT Geotechnical Engineering dated 23 September 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

12. **Pre-clearance Survey**

A pre-clearance survey is to be undertaken by the Project Ecologist prior to any tree removals.

Details demonstrating compliance are to be prepared by the Project Ecologist and submitted to the Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native wildlife.

13. Notification of determination to which the Biodiversity Offset Scheme applies

The applicant or Project Ecologist, on behalf of the applicant, must download and complete the “Biodiversity Offsets Scheme – Notification of Determination” form.

The completed form and attachments, including a copy of the determination and any conditions of approval, must be emailed to the LMBC Service Centre bam.support@environment.nsw.gov.au. The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council’s Manager Bushland and Biodiversity and the Certifying Authority must be copied into the notification email to confirm compliance.

Reason: To ensure the NSW Department of Planning, Industry and Environment are notified of determinations where the Biodiversity Offsets Scheme applies and Council are notified for compliance.

14. Like for like credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant Construction Certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and to the Certifying Authority prior to release of construction certification.

Table 1 Ecosystem credits required to be retired – like for like

Impacted Plant Community Type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1214 - Pittwater	Pittwater and	1	NO	Pittwater, Cumberland,	1214, 1589

Spotted Gum Forest	Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion			Sydney Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	
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Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

15. **Variation rule credit retirement conditions - Ecosystem credit retirement conditions**
 Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 2 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 2 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	Containing HBT	IBRA sub-region	Approved variation plant community type(s) that be used to offset the impacts from development
1214 - Pittwater Spotted Gum Forest	1	NO	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or From a location within 100km of the impact site	Any PCT from Wet Sclerophyll Forests (Grassy sub-formation), Tier 3 or higher

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

16. **Vegetation Management and Tree Protection Plan**
 Prior to issue of the any Construction Certificate, a Vegetation Management and Tree Protection Plan (VMTPP) must be prepared to the satisfaction of Manager Bushland and Biodiversity of Northern Beaches Council and submitted to the Certifying Authority.

In accordance with the recommendations of the Biodiversity Development Assessment Report, the VMTPP must detail management actions to protect any retained trees occurring within or adjacent to the construction footprint, as well as a weeding program to remove any High Threat Exotics weeds from the property following construction. Measures to remove climbing weeds observed within the canopy of significant trees to be retained must also be included.

The VMTPP is to be prepared by the Project Ecologist in consultation with the Project Arborist, and must include a clear map and table detailing documenting the location and status of all trees to be retained in perpetuity including those within 2m of the future dwelling and Tree 37 (Spotted Gum) below the foreshore building line.

The VMTPP may form part of a Construction Environmental Management Plan.

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

17. **Traffic Management and Control Plan**

The Applicant is to submit an application for Traffic Management and control Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management/control Plan shall be prepared to RMS 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.

18. **Amendments to the approved plans**

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

- i the front boundary fence is to be reduced in height to be no greater than 1.0m in height measured from ground level.

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

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

19. **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 retaining wall, vehicular driveway slab within 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 structural engineer. The design must include the following information:

1. Retaining wall supporting the vehicular crossing (within the road reserve) at the front boundary alignment must be located within the development property.
2. The design plan shall show all public utility services (depth and location) affecting the proposed driveway. Any relocation and/or adjustment requires written approval from the public authority. All cost associated with the relocation or adjustments are to be borne by the property owner.
3. The existing trees located adjacent to the vehicular crossing in the road reserve shall be retained unless approved by Council. A detail Arborist supporting report on the structural design for the vehicular crossing including retaining wall is to be submitted with the design plans.
4. Submission of Structural details of driveway, retaining wall and associated works.
5. Detail driveway levels and Civil plans, which must include cross-sectional details of existing and proposed levels taken from the center line of Riverview Road to the proposed garage.
6. The provision of extra low vehicle crossing profile and 5.0 metres wide vehicular crossing in accordance with Northern Beaches Council Drawing No A4-3330/5 and specifications.
7. The vehicular crossing within the public road shall be in plain concrete.
8. Pedestrian access shall be incorporated within the driveway.
9. The parking area and driveway must comply with AS/NZS 2890.1: 2004

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

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

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

20. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

21. **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 **XX** Report (reference).

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

- i Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- i 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 Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

22. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.

23. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

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

24. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Transport Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

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
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck rates 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
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- 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 traffic
- 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
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- 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
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

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

25. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works

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

Please refer to the website www.sydneywater.com.au for:

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

26. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection, and all other arboricultural works as required.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works in the vicinity of the following existing trees:

- i) trees 13 Spotted Gum, 22 Spotted Gum, and 27 Grey Ironbark within the property
- ii) trees 17 Spotted Gum and 23 Spotted Gum with adjoining property

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 Certifying Authority that all recommendations listed for the protection of the existing trees listed above have been carried out satisfactorily to ensure no impact to the health of the trees. Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

ii) 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.

27. Tree Removal Within the Property

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

i) tree numbers 3b, 10, 11, 20 and 21 Rose She Oaks

ii) tree number 18 White Mahogany

iii) tree number 28 Spotted Gum

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

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised development works.

28. 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.

29. **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.

30. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority 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.

Properties:

- i 187 Riverview Road, Avalon Beach
- i 191 Riverview Road, Avalon Beach

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority 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 Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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 arising from the works.

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

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

31. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

32. **Installation and Maintenance of Sediment and Erosion Control**

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

33. **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 trees fronting the development site shall be protected in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

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.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Street tree protection.

34. **Tree and Vegetation Protection**

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

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

b) Tree protection shall be undertaken as follows:

i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an 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 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 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 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 with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

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 Australian Standard 4970-2009 Protection of Trees on Development Sites,

ix) the activities listed in section 4.2 of Australian Standard 4970-2009 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 Australian Standard 4373-2007 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.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Reason: Tree and vegetation protection.

35. **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.

36. **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:

- i Work Health and Safety Act;
- i Work Health and Safety Regulation;
- i Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- i Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- i Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- i 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.

37. **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 Certifying Authority, 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.

38. **Survey Certificate**

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

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

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

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

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

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

39. **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 Certifying Authority and/or Roads Authority.

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

40. **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.

41. **No Fill in Native Vegetation Areas**

No fill is to be introduced in the area of native vegetation or habitat remaining on the site.

Reason: To ensure the protection of the natural environment.

42. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required, in accordance with applicable regulations, to ensure waste and debris does not enter receiving waters.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

43. **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 Certifying Authority.

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

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

44. **Landscape Completion**

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

i) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,

ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 2.0 metres from common boundaries,

iii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space or solar collectors, and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

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

Reason: Environmental amenity.

45. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

i) compliance to any Arborist recommendations for tree protection generally and during

excavation works,

- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

46. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

47. **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 Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

48. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (DurieDesign 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

49. **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 Certifying Authority prior to issue of any Occupation Certificate.

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

50. **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 Certifying Authority prior to issue of any Occupation Certificate.

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

51. **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:

- i Compare the post-construction report with the pre-construction report,
- i Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- i 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 Certifying Authority prior to the issuing of any Occupation Certificate.

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

52. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority 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.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

54. **Swimming Pool Requirements**

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

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

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

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

55. **Removal of All Temporary Structures, Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

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

56. **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 Plan and any conditions of consent.

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

Reason: To maintain local environmental amenity.

57. **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.

58. **Removal of exemption under B4.22 of Pittwater 21 Development Control Plan**

The exemption by proxy listed under B4.22 of the Pittwater 21 Development Control Plan is to be removed for the site, specifically:

Council's authorisation of a Vegetation Clearing Permit is not required for:

- i *The removal of a tree, where the base of the trunk of the tree at ground level, is located within two (2) metres of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building).*

All native trees within 2m of the future approved building that would otherwise be considered exempt, must only be cleared following approval via Development Application/Modification, a Vegetation Clearing Permit or is otherwise subject to s8(3)(4) of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

Reason: Ongoing protection of trees within 2m of the future approved building.

59. **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.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1522
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot C DP 381427, 189 Riverview Road AVALON BEACH NSW 2107 Lot LIC 567410, 189 Riverview Road AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	James Paul Durie
Applicant:	James Paul Durie

Application Lodged:	30/08/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	02/12/2021 to 16/12/2021
Advertised:	Not Advertised
Submissions Received:	56
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,725,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for the demolition of existing structures on the site, preparation works and the construction of a new dwelling house with swimming pool.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to public interest as more than 50 objections to the proposal have been received.

Concerns raised in the objections relate to impact on biodiversity and particularly, the Pittwater Spotted Gum Endangered Ecological Community. Concerns were also raised about the scale of the building and consequent amenity impacts on both the public and private domain.

The applicant elected to redesign the proposal in response to the community and Council concerns that had been raised. The subsequent amended plans reduce the footprint of the building, redesign the facades and reduce the quantum of tree removal from 17 trees to 11 trees. Tree removal is the most contentious issue raised by the community and therefore, the following notes provided by Council's Landscape Officer are relevant with regards to the 11 trees to be removed:

- Tree T1, T2 and T3 - these are exempt species and can be removed without Council's approval.
- Trees 3b, 10, 11 and 20 - these trees are all identified as being in poor health with a low retention value as a result of being suppressed by more significant canopy trees, as well as the presence of borers and termites.
- Tree T18 - is identified as being in poor health with a number of dead limbs and a termite nest in the lower canopy.
- Tree T21 - is identified as being impacted by termites with visible decay present.
- Tree T28 - is identified as having a poor canopy development, likely a result of previous construction works that saw hard surfaces and retaining walls within its TPZ.
- Tree T38 - is identified as having visible decay and is in a period of decline.

The above refers to all of the trees that are proposed to be removed.

This report therefore considers that the proposed impacts on vegetation are acceptable and are appropriately compensated via conditions and new plantings. The impacts caused by the development upon adjoining land have been significantly lessened in the amended plans and, consequent of those, are considered to be acceptable subject to conditions.

The public interface of the development to Riverview Road and to the Pittwater waterway is considered to be acceptable and maintains the bushland character of the locality.

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

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for the demolition of the existing dwelling and for the construction of a new detached dwelling house inclusive of an elevated swimming pool.

Specifically, consent is sought for the following works:

- Demolition of existing two-storey dwelling, stone driveway and pathways on the eastern half of the lot.
- Excavation and fill works to the existing lower-ground floor level of the current dwelling (approx. 382m³).
- Removal of eleven (11) trees including three (3) exempt species that do not require Council approve to be removed (identified as Trees 1, 2 and 3), four (4) trees identified as being in poor health with a low retention value (Trees 3b, 10, 11, 20), two trees that are identified as being impacted by termites (Tree 18 and 21), and two (2) trees with poor development and/or decline (Tree 28, 38).
- Construction of a tiered dwelling house across six levels.
- Construction of an elevated swimming pool on 'Level - 2'.
- Construction of external timber stairs and inclinator to the northern edge of the dwelling.
- Associated landscaping works including the planting of sixteen (16) new canopy trees and 1,742 other plants as specified in the Planting Schedule.

The building proposed is to be finished with glazing, vertical gardens, sandstone cladding, semi-open breezeblock walls and timber batons. The building is to be topped with a 304m² living green roof.

AMENDED PLANS

Council wrote to the applicant on 22 October 2021 outlining a number of concerns with the application that had been identified by Council and the community. The applicant responded to these concerns in late November by submitting a revised design and accompanying documentation. The revised plans (as described above) were re-exhibited and form the basis of this assessment.

Herein, these revised plans are referred to as the 'development'.

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 - 5.7 Development below mean high water mark

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 21 Development Control Plan - A4.1 Avalon Beach Locality

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 - 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 - C1.19 Incline Passenger Lifts and Stairways

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

<p>Property Description:</p>	<p>Lot C DP 381427 , 189 Riverview Road AVALON BEACH NSW 2107 Lot LIC 567410 , 189 Riverview Road AVALON BEACH NSW 2107</p>
<p>Detailed Site Description:</p>	<p>The subject property is legally described as Lot C in Deposited Plan 381427 and is known as 189 Riverview Road, Avalon Beach.</p> <p>The site falls within the C4 Environmental Living zone pursuant to the Pittwater Local Environmental Plan. The very western edge of the site is bound by the W1 Natural Waterways zone.</p> <p>The site is generally trapezoidal in shape with a width to the street of 18.2m and depths of 60.35m and 59.13m.</p> <p>The site presently accommodates a stone driveway and parking platform to the front of the site. A one and two storey older dwelling sits centrally within the site. The western half of the site has been newly landscaped with a series of pathways and stairways leading to a timber jetty and slipway on the waters edge.</p> <p>Topographically the site slopes steeply from the street to the water (east to west) by 32m via a reasonable consistent slope. Several large rock outcrops and rock shelves, including a cave, exist on the site, generally in the western half of the site.</p> <p>The site accommodates mature vegetation throughout including numerous established native trees that form part of the wider Pittwater Spotted Gum endangered ecological community.</p> <p>Surrounding properties consist of other detached dwelling houses of varying age, size and construction.</p>

Map:



SITE HISTORY

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

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of

Section 4.15 Matters for Consideration	Comments
(EP&A Regulation 2000)	<p>consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested and provided by the applicant in November 2021, and was re-notified to surrounding neighbours.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 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 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 02/12/2021 to 16/12/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 56 submission/s from:

Name:	Address:
Mr Christopher John Zonca Mrs Kylie Herbst	174 Riverview Road AVALON BEACH NSW 2107
Mr Anthony Craig Boaden	34 Trappers Way AVALON BEACH NSW 2107
Henry Coleman	12 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Premananda Grace	Address Unknown
Mr Darren Joseph Drew	166 Riverview Road AVALON BEACH NSW 2107
Mr Keith James Woodward	182 Riverview Road AVALON BEACH NSW 2107
Mr Eric Leon Gumley	724 Barrenjoey Road AVALON BEACH NSW 2107
Ben Reay	4 Bilga Avenue BILGOLA PLATEAU NSW 2107
Harrison West	22 Coonanga Road AVALON BEACH NSW 2107
John Sheehan	Address Unknown
Avalon Preservation Trust Incorporated as Avalon Preservation Association	24 Catalina Crescent AVALON BEACH NSW 2107
Mrs Helen Jean Mackay	53 Hilltop Road AVALON BEACH NSW 2107
Mr Peter Allan L'Green Mrs Vicki Ann L'Green	1 Shore Brace AVALON BEACH NSW 2107
Ms P King	38 Riverview Road AVALON BEACH NSW 2107
Mrs Marita Ann Macrae	24 Catalina Crescent AVALON BEACH NSW 2107
Dr Rohan Thomas Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Mrs Michele Lillian Petrie	185 Riverview Road AVALON BEACH NSW 2107
Mrs Karen Lorraine Alchin	49 Riverview Road AVALON BEACH NSW 2107
Ms Linda Anita Jansen	4 Mariposa Road BILGOLA PLATEAU NSW 2107
Mr Mark Ernest Alchin	49 Riverview Road AVALON BEACH NSW 2107
Mr Mark Graham Pearsall	10 Beauty Drive WHALE BEACH NSW 2107
Mr Stuart Mackenzie Walker	28 Riviera Avenue AVALON BEACH NSW 2107
Pittwater Natural Heritage Association	PO Box 187 AVALON BEACH NSW 2107
Dr Kathrin Zeleny	24 Edward Street NORTH SYDNEY NSW 2060
Ms Danielle Janice	13 York Terrace BILGOLA PLATEAU NSW 2107

Name:	Address:
Bressington	
Mr Hubert Reinhold Habicht	1 B Urara Road AVALON BEACH NSW 2107
Mrs Debbie Anne Banham	29 Binburra Avenue AVALON BEACH NSW 2107
Ms Karin Locke Richards	PO Box 293 AVALON BEACH NSW 2107
Sylvia Saszczak	Address Unknown
Ms Beverley May Wilson	29 Elvina Avenue AVALON BEACH NSW 2107
Mrs Prudence Wawn	47 Riverview Road AVALON BEACH NSW 2107
Ms Susan Mary Holliday	16 Cabarita Road AVALON BEACH NSW 2107
Ms Maryse Dinusha Peiris	203 Riverview Road AVALON BEACH NSW 2107
Vanessa Louise Lenthall	67 Hastings Parade NORTH BONDI NSW 2026
Planning Progress	Po Box 213 AVALON NSW 2107
Mr Robert Harold Lawrenson	193 Riverview Road AVALON BEACH NSW 2107
Mr Robert Hamilton Reeves	176 Riverview Road AVALON BEACH NSW 2107
Ms Amanda Barton Maple-Brown	168 Riverview Road AVALON BEACH NSW 2107
Mr Brendan James Donoghue	168 Riverview Road AVALON BEACH NSW 2107
Ms Margaret Jean Richardson	15 Trappers Way AVALON BEACH NSW 2107
Nathalie Cuthbertson	4 Coonanga Road AVALON BEACH NSW 2107
Clareville & Bilgola Plateau Residents Association	PO Box 292 AVALON BEACH NSW 2107
Ms Miranda Maragret Korzy	80 Wandeen Road CLAREVILLE NSW 2107
Wendy Gleen	Address Unknown
Mrs Lillian Elaine Walter	30 Trappers Way CLAREVILLE NSW 2107
Ms Robin Anne Plumb	35 George Street AVALON BEACH NSW 2107
Ms Sandra Kay Tyson	27 Catalina Crescent AVALON BEACH NSW 2107
Councillor Kylie Ferguson (Former Councillor)	Address Unknown
Ms Diana Smythe	207 Riverview Road AVALON BEACH NSW 2107
Mr Michael Brian Hall	201 Riverview Road AVALON BEACH NSW 2107
Natalie Cuthbertson	4 Coonanga Road AVALON BEACH NSW 2107
Mrs Susan Christine Martin	19 Hudson Parade AVALON BEACH NSW 2107
Mrs Chelsey Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Francis Benjamin Welsh	33 Hilltop Road AVALON BEACH NSW 2107
Mrs Kirsten Anne Welsh	33 Hilltop Road AVALON BEACH NSW 2107
Mr Philip Cohen	15 Cabarita Road AVALON BEACH NSW 2107

The application was publicly exhibited twice (the second (and most recent) being consequent of the amended plans).

47 submissions were received in response to the first exhibition of the application (noting that several of

those are duplicates). 18 submissions were received in response to the second exhibition of the application regarding the revised plans. Of the total submissions received, two (2) were received in support. The content of the submissions between the first and second exhibition did not materially change and the objections received remain.

The issues raised in the submissions have generally been categorised under the following themes, and each are addressed below:

- **Impact on vegetation, tree removal, Pittwater Spotted Gum EEC**
- **Built form compliance, building bulk and size of dwelling**
- **Site frontage and views from Riverview Road**
- **View sharing from private properties**
- **Visual and acoustic privacy**
- **Overshadowing**
- **Land use**
- **Rainwater absorption and stormwater management**

- **Erection of height poles**
- **Impact on property value**
- **Creation of a precedent**
- **Floor Space Ratio and Desired Character**
- **Aims of the Plan (PLEP)**
- **Objectives of the zone**
- **Consideration of DA2020/1338 & DA2019/0380**
- **Traffic congestion and management of construction traffic**

The matters raised within the submissions are addressed as follows:

- **Impact on vegetation, tree removal, Pittwater Spotted Gum EEC**

Comment

Every submission received raised concern to the removal of vegetation, particularly the Pittwater Spotted Gum Endangered Ecological Community.

The revised plans received minimise the number of trees required to be removed. A number of submissions received are of the opinion that the revised plans have not encompassed any noteworthy change, however that position is not agreed with as it is found that significant alterations to the footprint of the building and extensive root mapping has determined the building's location.

Detailed commentary on these matters can be found later in this report by Council's Landscape Officer and Bushland and Biodiversity Officers who, after review of all revised documentation, are satisfied with the proposal subject to stringent protection conditions for the lifetime of the development.

- **Built form compliance, building bulk and size of dwelling**

Comment

A number of submissions received object to the proportions of the dwelling and attribute that massing to built form non-compliances.

The proposal does not display any level of non-compliance to the built form controls that would be unexpected given the topographical constraints of the land. The proposal does not comply with the building envelope, front setback, landscaped area and (for an external staircase) the side setback. Each of these matters is discussed in detail under their respective clauses later in this report.

In summary it is found that each of the non-compliances is acceptable and, in most instances, is supported by variation provisions built into the Pittwater 21 Development Control Plan.

- **Site frontage and views from Riverview Road**

Comment

Concern is raised in a number of submissions regarding the site's frontage with regards to the built form treatment and the impact on public views. This matter is discussed in detail throughout this report but in summary, the garage is considered to be acceptable and well-designed but the front fence is considered excessive in height (2.1m) and is conditioned to be lowered to a maximum height of 1.0m.

- **View sharing from private properties**

Comment

Concern has been raised from Nos. 187 and 174 Riverview Road that they will experience view loss caused by the proposed development. This matter is discussed in detail later in this report. In summary the extent of view loss caused by the development is not considered sufficient to warrant the refusal of the application.

- **Visual and acoustic privacy**

Comment

Concern has been raised by adjoining properties that the proposal, particularly the swimming pool area, may detract from their existing provision of visual and acoustic privacy.

Visually it is not considered that the swimming pool or decks throughout the building would cause any unreasonable degree of overlooking into neighbouring properties. Where a minor impact may exist it could be remedied through the use of privacy screening, however that may result in a more severe view or visual bulk impact. On that basis visual privacy is considered acceptable.

The use of the site for the purpose of a dwelling house is not considered to cause any unreasonable acoustic impacts to neighbours. A condition is imposed which requires the swimming pool equipment to be located or designed in such a fashion to minimise any acoustic intrusion.

- **Overshadowing**

Comment

Concern is raised by the property to the south that the proposal would unreasonably overshadow their home. The revised plans received have pulled the built form away from the southern boundary at several levels which have significantly reduced the degree of overshadowing experienced at mid-day (the period where the most significant degree of

overshadowing was occurring). The amended plans include detailed shadow analysis which demonstrate compliance with the requisite DCP controls and as such, this matter does not warrant the refusal of the application.

- **Land use**

Comment

Several submissions received query whether the proposal is a "family home" (dwelling house) given the lower two levels of the house that are not internally connected to the rest of the building. No approval is sought for any use other than a dwelling house and a condition is recommended to be imposed requiring such a use. Should that use be changed in the future it will be subject to a development application.

- **Rainwater absorption and stormwater management**

Comment

Concern is raised that the footprint of the building will minimise the degree of rainwater absorption commensurate to the existing building. It is true that the building footprint is larger than the existing building, however the stormwater management system and rainwater absorption has been assessed as satisfactory.

- **Erection of height poles**

Comment

Several submissions received requested height poles to be erected to ascertain view loss from both the public and private domain. The applicant was not requested to erect height poles for several reasons including the fact that the purported view loss is understood without the need for height poles (i.e., the garage), the topography of the land causing difficulties in erecting and maintaining height poles and, given that the site is heavily vegetated currently which lessens the the ability to see the poles themselves from neighbouring properties.

Sufficient information has been supplied by objectors and has been observed on site to ascertain an accurate depiction of view loss, which is elaborated upon later in this report.

- **Impact on property value**

Comment

Several submissions raise concern that the development will devalue their properties. Property value is not a matter for consideration under the section 4.15 of the Environmental Planning and Assessment Act 1979.

- **Creation of a precedent**

Comment

Concern is raised in several submissions that the scale of the proposed dwelling may become a precedent for future developments within the locale. Precedence is not a metric used to assess development applications, rather the applicable DCP and LEP controls are. In this respect, the development does not create a precedent and this matter does not warrant the refusal of the application.

- **Floor Space Ratio and desired character**

Comment

A submission received states that the Floor Space Ratio (FSR) of the development is 0.65:1 and is therefore incongruous with the desired character of the locale. FSR is not an applicable control under the relevant environmental planning instruments.

- **Aims of Plan (PLEP)**

Comment

The aims of the Pittwater Local Environmental Plan 2014 are considered to be satisfactorily achieved.

- **Objectives of the zone**

Comment

The objectives of the C4 Environmental Living zone are considered to be satisfactorily achieved.

- **Consideration of DA2020/1338 and DA2019/0380**

Comment

A submission received refers to recent view loss assessments in the above-mentioned development applications. A comparison between applications is not a practical exercise as each application is considered on its own merits. The consideration of one application does not translate to policy or guidance in how every application must be considered.

- **Traffic congestion and management of construction traffic**

Comment

Concern is raised that the construction of the development may cause traffic congestion. The Riverview Road and Cabarita Road northern peninsula is commonly subject to houses renovating and therefore construction traffic is nothing new on this road. Notwithstanding that, a condition is included in the recommendations of this report that a Construction Traffic Management Plan be prepared and approved prior to the commencement of works.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><i>Supported, with conditions</i></p> <p>Final Landscape Comments - 17/01/2022</p> <p>Following issue of updated and amended plans and reports, the Landscape Referral is assessed by an alternate Landscape Officer (Senior Landscape Architect).</p>

Internal Referral Body	Comments
	<p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living, and the following Pittwater 21 DCP 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, including: D1 Character as viewed from a public place. <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, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone.</p> <p>A Landscape Plan and an Arboricultural Impact Assessment is submitted with the development application. No concerns are raised in respect of the Landscape Plan subject to conditions of consent. Locally native tree replacement is proposed as well as mass planted gardens and planters. It is noted that eight existing Spotted Gum trees within the lower slopes, identified as tree numbers 31, 33, 34, 35, 36, 27, 38 and 39 in the Arboricultural Impact Assessment are retained and thus, along with the retention of rock outcrops, provide the preservation of natural landscape features to satisfy the objectives of the C4 Environmental Living zone to the lower slopes of the property. The upper slope of the property includes the retention of existing trees in proximity to the proposed development works, and the Arboricultural Impact Assessment provides review following tree root investigations of the arboricultural impacts and concludes the existing trees are able to be preserved and subject to tree protection measures.</p> <p>The Arboricultural Impact Assessment report dated November 2021 provides tree root mapping investigation and assessment to alleviate the concerns raised in previous Landscape Referral comments. The report notes that the tree protection zone and structural root zone radial distance assessment is impacted by the presence of underlying bedrock and exposed floaters/outcrops and site review of tree root impact is based on site observations.</p> <p>The following arboricultural assessment is submitted in the Arboricultural Impact Assessment: eighteen existing trees within the property are</p>

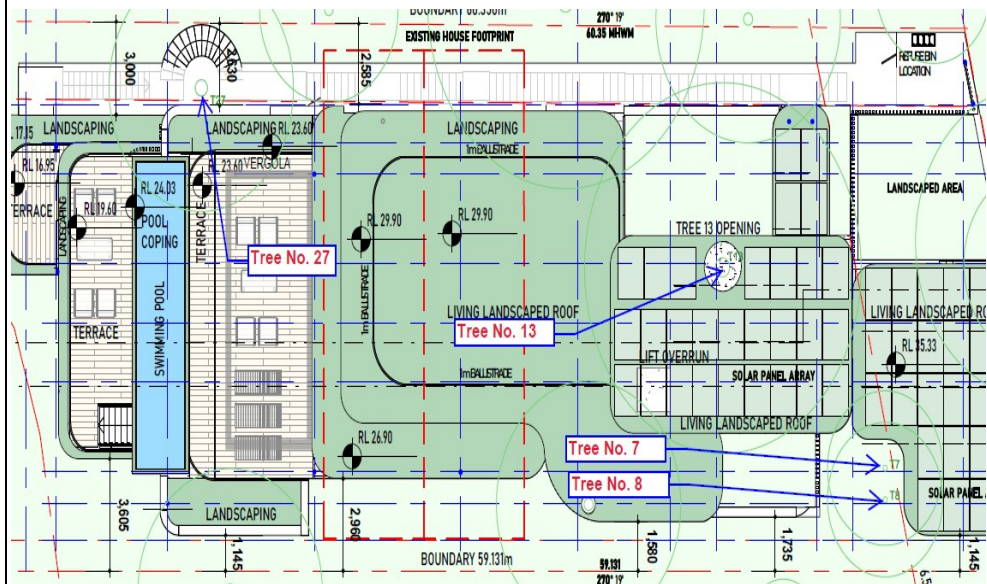
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	<p>assessed for retention; eight are proposed for removal due to development impact or tree health issues (excluding any exempt species) within the property; two existing street trees are preserved; and the Arboricultural Impact Assessment concludes that existing trees located within adjoining properties in proximity to development works, following tree root investigations where necessary, are not impacted by the development works, subject to tree protection measures.</p> <p>A Project Arborist shall be engaged to supervise and approve all development works upon the site near existing tree numbers 13, 22, and 27 within the property and tree numbers 17 and 23 within adjoining properties.</p> <p>Of concern, but ultimately subject to the Planning Officers assessment, is the proposed garage and timber batten structure that presents to the streetscape. Under DCP control D1 Character as viewed from a public place, “Garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place” and there is no landscape treatment to soften the proposed dominance and impact, and additionally the public view of water is removed and the DCP outcomes to preserve and enhance local views is lost.</p> <p>Should the Planning Officer consider the development to be acceptable on planning merits, Landscape Referral raise no objections.</p> <p>Second Landscape Comments – 20/12/2021</p> <p>Following original concerns raised regarding significant tree removal and the impacts of proposed works on trees to be retained, amended Architectural Plans and an Arboricultural Impact Assessment have been provided with the application.</p> <p>The Arboricultural Impact Assessment and subsequent tree report provided with the application has identified a total thirty-nine trees, six of which are located in the adjoining property to the north, four are located in the adjoining property to the south, two in the road reserve alongside the remaining twenty-seven located within the site boundaries. Of these thirty-nine trees identified, eleven trees, including Tree No. 1, 2, 3, 3b, 10, 11, 18, 20, 21, 28 and 37, have been proposed to be removed. Trees No. 1, 2 and 3 have been identified as exempt species, and therefore do not require Council’s approval to be removed. For this reason, no major concern is raised with the removal of these three trees. Trees No. 3b, 10, 11 and 20 have all been identified as being in poor health with a low</p>

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	<p>retention value largely as a result of being suppressed by more significant canopy trees, as well as the presence of borers and termites. Tree No. 18 contains a visible termite nest in the lower canopy, with a number of dead limbs present as well. For this reason, Tree No. 18 has also been identified as being in poor health with a low retention value. Tree No. 21 is also impacted by termites, with visible decay present. Tree No. 28 has been identified as having a poor canopy development, likely a result of previous construction works that saw hard surfaces and retaining walls constructed within its TPZ. Finally, Tree No. 38 has been identified as having visible decay and in a period of decline, hence removal of this tree has been proposed. Considering all the above information, the removal of these trees can be supported as it is clear these trees have less than optimal health and are likely to further decline in the future which could possibly pose a risk to both property and life. It is noted the Landscape Plan provided proposes three significant canopy trees as replacement, alongside a number of smaller trees and shrubs to return landscape amenity and canopy coverage to the site.</p> <p>Concern is raised as a number of trees, including Tree No. 4, 5, 7 and 8, have not been assessed with regards to potential impacts as a result of proposed works. Trees No. 4 and 5 are existing street trees located within the road reserve at the front of the property. The demolition plan, Drawing No. 001-120, demonstrates that the existing stone driveway and stone retaining wall located at the front of the site within the TPZ and SRZ of these trees is to be removed. The removal of these structures is likely to negatively impact the health and potentially the structural integrity of these trees which is not likely to be supported. Trees No. 7 and 8 are located adjacent to the proposed garage, with a tree root investigation also taking place where the proposed pier footing is to be located. The Arboricultural Impact Assessment states no significant roots (greater than 20mm) are to be removed; however, this hole, identified as Hole 1, has uncovered a large tree root that does appear to be far greater than 20mm, and would require removal. The width of this root has not been identified in the Arboricultural Impact Assessment. No discussion has been made regarding the implication of this root being removed, hence concern is raised regarding the on-going health of these trees should proposed works proceed in this location.</p> <p>As there have been no discussions of proposed works and the likely impacts on these four trees, it is currently unclear as to whether these can successfully be retained. For this reason, it is recommended that an amended Arboricultural Impact Assessment be provided with the application exploring the impacts of proposed works on these four trees. Should investigations determine these trees cannot be safely retained and preserved, it is recommended an alternative layout should be sought.</p> <p>Following concerns raised regarding the impacts of proposed works on trees in adjoining properties, a number of tree root investigations have taken place. These investigations, excluding Hole 1, have not identified any significant roots, hence the impacts of proposed works appear to be manageable and are not anticipated to negatively impact trees in these adjoining properties. Subject to recommended tree protection measures,</p>

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including the appointment of a Project Arborist to supervise works, the impacts on these trees are manageable and can be supported.

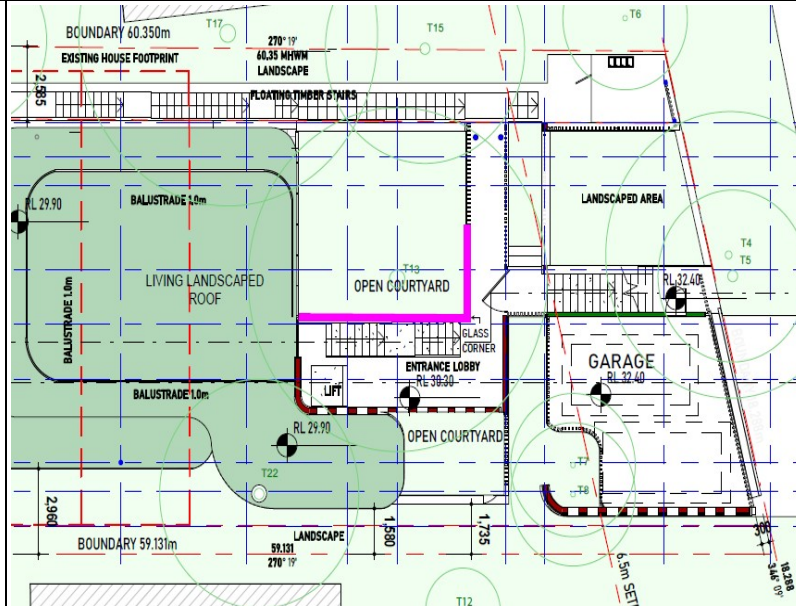
The two most significant trees located within the site, identified as Trees No. 13 and 27, have now been retained, with a number of tree root investigations taking place to determine the likely impacts of proposed works on existing root structures. Although this is seen as a positive, and it is clear work has been done to retain these trees, concern is still raised as these trees, in addition to Trees No. 7 and 8, fall within 2 metres of the proposed building. Should the plans be approved with the current layout, Trees No. 7, 8, 13 and 27 may all be removed without approval under the tree removal provisions outlined in control B4.22. The implications of this are significant as the total number of trees likely to be removed increases, including the two most value, biodiversity rich trees within the site. For this reason, it is recommended that further design alterations be made, ensuring that proposed works are at least 2 metres clear of proposed works to not only minimise impacts but also ensure they are retained in the long-term. The proximity of these trees to the proposed building can be seen in the image below:



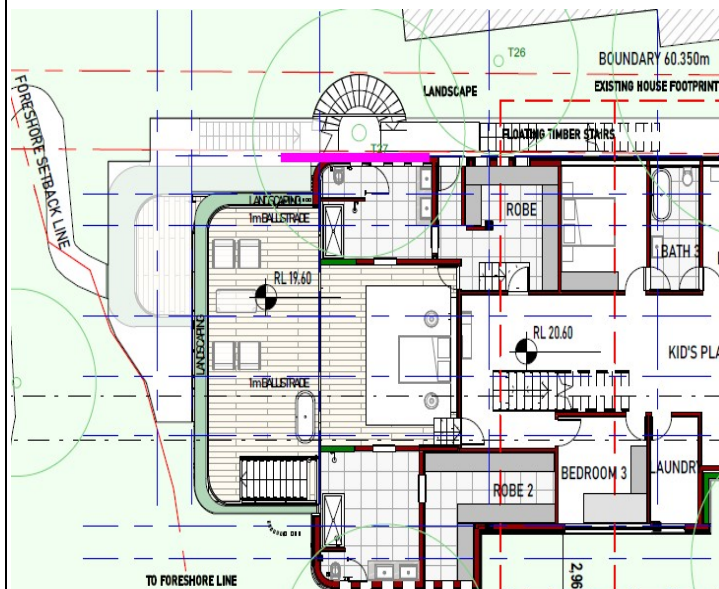
It is noted tree root investigations have taken place adjacent to Trees No. 13 and 27; however, concern is raised as these tree root investigations do not appear to have been completed on the edge of proposed works. Hence, these investigations do not provide an accurate depiction of the existing roots and what is likely to be impacted by the proposed works. In order to ensure proposed works do not impact significant roots of these two trees, it is recommended that additional tree root investigations take place in the locations as depicted by the PINK line in the below images. Should design alterations be made to ensure greater clearance from these trees, the tree root investigations should take place on the edge of the proposed works, similar to that depicted in the below images:

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Required tree root investigation location for Tree No. 13.



Required tree root investigation location for Tree No. 27.

In light of the above concerns, the landscape component is therefore not currently supported. It is recommended that an amended Arboricultural Impact Assessment be provided detailing the likely impacts of proposed works on Trees No. 4, 5, 7 and 8, with site specific tree protection measures recommended to ensure these trees are successfully retained and adequately protected. Should this investigation find proposed works are to have TPZ encroachments greater than 10% or any SRZ impact, further tree root investigations are required in accordance with AS4970-2009, specifically Clause 3.3.3 Major Encroachment. Additionally, it is recommended that an alternative design layout be sought ensuring that proposed buildings are located at least 2 metres from trees to be retained. This is particularly important for Trees No. 13 and 27. Following this, additional tree root investigations are required to take place in the locations depicted in the above images, or on the edge of proposed works. Should

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	<p>these investigations determine no significant roots are found and no detrimental impacts on these trees is likely, the landscape component of the proposal could be supported subject to conditions of consent.</p> <p>Upon the receipt of the required information, further assessment can be made.</p> <p>Original Landscape Comments - 10/09/2021</p> <p>This application is for demolition of an existing residential dwelling, and the construction of a new residential dwelling, inclusive of a swimming pool, double garage and new landscape works.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1.14 Landscaped Area - Environmentally Sensitive Land • D1.20 Scenic Protection Category One Areas <p>The Statement of Environmental Effects provided with the application notes that a number of trees are required to be removed in order to facilitate proposed works. This statement is largely supported by the Architectural Plans as it is evident a significant number of trees are proposed to be removed. It is further noted that an Ecology Report has been provided alongside the application, however an Arboricultural Impact Assessment has not.</p> <p>Generally, there a number of concerns raised with the proposal, largely relating to the removal significant, high value, native canopy trees, as well as the impacts of proposed works on those trees proposed to be retained. The Ecology Report provided has noted that a total of seventeen native canopy trees are to be removed, sixteen of which are from the Pittwater Spotted Gum Forest, an Endangered Ecological Community (EEC). Nine trees are proposed to be retained, all of which are located below the Foreshore Building Line. Two additional trees also appear to be retained within the road reserve at the front of the site.</p> <p>It is noted that a Pre-Lodgement Meeting was conducted for this site, with Biodiversity Advice recommending the redesign of the built form and site layout to ensure Trees No. 13 and 27 be retained. Tree No. 13 and 27 are of particular high value, and efforts should be made to retain these. Landscape comments also recommended that an alternative building layout be sought, particularly in the eastern portion of the site, preventing the removal of a number of significant native trees. It is evident that limited re-design has occurred, as both of these two high value trees, as well as trees towards the eastern boundary, are proposed for removal. Considering the bulk and scale of the building, it is recommended again that the site layout be re-visited, exploring opportunities to retain these two</p>

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	<p>trees and other high value vegetation. That being said, the need for this is to be determined following advice by both the Planning and Biodiversity Teams respectively.</p> <p>Further concern is raised regarding the impacts of proposed works on trees to be retained, specifically on those trees located in adjoining properties as well as the road reserve. Trees in neighbouring properties are considered prescribed, irrespective of species and height, and must therefore be protected and retained throughout proposed works. Any negative impacts towards the short-term and long-term health of these trees would likely not be supported. The Tree Protection Zone Diagram demonstrated that the proposed dwelling is to have an encroachment of 8.97% into the Tree Protection Zone (TPZ) of Tree No. 15, a 13.89% TPZ encroachment for Tree No. 24, and a 15.41% TPZ encroachment for Tree No. 26. These encroachments into the TPZ of Trees No. 24 and 26 are in addition to existing TPZ encroachments as result of the existing dwelling, meaning Tree No. 24 has a total encroachment of 17.69%, with the total for Tree No. 26 equalling 19.89%. Trees No. 4 and 5 are both located within the road reserve adjacent to the eastern boundary and have expected TPZ encroachments of 23.41% and 22.23% respectively, with both Structural Root Zones (SRZ) impacted as well. In addition, Tree No. 23, located in the neighbouring property to the south is also likely to be impacted by proposed works, with the proposed dwelling encroaching a total of 29.24% into the TPZ, an increase of 15.53% when compared to the existing dwelling and site conditions. It is clear that proposed works are expected to have a significant impact of these trees, with the potential to negatively impact the health and vitality of these existing trees long term. As no Arboricultural Impact Assessment has been provided, the true impacts of these works are not fully known. For this reason, it is therefore recommended that an Arboricultural Impact Assessment be provided with the application in accordance with Councils Development Application Lodgement Requirements. This Arboricultural Impact Assessment is required to investigate the proposed works, including the required excavation, and determine the likely impacts these are to have on existing trees to be retained. The removal of any of these trees, in addition to the significant tree removal already proposed, would likely not be supported. It should be noted that any encroachment into the TPZ of existing trees by greater than 10%, or any encroachment into the SRZ, is deemed to be major, and therefore requires a tree root investigation in accordance with AS4970-2009, specifically <i>Clause 3.3.3 Major Encroachment</i>.</p> <p>The retention of existing native canopy trees is vital to satisfying control B4.22 as key objectives of this control include "to effectively manage the risks that come with an established urban forest through professional management of trees", "to protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide". The retention of existing vegetation is also necessary to satisfy control D1.20, as key objectives of this control include "to achieve the desired future character of the locality", as well as "to maintain and enhance the natural environment of Pittwater as the predominant feature</p>

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	<p>of the landscape with built form being a secondary component".</p> <p>The landscape component of the proposal is therefore not currently supported due to the significant impacts of proposed works on existing trees and vegetation. It is recommended that an alternative building design and site layout be sought, exploring the retention of key native trees, including Trees No. 13 and 27, as well as other significant vegetation towards the eastern boundary. In addition, it is also recommended that an Arboricultural Impact Assessment be provided with the application in accordance with Councils Development Application Lodgement Requirements. This Arboricultural Impact Assessment is required to investigate the proposed works and determine the likely impacts these are to have on existing trees to be retained. It should be noted that any encroachment into the TPZ of existing trees by greater than 10%, or any encroachment into the SRZ, is deemed to be major, and therefore requires a tree root investigation in accordance with AS4970-2009, specifically <i>Clause 3.3.3 Major Encroachment</i>.</p> <p>Upon the receipt of the required information and documentation, further assessment can be made.</p>
NECC (Bushland and Biodiversity)	<p>Supported, with conditions</p> <p>The application seeks approval for the demolition of an existing dwelling, and construction of a new dwelling. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) and Regulation 2017 State Environmental Planning Policy (Coastal Management)</p> <ul style="list-style-type: none"> • Coastal Environment Area <p>Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> • 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> • B4.7 Pittwater Spotted Gum Forest <p>Final Comments - 11/01/2022</p> <p>Council's Biodiversity referral team note the submission of an amended Architectural Plan, in combination with an amended Arboricultural Impact Assessment and Management Plan (Botanics 2021) and Biodiversity Development Assessment Report (ACS Environmental 2021).</p> <p>On review of the amended plans against the concerns raised by Council's Biodiversity referral team (7/10/2021), the following is noted:</p>

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	<ol style="list-style-type: none"> 1. A finalised Arboricultural Impact Assessment and Management Plan has now been provided. 2. Impact assessment and species identification is now consistent between the submitted Biodiversity Development Assessment Report (BDAR) and Arboricultural impact Assessment. 3. Additional measures to avoid and minimise biodiversity impacts have been included within the proposal, including an amended design and are discussed within the BDAR. <p>According to the amended Arboricultural Impact Assessment and Management Plan, the application will require the removal of eleven (11) trees, including:</p> <ul style="list-style-type: none"> • T1, 2 & 3 - <i>Ligustrum lucidum</i> (exempt - species) • T3b, 10, 11, 20 & 21 - <i>Allocasuarina torulosa</i> • T18 - <i>Eucalyptus umbra</i> • T28 & 37 - <i>Corymbia maculata</i> <p>All trees proposed for removal appear to be located within the site and are located within or in close proximity to the building footprint, with the exception of T37 (<i>Corymbia maculata</i>) which is located below the foreshore building line and is not designated for removal in amended Architectural Plans (DurieDesign 2021a; Drawing 001-200 - 001-206) nor the Landscape Plans (DurieDesign 2021b). Inadequate justification is provided for the removal of this tree, and its depicted removal is assumed to be an error and should be amended within the submitted Arboricultural Impact Assessment and Management Plan (Botanics 2021) and 'Existing and Demolition Plan' (DurieDesign 2021a; Drawing 001-120).</p> <p>Tree 1, 2 and 3 (<i>Ligustrum lucidum</i>) are a former noxious weed species and are exempt within the Northern Beaches, therefore no objection is raised to their removal. All other trees proposed for removal are prescribed, and require approval for removal.</p> <p>The Project Arborist has determined that of the 42 trees assessed, a total of 31 (or 32 including T.37) trees can be safely retained. Of these, it is noted that only 9 are located within the property and above the foreshore building line (i.e. the developable portion of the site), and 3 of them rely on a successful transplantation for survival:</p> <ul style="list-style-type: none"> • T7, 8, 13, 22 - <i>Corymbia maculata</i> (retained in-situ) • T27 - <i>Eucalyptus paniculata</i> (retained in-situ) • T29 - <i>Allocasuarina torulosa</i> (retained in-situ) • T19 - <i>Ceratopetalum gummiferum</i> (retained via transplantation) • T9, 16 - Exempt or non-locally native species (retained via transplantation) <p>Depending on tree species and size, transplantation commonly has a high</p>

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	<p>failure rate, however in this instance no objection is raised by Council's Biodiversity Unit as the species are non-locally native, exempt, or otherwise do not form a part of <i>Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion</i> endangered ecological community (EEC). Below the foreshore building line, and subject to the retention of Tree 37, it is also noted that 7 prescribed trees (<i>Corymbia maculata</i>) will also continue to persist (T.31, 32, 33, 34, 35, 36 & 37).</p> <p>Based on the review undertaken, it is understood that the extent of locally-native and prescribed trees that are proposed for removal to facilitate the application is either 7 of 21 (33%) throughout the entire property, or 7 of 14 (50%) above the foreshore building line only. It is also noted that the Project Arborist has determined that these 6 of these trees (T.3b, 10, 11, 18, 20, 21) proposed for removal have decay, borers and/or termites. T.18 contains a visible termite nest in the lower canopy which was observed by Council's Biodiversity Officer onsite.</p> <p>It is understood that the proposed architectural design has been amended to retain high-value trees within the site. Trees of high-significance (Tree 13 & 37) are now proposed for retention, which is consistent with the advice provided by the Biodiversity Officer at pre-lodgement and the previous Biodiversity Unit recommendation (7/10/2021). Several retained trees will be in close proximity (<2m) from the proposed dwelling, and therefore may be subject to a future exemption under PDGP B4.22 as noted by Council's Landscape referral team. However the Council's Biodiversity Unit raise no objection subject to a condition that these trees are maintained in perpetuity.</p> <p>In a review of the amended proposal against Section 7 of the Biodiversity Assessment Methodology (2020), Council's Biodiversity Officers found:</p> <ul style="list-style-type: none"> • The proposed removal of 33% of canopy (tree count) within the site, with the retention of 50% of prescribed trees occurring above the foreshore building line (i.e. developable area of the site) • The proposed replanting of 6 trees (2 <i>Angophora costata</i>, 1 <i>Corymbia maculata</i>, 3 <i>Livistona australis</i>), at best resulting in a long-term loss of 4% - 8% of canopy and PSGF EEC within the site depending on the success of the transplantation of Tree 19. • Adequate evidence of avoidance and minimisation through retention of high value trees, specifically Tree 13 and 27 that are located within the permissible development area and are now planned for retention. <p>The amended design allows for retention of high-value trees within the site, and although the current design requires the removal of 7 trees, 6 of these are compromised by decay, borers or termites and may otherwise be approved for removal under the s8(1), (2) or (3) <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i>, therefore removal of these trees is considered acceptable subject to replanting proposed under the Landscape Plan, and ongoing retention of all high-value trees</p>

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	<p>within the site. A Vegetation Management Plan and Tree Protection Plan will be conditioned to protect all trees proposed for retention and to restore and maintain the currently weed-infested understorey per the recommendation of the Biodiversity Development Assessment Report (ACS Environmental 2021).</p> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant biodiversity controls.</p> <p>Original Comments- 7/10/2021</p> <p>Council's Biodiversity Unit do not support the proposal in its current form.</p> <p>The key concerns raised by Biodiversity include:</p> <ol style="list-style-type: none"> 1. A finalised Arboricultural Impact Assessment is not provided with the application. 2. The Biodiversity Development Assessment Report (BDAR) relies on the unfinalised Arboricultural Impact Assessment, and therefore cannot be relied upon for assessment of nearby tree impacts. 3. The BDAR does not demonstrate adequate avoidance or minimisation of biodiversity impacts in accordance with the Biodiversity Assessment Methodology 2020. 4. The proposed impacts to Pittwater Spotted Gum Forest within the site are considered non-compliant with Clause 13 of the State Environmental Planning Policy (Coastal Management), Clause 7.6 of the Pittwater Local Environmental Plan 2014 and B4.7 of the Pittwater 21 Development Control Plan. <p>Further detail on point (1) - (4) is provided below.</p> <p>(1) The recently submitted 'Pre DA Impact Assessment and Management Plan' and 'Tree Table' (Botanics Tree Wise People 2021), appears to be conceptual and does not provide an assessment of all trees within 5m of the proposed works. An updated report, with a clear assessment of short-term and long-term impacts to all trees within 5m of the proposal is required. The report must clearly state which trees are proposed for removal. Impacts to trees within adjoining properties or the road reserve will not be supported, and must be clearly assessed by an AQF5 Arborist in accordance with PDCP 4.22.</p> <p>Council's Biodiversity Unit have undertaken a review of the submitted plans, and note that the following trees have been recommended for removal regardless of the DA:</p> <ul style="list-style-type: none"> • T1 - T3 <i>Ligustrum lucidum</i> (exempt - species) • T16. <i>Pittosporum undulatum</i> (exempt - height <8m) • T18. <i>Eucalyptus robusta</i> (prescribed)

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	<p>No objection is made by Council's Biodiversity Unit to the removal of T1, 2, 3 & 16 given their exempt status within the LGA, however concern is raised over the species identification of T18 and the below referenced trees:</p> <ul style="list-style-type: none"> • T5 & 18 <i>Eucalyptus robusta</i> (identified by Council's Biodiversity Officers as <i>Eucalyptus umbra</i>) • T8, 10, 11, 20, 21 & 29 <i>Casuarina glauca</i> (identified by Council's Biodiversity Officers as <i>Allocasuarina torulosa</i>) • T27 <i>Eucalyptus microcorys</i> (identified by Council's Biodiversity Officers as <i>Eucalyptus paniculata</i>) <p>The correct species identification must be included in any finalised Arboricultural Impact Assessment submitted for the application.</p> <p>T.18, or any other tree determined to be a 'Risk to Life or Property' by an AQF5 Arborist may be approved for removal in accordance with s8(1), (2) or (3) <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i>. The planning pathway is separate from a DA Application, and must be resolved prior to lodging a DA should the applicant or their Arborist rely on this approval pathway. This process requires a concurrence from Council's Tree Services team, and a License to Pick or Harm a Threatened Species or Ecological Community from DPIE should the applicant wish to remove a tree diagnostic of the Pittwater Spotted Gum Forest EEC: https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences/licences-to-control-or-harm/licences-to-harm-threatened-species</p> <p>If an approval under SEPP (Vegetation in Non-Rural Areas) has not been sought and approved prior to DA lodgement (evidence required), all tree removal will be assessed under Part 4 of the EP&A and will be subject to the Biodiversity Offset Scheme and assessed by Council's Biodiversity Unit as requiring removal to facilitate the application.</p> <p>2) The Biodiversity Development Assessment Report (BDAR : ACS Environmental 2021) states that 17 native canopy trees are proposed for removal, including, 7 <i>Corymbia maculata</i>, 2 <i>Eucalyptus umbra</i>, 5 <i>Allocasuarina torulosa</i>, 1 <i>Eucalyptus punctata</i>, 1 <i>Ceratopetalum gummiferum</i> & 1 <i>Eucalyptus paniculata</i>. The BDAR makes several references to this information having been collated from the <i>Tree Table and Pre-DA Impact Assessment and Management Plan for 189 Riverview Road, Avalon Beach</i> (Botanics Tree Wise People 2021) however this report appears to be conceptual and does not provide a clear schedule of trees requiring removal. Following finalisation of the Arboricultural Impact Assessment, the BDAR must be updated to reflect the impacts specified by the Arboricultural Report.</p> <p>(3) The proposal seeks to remove native vegetation from the Department of Planning, Industry and Environment's (DPIE) Biodiversity Values mapping. A BDAR prepared by an Accredited Assessor in accordance with</p>

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	<p>BAM 2020 is noted within the submitted documentation.</p> <p>Section 4.3.7 of the BDAR provides an assessment of Section 7.1.2 of the BAM (2020) which requires: <i>"The BDAR or BCAR must document the reasonable measures taken by the proponent to avoid or minimise clearing of native vegetation and threatened species habitat during proposal design, including placement of temporary and permanent ancillary construction and maintenance facilities."</i></p> <p>The assessment provided by the Accredited Assessor is limited and the impacts to the extent of Pittwater Spotted Gum Forest within the site are understated in favor of retention of cave structures. The same cave structures have also been determined to be <i>'degraded to the point that the species is unlikely to use the subject land'</i> in accordance with s.5.2.3(2)(a) (ii) of the <i>Biodiversity Assessment Methodology 2020</i> for threatened microbats. While Council's Biodiversity Unit agree that the cave habitat must be retained, the assessment provided by the Assessor that <i>"Avoidance of impacts have been achieved by avoiding any impact on cave or cliff structures that occur below the Foreshore Building Line"</i> is considered inaccurate. Further, the position that 'minimisation' of impacts have been achieved through the (unfinalised) Tree Protection Zone Management Plan (Botanics Tree Wise People 2021) which provides measures to avoid impacts to trees in the adjoining properties or road reserve, which would not permissible without relevant owners consent, is also considered inaccurate.</p> <p>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>In a review of the proposal against Section 7 of the BAM (2020), Council's Biodiversity Officers found:</p> <ol style="list-style-type: none"> 1. TPZ Encroachment of over 10% of up to 5 trees proposed for retention, including up to 29.24% encroachment into the TPZ of Tree 23 in the neighbouring property, as detailed in Council's Landscape Unit referral. 2. The proposed removal of 64% of canopy within the site, including all trees above the Foreshore Building Line (the maximum developable area of the site) 3. The proposed replanting of 6 trees, in existing vegetated areas, or otherwise growth restricted by the proposed development, at best resulting in a long-term loss of 42% of canopy and TEC within the site. 4. Limited evidence that impacts to significant biodiversity features such as Tree 13 & Tree 27 have been avoided, in accordance with advice provided by Council's Biodiversity Officer at pre-lodgement. 5. The 'avoided' cave structures cited within the BDAR are located below the Foreshore Building Line, and likely would not have been impacted nor would impacts from ancillary structures (e.g. paths) have been supported by Council in accordance with 4.1.4.5 of the PDCP.

Internal Referral Body	Comments
	<p>(4) Citing Pittwater DCP B4.7, advice provided by Councils Biodiversity Officer at pre-lodgement meeting:</p> <p><i>"At this stage, the proposal is therefore considered to be inconsistent with the control. The applicant is therefore encouraged to redesign the proposal in accordance with arboricultural advice to enable retention of high significance trees, particularly Trees 13 and 27."</i></p> <p>Impacts to biodiversity have not substantially changed from those proposed at pre-lodgement, or are otherwise unclear in the submitted documentation. At present, the application seeks to remove up to 64% of canopy (including TEC), while proposed landscaping will at best, result in a long-term loss of 42% of canopy and is therefore considered inconsistent with PLEP7.6 and PDCP 4.7; <i>Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.</i></p> <p>The site is subject to cl.13(1)(a) of State Environmental Planning Policy (Coastal Management):</p> <p><i>"(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"</i></p> <p>No assessment of the proposal against the cl.13(1)(a) is provided with the application, and the current design is considered likely to have an adverse impact on the integrity and resilience of the ecological environment.</p> <p>As the plans have not changed substantially since pre-lodgement, the advice provided by Council's Biodiversity Unit remains unchanged: This loss of vegetation is not supported and the footprint of the building should be re-designed to minimise the loss to an acceptable degree. The applicant is encouraged to explore alternative design options that retain the significant biodiversity features within the site and utilise the existing vegetation to compliment the proposed landscaped gardens.</p>
NECC (Coast and Catchments)	<p>The development proposal is for demolition of the existing site structures and the construction of a new dwelling at 189 Riverview Road, Avalon Beach.</p> <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016</p> <p>The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the DA. The proposed development is consistent with the objects, as set out under</p>

Internal Referral Body	Comments
	<p>Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management) 2018</p> <p>The subject site has been identified as being within the NSW Coastal Zone and therefore the Coastal Management Act 2016 (CM Act) is applicable to the proposed development. The subject site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, clauses 13, 14 and 15 as well as other relevant clauses of the CM SEPP will apply to this DA.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Boston Blyth Fleming Pty. Ltd. dated October 2021, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018 subject to conditions.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>Estuarine Risk Management 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. As the lowest floor level of the dwelling is proposed to be at 14.30m AHD, which is well above the Estuarine Planning Level adopted by Council for the site (2.66m AHD), the proposed development satisfies the requirements of the B3.7 Estuarine Hazard Controls and the Estuarine Risk Management Policy for Development in Pittwater.</p> <p>Development on Foreshore Area The subject property is affected by the foreshore building line and Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. As no development is proposed within the foreshore area the DA satisfies Part 7, Clause 7.8 of the Pittwater LEP 2014.</p>
NECC (Development Engineering)	<p>Supported, with Conditions</p> <p><i>JK Geotechnics Engineer's addressed the concerns raised previously in regards to joint block. The Geotechnical Engineers has certified an Acceptable Risk can be achieved for the development. Proposed Driveway is within the proximity of large trees located in the road reserve. The structural design for the vehicular crossing is required to be supported by an Arborist. Engineering conditions have been recommended in this regards.</i></p> <p><i>Planner to seek Council's Landscape Officers comments with respect to recommended Engineering conditions relating to Council's Tree.</i></p>

Internal Referral Body	Comments
	<p data-bbox="451 315 1305 383"><i>No Development Engineering objection subject to conditions and Landscape Officers comments/approval requested above.</i></p> <p data-bbox="451 421 687 454"><u>Planner comment</u></p> <p data-bbox="451 456 1401 591">Development Engineers have recommended that an Arborist Report be produced regarding the structural design of the driveway in proximity to existing street trees on Council land. The engineers have requested that this condition be revised by Council's Landscape Officers.</p> <p data-bbox="451 629 1420 801">Landscape has put conditions on which require these trees to remain. There is no conflict between engineering and landscape conditions, rather they support one another. In this instance a referral of the engineers 'Submission Roads Act Application for Civil Works in the Public Road' is not required.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Supported, without conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1227940S_02 dated 18 November 2021).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	59

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment

The proposal was referred to Ausgrid who raised no objection to the development application.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 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 entirety of the site is identified as being within the coastal environment area, similar to any waterfront property on the Northern Beaches. The development application has been assessed and not being likely to cause an adverse impact on any of the criterion stated within Clause 13 (1) (a) through to (g).

- (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 subclause (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

The consent authority may be satisfied that the development is designed, sited and will be managed to avoid the aforementioned adverse impacts.

14 Development on land within the coastal use area

- (1)
 - (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 platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *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 entirety of the site is identified as being within the coastal use area. No public access is readily available to the foreshore area at the front of the site and, in the event that it was, the development in

question would not impede said access given that the building is landwards of the foreshore building line. The works are not considered to have an adverse impact on the above-listed criterion and will be appropriately managed to avoid said impact.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 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 consent authority may be satisfied that the proposed development is not likely to cause increased risk of coastal hazards on the site or other surrounding land.

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
4.3 - Height of Buildings	8.5m	9.7m	14.1% (1.2m)	No (see Clause 4.3(2D))
4.3(2D) - Height of Buildings	10.0m		N/A	Yes

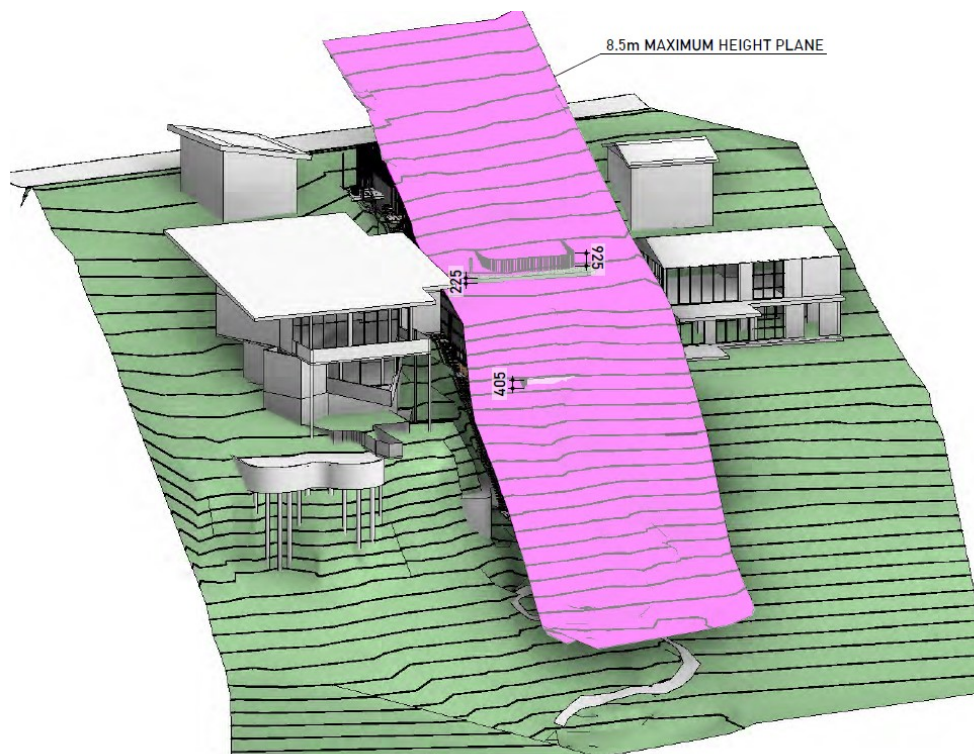
Consideration against Clause 4.3(2D)

Clause 4.3(2D) stipulates that development on land that has a maximum building height of 8.5 metres may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.

Comment

The project architect has prepared the below height blanket diagram taken at a height of 8.5m above ground level:



The extent of encroachment and the elements encroaching the 'blanket' in pink above are the elements subject of the below assessment, and those elements are considered to be minor.

(b) the objectives of the clause are achieved.

Comment

The Objectives of the Clause are addressed as follows:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.

The height of the proposed dwelling house is generally consistent with the development controls and with the proportions of newer dwellings within the locality.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.

The height and scale of the proposal is consistent with what could be developed on adjoining sites under the current planning controls. Whilst the two immediately adjoining properties are not developed to the same extent that this proposal seeks, the proportions of the build are not incompatible with their heights.

(c) to minimise any overshadowing of neighbouring properties.

The development provides a compliant level of solar access to neighbouring properties.

(d) to allow for the reasonable sharing of views.

View loss is discussed elsewhere in this report. The minor building elements that may impact upon

views do not exceed the height limit.

(e) to encourage buildings that are designed to respond sensitively to the natural topography.

The building is designed to step down the slope of the land and does not necessitate an excessive degree of excavation, commensurate to other developments on similarly sloping sites.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The building is not considered to have an adverse visual impact when viewed from the private domain, street or Pittwater waterway. The building is largely screened by landscaping, which will continue to grow and further screen the building in longevity.

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).

Comment

The slope of the land exceeds 16.7 degrees.

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment

The development is considered to be designed and sited to take into account the slope of the land to minimise the need for cut and fill.

The above considerations confirm that the 10 metre height limit may be applied in this particular instance.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	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

5.7 Development below mean high water mark

No works are sought under this cover that are below the mean high water mark.

7.2 Earthworks

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

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

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

Comment

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

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

Comment

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

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

Comment

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

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

Comment

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

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

Comment

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

(f) the likelihood of disturbing relics

Comment

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

7.6 Biodiversity protection

Refer to comments from Council's Biodiversity Officer.

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, architectural plans, 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 from a geotechnical perspective, 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.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	(east) 6.5m	Garage - 0.3m	95%	No
		Entrance Lobby - 7.8m	-	Yes
Rear building line	FSBL	> FSBL	-	Yes
Side building line	(north) 2.5m	Dwelling - 2.58m	-	Yes
		Exterior Stairs - Nil to 1.5m	100%	No
	(south) 1m	Garage - 1.3m Dwelling - 1.14m to 2.96m Pool - 3.1m	- - -	Yes Yes Yes
Building envelope	(north) 3.5m	Outside envelope	N/A	No
	(south) 3.5m	Outside envelope	N/A	No
Landscaped area	60% (642.6m ²)	Deep soil - 54.7% (586m ²) Landscaping over structures- 32.74% (304.34m ²)	9% N/A	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - 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
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	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
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The Desired Future Character statement of the Avalon Beach Locality reads as follows:

- *The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a*

landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.

Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses.

Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. Special front building line setbacks have been implemented along Avalon Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.

The design, scale and treatment of future development within the Avalon Beach Village will reflect the 'seaside-village' character of older buildings within the centre, and reflect principles of good urban design. External materials and finishes shall be natural with smooth shiny surfaces avoided. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors. The natural landscape of Careel Bay, including seagrasses and mangroves, will be conserved. Heritage items and conservation areas indicative of early settlement in the locality will be conserved, including the early subdivision pattern of Ruskin Rowe.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

Comment

The ability to achieve the intent of the Desired Future Character statement (DFC) forms an integral part of the development controls within the Pittwater 21 Development Control Plan 2014 (P 21 DCP) and thus it is pertinent to establish whether or not this development, as a whole, can appropriately be described as achieving the DFC.

Whilst the DFC does state the dwellings should be a maximum of two storeys in any one place this control is not imbedded within any built form control and, generally seeks to limit three storey houses of flat blocks. Such a control is difficult to achieve on a sloping block such as that of the subject development site, however the massing of the built form is considered to be appropriately distributed to minimise unreasonable impacts of bulk and scale and, any actual impact of such would be largely ameliorated by the facade design of the building. In this instance an exceedance of two storeys is accepted and congruous with surrounding buildings.

The height of the proposed development is lesser than existing canopy trees. The design incorporates a biophilic architecture with plantings on the walls and roof which will, over time, largely screen the majority of the built form from view. The extensively landscaped western half of the site (adjacent to the waterway) is to remain and accommodates vegetation that will screen the development.

The development proposes a fence and garage door for the width of the front boundary, both to be constructed of open timber batons. This fence is discussed in greater detail later in this report and is altered via condition, and thus does not materially alter the DFC of the locale, nor the development's ability to achieve that.

In consideration of all factors it is found that the development appropriately achieves a balance between the existing landforms and vegetation, the reasonable development expectations of the land and the establishment of new green infrastructure to benefit the ecology and biodiversity of the locale in longevity.

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Refer to comments from Council's Landscape Officer and Bushland and Biodiversity Officer.

B4.22 Preservation of Trees and Bushland Vegetation

Refer to comments from Council's Landscape Officer and Bushland and Biodiversity Officer.

C1.3 View Sharing

Objections claiming view loss have been received from the following properties:

1. 187 Riverview Road, Avalon (south), and
2. 174 Riverview Road, Avalon (east, across the street).

The development is considered against the underlying Outcomes 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

187: From 187 to the south the views to be affected can generally be described as tree tops in the foreground and water views in the background. The views to be affected do not consist of land-water interface (except for on the distant western side of Pittwater) but do consist of otherwise uninterrupted panoramic views of Pittwater to the west.

174: From 174 the development site sits to the opposite side of the road. The views from 174 are wholly atop of their neighbouring properties to the west. The views to be affected consist of filtered water views, being filtered by vegetation on the site itself and built forms at other neighbouring properties (fences and carports).

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

187: The views are enjoyed from both a sitting and standing position, although standing provides a greater breadth of view. The views in question are across a side boundary (the south side of the development site).

174: The views are visible from a standing position and are heavily filtered from a sitting position. The views are obtainable over the front boundary to the rear boundary of the development site.

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

187: 187 is designed in a manner that all rooms generally enjoy an easterly outlook onto Pittwater and beyond. The principle areas in question in this assessment at the ground floor (top

floor) kitchen and living/dining areas that open up onto a deck area which accommodates an inclinor platform. The deck is bound by privacy screens to both flank (north and south) edges. To the north, the privacy screen projects approximately 800mm beyond the western edge of the deck. The effect of this screen makes the existing house at 189 Riverview largely unseen. The screen is estimated to have a height of 2m which, when taking into consideration the floor level of the deck, results in an approximate maximum RL of 28.2 (note: the survey provided with this DA and a survey provided with a recent DA for 187 have differing RLs, i.e., the ridge of the subject house is RL27.2 whereas the neighbouring DA survey marks is as RL28.29 thus being a 1.29m difference. For the purpose of this assessment the RLs on the subject application survey are deemed to be correct).

The relationship between the two properties is visible on the below image (source: nearmaps January 2021)



In this image the privacy screen (shadow) can be seen on the northern edge of the deck. Generally, the deck aligns with the existing house. The objection includes the following photograph which displays the deck, view and privacy screen:



In the location of the existing house the building is to increase in height by approximately 2.5m - that storey (which is entirely void space and glass) will be visible atop of the privacy screen. The void space aligns with the westernmost edge of the deck at no. 187.

Located west of the deck is a lightweight vergola structure at RL26.6 which is 400mm higher than the deck. Below the vergola are several more stepped floors of the building that site at least 3m below the height of the vergola.

From the above photograph, it is considered that the vergola may be visible and would project at near the balustrade height of the above photo towards the water. The rest of the dwelling is not considered to cause view loss as, from standing on the edge of the deck looking downwards into the development site, views are heavily obstructed by existing vegetation both mature and newly planted.

On balance it is acknowledged that the proposed dwelling will be seen from the neighbouring house, however that is a reasonable expectation living in an urban area. The extent of impact is limited to a lightweight vergola structure, as the majority of the built form has been pushed as eastwards as possible. In the event that the discussed privacy screen were to be removed (as it does not appear to be required by any condition of consent) then the analysis of this assessment would not materially change, as it is not expected that the screen obstructs a large portion of water views. On balance of all factors it is considered that the view loss could best be described as minor.

174: No. 174 sits on the eastern side of Riverview Road and has a wide frontage the equivalent of both nos. 189 and 191 Riverview. The extent of impact to the views from 174 is largely limited to the proposed carport and front boundary treatment as well as proposed tree plantings. The view is best enjoyed from the front garden / driveway and parking area and less-so from inside the house, however views of the water are still obtainable from bedroom / studies and living spaces. The objector contends that the predominant loss of views will be from their home office which they work in every day. From the top of the driveway, the current view is as per the below photograph:



From a comparative analysis of the sites and documentation submitted for the current DA and an older (2020) DA at 174, the following facts have been established:

- FFL of 174 is RL 38.39
- Driveway at boundary of 174 is RL 36.00
- Driveway at kerb of 174 is RL 33.90-34.10
- Riverview Road is approx. RL 34 (varies)
- Driveway at boundary of 189 is RL 32.60
- Existing parking pad at 189 is RL 29.60 (varies slightly)
- Existing carport roof at 191 is approx. RL 35.20 (taking surveyed FFL of 32.19 and assuming 3m height)
- Proposed garage FFL - RL 32.40
- Proposed garage parapet - RL 35.50

The garage in question is on the southern portion of the site, i.e., the left hand side of the photo, and sits 1m away from the brushbox fence to the left - that fence is surveyed as sitting on Council land and at the corner has a height of RL 33.32, and along the street an RL of 33.88.

In the above photograph, the carport is generally in the location between the brushbox fence and the nose of the white truck which roughly is described as the large clump of vegetation that does not provide views.

The proposed parapet height of the garage sits 1.5m higher than the road level, and sits approx. 3m lower than the floor level of 174.

The views to be affected consist of the foreground water views that are impeded by vegetation. It is not considered that any views of the western foreshore district will be impacted.

The objector has provided photographs with an estimation of height poles as below, with the top of the ladder being outstretched to a length of 3.9m measured from the base:



The height of 3.9m is derived from earlier sets of plans, the revised parapet height of the garage measured from the FFL is 3.5m. The approximate located of the person holding the ladder is surveyed to be RL 33.02 and therefore the top of the ladder is at RL 36.92. This height is 1.4m greater than the proposed parapet height of RL 35.50, consequent of the revised plans.

On balance and for reasons explained in Step 4 below, the view loss is deemed to be minor to moderate.

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

187: In a holistic sense the portion of building which may cause view loss is minor commensurate to the build as a whole, which is reflective of the attempts to minimise such impacts. The extent of impact is not considered to be severe and is caused by a lightweight and openable shade structure to provide shade and amenity to the principal private open space of the development site which would otherwise be exposed to westerly sun. It is not considered that the element causing view loss is unreasonable.

174: The impact of views from 174 is consequent of the location of the garage on the boundary which is tied to the view loss issue in their submission. The topography of the land makes providing compliant vehicular access beyond the front setback line difficult, notwithstanding the current layout of the site. Such difficulties are displayed on numerous other garages on the street.

The garage structure could be pushed further into the site to increase the compliance with the front setback, and remain below the height limit, however this would cause a greater impact on the existing views enjoyed.

It is noted that the garage is to be constructed of visually permeable materials on all four sides and is topped by a large living green-roof. The extent of view loss does not warrant a redesign of the proposal and the outlook from 174 will remain characterised by water and bushland views, enhanced by the green roof. It is not considered that the proposed garage is unreasonable, and it is found that all reasonable attempts have been made to minimise impact by lowering the height of the structure to a minimum, opening up all four sides, and providing a green roof.

The submission from 174 goes on to object about view loss from proposed trees. The provision of trees prevails over views.

- *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

From the street it is considered that the development does not cause any unreasonable obstruction of views to Pittwater and West Head. The relevant levels of the garage commensurate to the roadway are described above.

The materiality of the garage and front fence is widely spaced timber battens that permit views through to the waterway but provide a degree of privacy and security to occupants of the dwelling. However, the proposed front fence measures approximately 2.1m in height which is unacceptable. A condition of consent is recommended to reduce the height of this front fence from 2.1m to 1.5m which will allow for pedestrian views over the fence towards the water but will limit downward views into the property.

- *Canopy trees take priority over views.*

Comment

The development does not seek to remove trees for the purpose of obtaining views. Whilst concerns have been raised in submissions about the proposed tree plantings, the retention and establishment of canopy trees take priority over views and this issue therefore does not warrant the refusal of the DA.

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

C1.5 Visual Privacy

The proposal is not anticipated to cause any detriment to the provision of privacy currently enjoyed by neighbouring properties. The building has been designed with screening on most side window and landscaping to filter any sightlines. It should be noted on perspectives and elevations that the central level is a double height void space, and thus impacts from those windows is not considered unreasonable.

C1.14 Separately Accessible Structures

The lowest two levels of the dwelling are not internally accessible from the main building, however these floors host ancillary rooms to the principal dwelling including bedrooms, rumpus room, a bathroom and a home gym. These spaces are not considered capable of independent habitation and a condition will be imposed on any consent requiring the property to only be used as one dwelling house.

C1.19 Incline Passenger Lifts and Stairways

Clause C1.19 requires inclinators and stairways to be located 2m from the side boundary of a site. The proposal does not achieve compliance with this requirement, and the non-compliance is discussed in detail later in this report under Clause D1.9 Side and rear building line.

D1.8 Front building line

Description of Non-Compliance

Clause D 1.8 Front building line of the P 21 DCP prescribes a 6.5m setback requirement for all structures, but does permit a variation on steeply sloping or constrained sites for Council to consider reduced or nil setbacks for car parking structures, however all other structures on the site must satisfy or exceed the minimum building line.

In this instance the site is deemed to be steeply sloping and constrained and therefore the variation provision is applicable. The proposed garage has a setback to the front boundary of 0.3m and the entrance lobby and rest of the house has a minimum front setback of 7.8m.

Merit Consideration

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

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

Comment

It is established elsewhere in this report that the development can achieve the desired future character of the locality.

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

Comment

The concerns raised by the community and Council's Landscape Officer with regards to public views and the general treatment of the front of the site is noted.

The proposed garage takes up half the width of the sites frontage with the remaining half being bound by a 2.1m high timber open baton fence.

Along Riverview and Cabarita Road views in westerly direction and enjoyed from most of the street. There are numerous examples of solid and bulky garages being built on or in proximity to the front boundary, often for more than half the width of a frontage, however these poor examples are not reason or precedent to repeat such a design.

The garaging is located in the most sensible location on the site given tree locations and the topography, and thus no objections are raised to its location.

The front (street-facing) and rear wall of the garage are to be constructed of open timber batons that permit partial views through from the street to the water. The flank facades of the garage are constructed of a 'hit and miss' breezeblock design which equally permits vistas through. The level of visibility through the garage (for half the site's width) is considered acceptable. The structure itself also benefits from a large living green roof which is (to the author's knowledge) the first along Riverview Road and will provide visual interest.

However, it is considered that there is no reasonable need for a 2.1m high front boundary fence in this location. If the intent of that fence is to provide privacy to the occupants then the window arrangement should be redesigned. A fence of some degree is required in this location given the drop in land, and therefore a condition is imposed which limits the fence to be no greater than 1m in height. This reduced height will not obstruct public views, and pedestrians will be able to see over the fence and over the top of the building thus preserving views and vistas.

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

Comment

N/A Riverview Road is not a main road.

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

Comment

The encroachment of the garage into the front setback area is directly caused by the retention of two trees (Tree T7 and T8) to the rear of the garage. The structure has been designed to be of minimal dimensions and curved around these tree trunks to allow for their retention.

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

Comment

Not achieved but, given the reasonably quiet nature of Riverview Road, not considered to be essential.

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

Comment

The presence of a garage in the front setback area is not considered to detract from the bushland character of the locality. The material palette and green roof is considered to enhance the character.

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

Comment

The encroaching elements do not exceed the height of trees and are of a minimal height.

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

Comment

The proposal is considered to be a positive addition to the street scape and will present as an attractive building. The works will not harm pedestrian amenity.

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

Comment

Achieved.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant Outcomes of the Pittwater 21 Development Control plan 2014 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 Side and rear building lines of the P 21 DCP 2014 prescribe required side setbacks of 1m to one side and 2.5m to the other side and, in this instance, a foreshore building line applies rather than a traditional numeric rear setback control.

The proposed dwelling is compliant with all side and rear setback requirements, however the proposed external staircase and inclinators line to the northern edge of the site encroaches the setback area by up to 100%.

Merit Assessment

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

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

Comment

It has already been established in this report that the development achieves the desired future character of the Locality.

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

Comment

The non-complying elements consist of floating timber stairs and an inclinor line. These elements are deemed to minimally contribute to any bulk and scale given the actual proportions of those elements, and their positioning close to ground level.

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

Comment

The non-complying elements are not considered to cause any view loss. View loss is discussed in greater detail elsewhere in this report.

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

Comment

As above.

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

Comment

The majority of properties within the vicinity have similar access arrangements to that proposed; indeed similar to a house on a flat block of land having side access. The stair and inclinor are not considered to detract from the amenity of neighbours.

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

Comment

Landscaping is discussed elsewhere in this report.

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

Comment

The placement of stairs and inclinor is considered to be logical in this instance and is not

found to result in any impacts to neighbouring amenity, and thus flexibility in their siting is supported.

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

Comment

Vegetation retention is discussed elsewhere in this report.

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

Comment

Not applicable as there is not adjacent commercial zone.

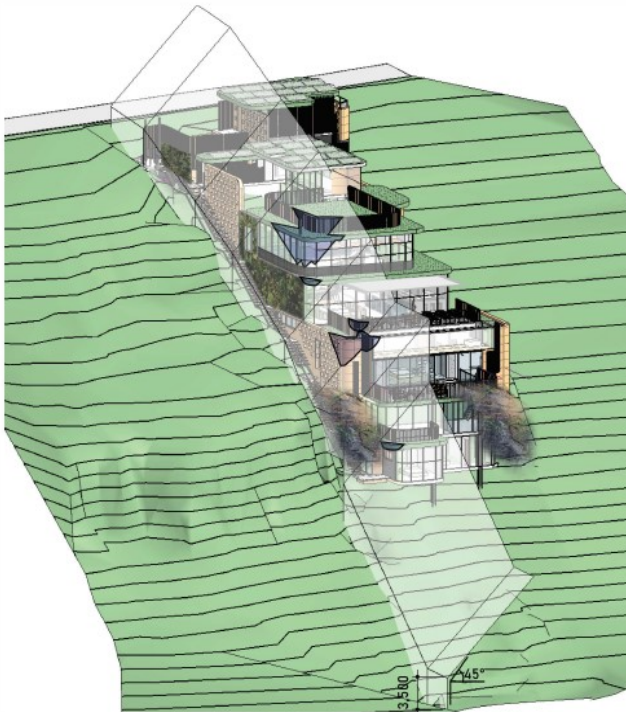
Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P 21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in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

D1.11 Building envelope

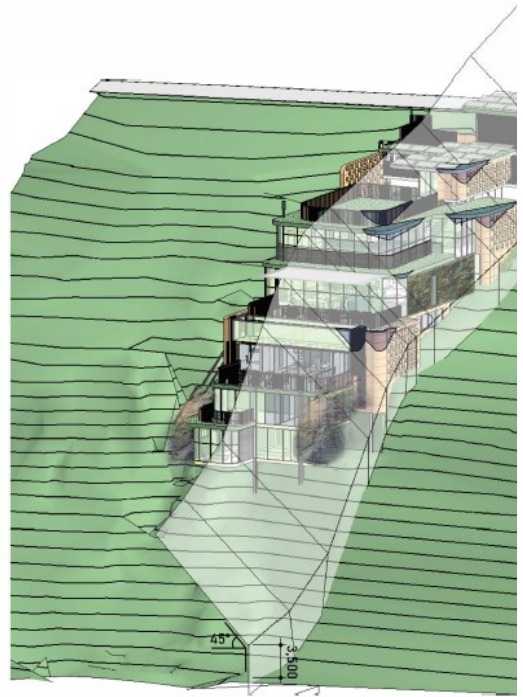
Description of Non-Compliance

Clause D1.11 Building envelope of the P 21 DCP prescribes a 3.5m high envelope measured from the outer edges of the site before turning inwards at a 45 degree angle. Elements of the building should not project beyond this theoretical envelope. The control does include a variation provision that states that where a building footprint is situated on a slope of 16.7 degrees, a variation may be considered on a merit basis.

The proposal exceeds the prescribes envelope on both the northern and southern elevations as depicted on the below overlay plans prepared by the architect:



NORTHERN ENVELOPE SETBACK SHOWN AT 3.5m HEIGHT AT 45°



SOUTHERN ENVELOPE SETBACK SHOWN AT 3.5m HEIGHT AT 45°

It is noted that the proposed vergola adjacent to the swimming pool appears to project beyond the envelope but it not shown as doing so on the above diagram.

Merit Consideration

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

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

Comment

It has already been established in this report that the development achieves the desired future character of the Locality.

- *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 encroachment to the building envelope does not manifest on the street elevation and does not materially alter the streetscape. The overall height and scale of the proposal is lesser than that of trees which will continue to tower over the built form.

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

Comment

Designing a building on a sloping site poses many challenges which is why the P 21 DCP includes variation provisions, for circumstances such as those posed by this application. As evident in the above diagrams the building steps back eastwards at each level and, in part,

steps inward from the levels below on the flank elevations to minimise envelope encroachments. This, coupled with the design curving around existing trees to facilitate their retention, is considered to be sufficient grounds to say that the development can spatially relate to the natural environment.

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

Comment

The encroachments to the building envelope do not amount to any unreasonable bulk and scale commensurate to the compliant development.

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

Comment

Views are discussed elsewhere in this report.

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

Comment

The revised plans under assessment have significantly stepped in the southern edge of the building away from the boundary to improve solar access and improve visual privacy to the dwelling to the south. Other encroaching elements of the building envelope are not considered attributable to any amenity impacts upon adjoining land.

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

Comment

Vegetation retention is discussed elsewhere in this report.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P 21 DCP 2014 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

Clause D1.14 Landscaped Area of the P 21 DCP prescribes a required landscaped ratio of 0.6:1 or 60%. The intent of that control is that calculable landscaped open space be located at ground level, and therefore roof gardens, planter boxes and the like are not included within that numeric.

The applicant contends that a deep soil landscape area of 645sqm or 60.2% is provided. Council's calculation of this falls slightly short of this figure, and instead is 586sqm or 54.7% thus resulting in a 9% variation to the control requirements. It should be noted that the architect's CAD software is likely more accurate than Council's measurement software, however in any instance the quantum of landscaped area will be assessed against the objectives of the control.

In furtherance to the above, and notwithstanding that it does not count towards the above calculable

landscaped area, the proposal includes a living green roof on all roofs of the building, equating to an additional 304.34sqm (or 32.74% of the site over and above deep soil landscaping) being considered as landscaping over structure. This element is important to note in preface to the below merit assessment.

Merit Consideration

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

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

Comment

Established earlier in this report.

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

Comment

The calculated shortfall in landscaped area is not attributable to any unreasonable perception of bulk and scale. That is, the perceived bulk and scale of the development is not likely to be markedly different if a compliant provision of landscaped area was provided. In any case, the bulk and scale of the built form is considered to be appropriately minimised by way of unique fenestration detailing to both flank facades, the inclusion to living green walls and green roofs, the reasonably open front facade (discussed elsewhere in this report) and the wide foreshore building line which the development sits behind.

Temporally the built form will become increasingly disguised and subservient to vegetation which will further minimise bulk and scale in longevity.

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

Comment

The proposed development is found to provide a reasonable level of amenity and solar access to neighbouring properties. It is not considered that there would be any marked improvement in neighbouring amenity were a compliant provision of deep soil landscaping be provided. Instead, it is considered that the alternate forms of landscaping proposed (other than deep soil landscaping) will significantly enhance the amenity of neighbours by way of improving their visual outlook and making a contribution to lessening to urban heat island effect.

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

Comment

Vegetation retention is discussed elsewhere in this report in detail.

- *Conservation of natural vegetation and biodiversity.*

Comment

Vegetation retention (conservation) is discussed elsewhere in this report.

This biophilic nature of the proposed design is considered to be beneficial to the local biodiversity and shall provide alternate habitats for creatures and insects, beyond the typical habitats found within the general locale.

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

Comment

Council's Development Engineer has raised no objections to the proposed stormwater dispersal methodology. It is noted that the majority of stormwater runoff from the site would flow towards the waterway, in which it is forced to traverse through sand-stone filled gabion walls which both prevents soil erosion and provides nutrition to the receiving downstream plants.

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

Comment

The Clareville / Avalon Beach locale would not readily be described as 'rural' but it certainly has a bushland character and quality to it. The proposed development as a whole is considered to be complementary and enhancing to the existing character both at the inception of the building, but moreso in longevity as vegetation matures and envelops the built form.

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

Comment

As described above.

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

D1.16 Fences - Flora and Fauna Conservation Areas

The site is identified as being located within the Flora and Fauna Conservation Area Category 2.

This control requires that front fences shall not exceed a height of 1m above existing ground level, shall be compatible with the streetscape character and shall not obstruct views available from the road.

The application proposes a 2.1m high timber batten screen fence for the length of the frontage northwards of the proposed garage. It is assumed that this height has been chosen to match-in with the garage door (which is to slide horizontally like a gate) and to provide privacy to occupants of the dwelling.

The fence, at this height, does however unreasonably impede on public views and creates a sense of enclosure at the street edge for the total width of the site which is unacceptable.

Therefore, as described elsewhere in this report, a condition is impose requiring the fence to be

reduced in height to be no greater than 1m.

Subject to this condition, the proposal would comply with this clause.

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$27,250 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,725,000.

CONCLUSION

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

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

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

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

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

The assessment of this application and this report acknowledge that there has been a significant community interest in the proposal, namely around impacts to vegetation. This report has demonstrated that the 11 trees sought for removal are all in a poor condition and are appropriate for removal and

replacement.

The impacts caused by the development on the private amenity of adjacent land are considered to be acceptable for a residential development.

This report concludes with the recommendation that the Northern Beaches Local Planning Panel grant conditional approval to the development application.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/1522 for Demolition works and construction of a dwelling house on land at Lot C DP 381427, 189 Riverview Road, AVALON BEACH, Lot LIC 567410, 189 Riverview Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
 The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
001-101 Rev. K - Site Plan	15 November 2021	Durie Design
001-120 Rev. K - Existing and Demolition Plans	15 November 2021	Durie Design
001-200 Rev. K - Ground Floor	15 November 2021	Durie Design
001-201 Rev. K - Level-1	15 November 2021	Durie Design
001-202 Rev. K - Level-2	15 November 2021	Durie Design
001-203 Rev. K - Level-3	15 November 2021	Durie Design
001-204 Rev. K - Level-4	15 November 2021	Durie Design
001-205 Rev. K - Level-5	15 November 2021	Durie Design
001-206 Rev. K - Roof	15 November 2021	Durie Design
001-210 Rev. K - Level-2 Pool Detail	15 November 2021	Durie Design
001-211 Rev. K - Pool Detail Section and Elevations	15 November 2021	Durie Design
001-212 Rev. K - Garage Detail	15 November 2021	Durie Design
001-300 Rev. K - North Elevation	15 November 2021	Durie Design
001-301 Rev. K - South Elevation	15 November 2021	Durie Design
001-302 Rev. K - West Elevation	15 November 2021	Durie Design
001-303 Rev. K - East Elevation	15 November 2021	Durie Design
001-310 Rev. K - Section A-A	15 November 2021	Durie Design
001-311 Rev. K - Section B-B	15 November 2021	Durie Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment and Management Plan	November 2021	Botanics Tree Wise People Pty Ltd
BASIX Certificate No. 1227940S_02	18 November	Gradwell Consulting

	2021	
Revised Biodiversity Development Assessment Report (BDAR)	16 November 2021	ACS Environmental Pty Ltd
Geotechnical Assessment (ref: AG20235)	23 September 2021	Ascent Geotechnical Consulting

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

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
L001 Rev. C- Ground Floor Landscape Plan	10 November 2021	Durie Design
L002 Rev. C - Level-1 Landscape Plan	10 November 2021	Durie Design
L003 Rev. C - Level-2 Landscape Plan	10 November 2021	Durie Design
L004 Rev. C - Level-3 Landscape Plan	10 November 2021	Durie Design
L005 Rev. C - Level-4 Landscape Plan	10 November 2021	Durie Design
L006 - Rev. C - Roof Level Landscape Plan	10 November 2021	Durie Design
L007 Rev. C - Planting Schedule	10 November 2021	Durie Design
L008 Rev. C - Planting Details	10 November 2021	Durie Design

Waste Management Plan		
Report Title	Dated	Prepared By
Site Waste Management Report (SW21/06097)	17 June 2021	Senica Consultancy Group

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

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

2. **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.

A dwelling house is defined as:

"A building containing only one dwelling."

(development is defined by the Pittwater Local Environment Plan 2011 (as amended) Dictionary)

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.

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

management system.

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

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$27,250.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$2,725,000.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

6. **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 Certifying

Authority prior to the issue of the Construction Certificate.

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

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

7. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$95000.00 as security against any damage or failure to complete the construction of any vehicular crossings, road shoulder any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

8. **On slab Landscape Works**

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

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

The following soil depths are required to support landscaping:

- i) 300mm for groundcovers
- ii) 600mm for shrubs

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

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

9. **Transplanting Methodology**

A Transplanting Methodology Plan, prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture, shall be documented to demonstrate the requirement for transplanting the proposed tree number 9 Queensland Firewheel Tree and tree number 19 NSW Christmas Bush, including:

- i) Preparation of the trees/palms to be transplanted,
- ii) transplanting methodology and installation works,
- iii) post-transplanting care and duration,
- iv) ongoing maintenance program,
- v) replacement strategy if transplanting fails in the long term.

The Transplanting Methodology is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate

Reason: Tree protection.

10. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of in accordance with Northern Beaches Council's "WATER MANAGEMENT for DEVELOPMENT POLICY". Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics dated 20 October 2020 and ASCENT Geotechnical Engineering dated 23 September 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

12. **Pre-clearance Survey**

A pre-clearance survey is to be undertaken by the Project Ecologist prior to any tree removals.

Details demonstrating compliance are to be prepared by the Project Ecologist and submitted to the Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native wildlife.

13. Notification of determination to which the Biodiversity Offset Scheme applies

The applicant or Project Ecologist, on behalf of the applicant, must download and complete the “Biodiversity Offsets Scheme – Notification of Determination” form.

The completed form and attachments, including a copy of the determination and any conditions of approval, must be emailed to the LMBC Service Centre bam.support@environment.nsw.gov.au. The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council’s Manager Bushland and Biodiversity and the Certifying Authority must be copied into the notification email to confirm compliance.

Reason: To ensure the NSW Department of Planning, Industry and Environment are notified of determinations where the Biodiversity Offsets Scheme applies and Council are notified for compliance.

14. Like for like credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant Construction Certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and to the Certifying Authority prior to release of construction certification.

Table 1 Ecosystem credits required to be retired – like for like

Impacted Plant Community Type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1214 - Pittwater	Pittwater and	1	NO	Pittwater, Cumberland,	1214, 1589

Spotted Gum Forest	Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion			Sydney Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	
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Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

15. **Variation rule credit retirement conditions - Ecosystem credit retirement conditions**
 Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 2 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 2 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	Containi
1214 - Pittwater Spotted Gum Forest	1	NO

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

16. **Vegetation Management and Tree Protection Plan**

Prior to issue of the any Construction Certificate, a Vegetation Management and Tree Protection Plan (VMTPP) must be prepared to the satisfaction of Manager Bushland and Biodiversity of Northern Beaches Council and submitted to the Certifying Authority.

In accordance with the recommendations of the Biodiversity Development Assessment Report, the VMTPP must detail management actions to protect any retained trees occurring within or adjacent to the construction footprint, as well as a weeding program to remove any High Threat Exotics weeds from the property following construction. Measures to remove climbing weeds observed within the canopy of significant trees to be retained must also be included.

The VMTPP is to be prepared by the Project Ecologist in consultation with the Project Arborist, and must include a clear map and table detailing documenting the location and status of all trees to be retained in perpetuity including those within 2m of the future dwelling and Tree 37 (Spotted Gum) below the foreshore building line.

The VMTPP may form part of a Construction Environmental Management Plan.

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

17. **Traffic Management and Control Plan**

The Applicant is to submit an application for Traffic Management and control Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management/control Plan shall be prepared to RMS 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.

18. **Amendments to the approved plans**

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

- the front boundary fence is to be reduced in height to be no greater than 1.0m in height measured from ground level.

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

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

19. **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 retaining wall, vehicular driveway slab within 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 structural engineer. The design must include the following information:

1. Retaining wall supporting the vehicular crossing (within the road reserve) at the front boundary alignment must be located within the development property.
2. The design plan shall show all public utility services (depth and location) affecting the proposed driveway. Any relocation and/or adjustment requires written approval from the public authority. All cost associated with the relocation or adjustments are to be borne by the property owner.
3. The existing trees located adjacent to the vehicular crossing in the road reserve shall be retained unless approved by Council. A detail Arborist supporting report on the structural design for the vehicular crossing including retaining wall is to be submitted with the design plans.
4. Submission of Structural details of driveway, retaining wall and associated works.
5. Detail driveway levels and Civil plans, which must include cross-sectional details of existing and proposed levels taken from the center line of Riverview Road to the proposed garage.
6. The provision of extra low vehicle crossing profile and 5.0 metres wide vehicular crossing in accordance with Northern Beaches Council Drawing No A4-3330/5 and specifications.
7. The vehicular crossing within the public road shall be in plain concrete.
8. Pedestrian access shall be incorporated within the driveway.
9. The parking area and driveway must comply with AS/NZS 2890.1: 2004

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

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

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

20. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

21. **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 XX 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 Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

22. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.

23. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

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

24. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Transport Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

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
- 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
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- 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 traffic
- 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
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- 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
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

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

25. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works

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

Please refer to the website www.sydneywater.com.au for:

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

26. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection, and all other arboricultural works as required.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works in the vicinity of the following existing trees:

- i) trees 13 Spotted Gum, 22 Spotted Gum, and 27 Grey Ironbark within the property
- ii) trees 17 Spotted Gum and 23 Spotted Gum with adjoining property

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 Certifying Authority that all recommendations listed for the protection of the existing trees listed above have been carried out satisfactorily to ensure no impact to the health of the trees. Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

ii) 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.

27. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

i) tree numbers 3b, 10, 11, 20 and 21 Rose She Oaks

ii) tree number 18 White Mahogany

iii) tree number 28 Spotted Gum

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

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised development works.

28. **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.

29. **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.

30. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority 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.

Properties:

- 187 Riverview Road, Avalon Beach
- 191 Riverview Road, Avalon Beach

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority 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 Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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 arising from the works.

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

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

31. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

32. Installation and Maintenance of Sediment and Erosion Control

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

33. 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 trees fronting the development site shall be protected in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

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.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Street tree protection.

34. Tree and Vegetation Protection

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

i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,

ii) all trees and vegetation located on adjoining properties,

iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an 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 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 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 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 with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

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 Australian Standard 4970-2009 Protection of Trees on Development Sites,

ix) the activities listed in section 4.2 of Australian Standard 4970-2009 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 Australian Standard 4373-2007 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.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Reason: Tree and vegetation protection.

35. **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.

36. **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.

37. **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 Certifying Authority, 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.

38. **Survey Certificate**

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

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

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

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

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

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

39. **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 Certifying Authority and/or Roads Authority.

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

40. **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.

41. **No Fill in Native Vegetation Areas**

No fill is to be introduced in the area of native vegetation or habitat remaining on the site.

Reason: To ensure the protection of the natural environment.

42. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required, in accordance with applicable regulations, to ensure waste and debris does not enter receiving waters.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

43. **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 Certifying Authority.

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

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

44. **Landscape Completion**

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

i) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,

ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 2.0 metres from common boundaries,

iii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space or solar collectors, and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

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

Reason: Environmental amenity.

45. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

i) compliance to any Arborist recommendations for tree protection generally and during

excavation works,

- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

46. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

47. **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 Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

48. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (DurieDesign 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

49. **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 Certifying Authority prior to issue of any Occupation Certificate.

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

50. **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 Certifying Authority prior to issue of any Occupation Certificate.

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

51. **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 Certifying Authority prior to the issuing of any Occupation Certificate.

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

52. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority 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.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

54. **Swimming Pool Requirements**

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

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

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

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life.

55. **Removal of All Temporary Structures, Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

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

56. **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 Plan and any conditions of consent.

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

Reason: To maintain local environmental amenity.

57. **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.

58. **Removal of exemption under B4.22 of Pittwater 21 Development Control Plan**

The exemption by proxy listed under B4.22 of the Pittwater 21 Development Control Plan is to be removed for the site, specifically:

Council's authorisation of a Vegetation Clearing Permit is not required for:

- *The removal of a tree, where the base of the trunk of the tree at ground level, is located within two (2) metres of an existing approved building (not including decks, pergolas, sheds, patios or the like, even if they are attached to a building).*

All native trees within 2m of the future approved building that would otherwise be considered exempt, must only be cleared following approval via Development Application/Modification, a Vegetation Clearing Permit or is otherwise subject to s8(3)(4) of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

Reason: Ongoing protection of trees within 2m of the future approved building.

59. **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.



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25 January 2022



Christopher John Zonca

Dear Sir/Madam,

Application No. DA2021/1522
Address: 189 Riverview Road Avalon Beach
Description: Demolition works and construction of a dwelling house

I wish to advise that the above development application will be referred to the next meeting of the Northern Beaches Local Planning Panel (NBLPP), to be held on **Wednesday, 02 February 2022** commencing at **12.00pm**.

Agenda & Minutes

The meeting agenda has been published on the [Northern Beaches Local Planning Panel](#) page on Council's website. Minutes will be posted on this page following the meeting, usually within 3-5 business days.

Site Inspections

The Panel members will undertake a site inspection prior to the meeting in their own time and will view the site from the public domain only.

Submissions to the Panel

Please note the panel members have been provided with all written submissions lodged in relation to this application for consideration. You may lodge a further written submission to the Panel addressing any matter in the assessment report that there was no reasonable opportunity to address prior to the assessment report. However please note the submission should be lodged no later than 5pm two days before the Panel meeting and should not exceed 2 pages. The Panel will generally not accept written submissions or material at the meeting.

The Meeting

Due to the current health risks associated with public gatherings and social distancing requirements, the meeting will be held remotely through [Microsoft Teams](#).

The meeting will be livestreamed via Council's website and can be found on the [NBLPP page](#).

Further information on the meetings is available on [Council's website](#).

Addressing the Panel

To address the Panel as part of the public meeting, you must register via email. Meeting instructions will be sent to you once you have registered. Speakers will be limited to 3 minutes, with the time extended at the discretion of the Chairperson.



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Contact Information

Please send all correspondence to planningpanels@northernbeaches.nsw.gov.au no later than 5pm two days before the Panel meeting.

Should you require any further information please contact via email or during Council's business hours on 1300 434 434.

Yours faithfully,

Natalie Graham
Senior Administration Officer