

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0572
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 1 DP 22361, 2 A Ruskin Rowe AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of a dwelling house including a swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Amber May Almening
Applicant:	Amber May Almening Sven Roger Almenning

Application Lodged:	02/06/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	02/10/2020 to 16/10/2020
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 2,176,475.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal is to demolish the existing dwelling and out buildings and construct a new pavilion style house while retaining the existing swimming pool and surrounding existing external decks.

The new house will be constructed in a pavilion style with a number of linked single storey skillion roofed buildings and one small double storey section.

The main part of the house contains bedrooms, bathrooms living and dining areas with an additional lounge space on the upper level.

There are separate buildings containing additional bedrooms and bathrooms, a home office, a

gymnasium and a garage.

Amended plans were re-notified on 29 September 2020 to adjoining and surrounding properties including submissions received from the first notification. The amended plans modified the proposal but the use and proposal in general remains consistent with the above.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

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

SITE DESCRIPTION

Property Description:	Lot 1 DP 22361 , 2 A Ruskin Rowe AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the corner of Ruskin Rowe and Avalon Parade southwestern corner of the intersection.</p> <p>The site is irregular in shape with frontages of 78.41m along Ruskin Rowe, 16.611m along Avalon Parade and arced boundary of 19.11m a depth of 66.173m. The site has a surveyed area of 2536m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single storey weatherboard and metal roofed residential dwelling against the northern boundary with a carport at the north-east corner. There is an existing timber deck spanning across a creek which divides the block from the western side to the south-east corner and a partly</p>

above ground swimming pool and timber deck to the southern side of the creek. Vehicle access to the site from Avalon Parade is via a concrete driveway..

The land slopes down slightly from both the north and south to a creek which runs from the western side boundary through the centre of the block towards the street corner at the south-east.

The site has substantial lawn and garden areas which are dominated by tall cabbage tree palms, angophoras and other native trees.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by single and two storey residential dwellings with associated outbuildings and structures with landscaped gardens.

Map:



SITE HISTORY

BC0115/10 - A sole occupancy timber dwelling with a tile roof together with a roof extension over an existing courtyard/deck area at the rear of the dwelling and two sheds approved 30 September 2010

N0323/12 - Construction of an inground swimming pool approved 21 January 2013

PLM2018/0258 - Demolition works and construction of a new detached dwelling house meeting 15 November 2018 and the following advice was provided:-

"The design presented in the pre-lodgement meeting is a highly developed proposal for a suitably site-responsive dwelling house that features its constraints rather than eliminates them. It is recommended that any engineering or flooding issues be resolved prior to the lodgement of any DA to avoid any delays.

The development is to respect the heritage value of Ruskin Rowe and the landscaped nature of the suburb. The cabana and carport structure should be deleted from the proposal, and the garage either reduced in scale, relocated or appropriately screened when viewed from the road reserve.

It is strongly encouraged that you engage with your neighbours prior to the lodgement of any DA as this may identify any issues with the application, and may result in a shorter assessment time overall."

DA2019/0883 - Demolition works and construction of a dwelling house lodged 16 August 2019.

On 17 October 2019 Council requested the DA to be withdrawn due to inconsistencies with the following sections of the Pittwater DCP:-

- B5.12 Stormwater Drainage Systems and Natural Watercourses
- B5.13 Development on Waterfront Land

The DA was withdrawn on 11 November 2019.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

Section 4.15 Matters for Consideration'	Comments
	<p>requested in relation to riparian and flood matters which now has been resolved via a deferred commencement condition.</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>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 02/10/2020 to 16/10/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Ms Traudi Line Mr Adrian Maxwell Boddy	97 Avalon Parade AVALON BEACH NSW 2107
Keith Pike	148 Louisa Road BIRCHGROVE NSW 2041
Avalon Preservation Trust Incorporated as Avalon Preservation Association	24 Catalina Crescent AVALON BEACH NSW 2107

Amended plans were re-notified on 29 September 2020 to adjoining and surrounding properties including submissions received from the first notification.

No new submissions were received. Council's notification letter states:

"Amended Plans

If plans are amended you may be notified if Council's assessing officer considers the changes have greater impact on your property than the original. If you do not lodge a subsequent submission Council will consider that your concerns have been satisfied."

Accordingly as Council has not received any submissions to the amended proposal Council considers all concerns have been satisfied.

Further to this the relevant level of delegation to determine this application rests at Development Assessment Manager as no formal objections have been received.

However to ensure completeness the issues raised originally are addressed below.

It is noted that the amended plans have addressed a number of these concerns listed below.

The following issues were raised in the submissions (from the first notification) and each have been addressed below:

- Visual Privacy
- Acoustic Privacy
- The Gymnasium Pavilion
- Landscape (impact on trees)
- Possible Solution
- Lack of consultation
- Insufficient information
- Non-compliance with the rear setback
- The development appears to be a commercial facility for rental purposes
- Not in keeping with the unique heritage character of Ruskin Rowe
- The development is not supported by Natural Environment Referral Response - Flood

The matters raised within the submissions are addressed as follows:

- Visual Privacy (The Guest Bedroom Pavilion)

"Good design should never rely on planting to solve a problem. Plants must grow, be maintained and replaced when they die. Each of the proposed three bedrooms is served with a set of full height, fixed and sliding glass (doors). From each, there is line-of-sight directly into our courtyard and main bedroom."

Comment: The original plans had five (5) sliding glass doors orientated towards the northern side neighbour (97 Avalon Parade) from the guest bedroom pavilion. A site meeting was undertaken with the owners of the subject site (2A Ruskin Rowe) their architect and the owners from the 97 Avalon Parade. From this meeting amended plans were produced which removed the sliding glass doors and replaced these with a combination of highlight windows and normal sill windows for the three (3) bedrooms with a privacy screen measuring 1.6m in height above the deck level for the spa area (located in the middle of this pavilion). This privacy screen will conditioned a minimum 1.9m in height to ensure reasonable amenity levels for both parties.

These amended plans were notified with no submissions received (during the last notification and up till time of preparation of this report). It is considered that the amendments have addressed this concern and combined with the sufficient spatial separation of this pavilion from the boundary (3m) and with the addition of the proposed plantings via the detailed Landscape Plan this will ensure reasonable levels of visual privacy will be maintained.

It is considered the above issue does not warrant refusal and/or further amendments via condition(s).

- Acoustic Privacy

"Firstly, we are the party affected by the potential bedroom noise — given that sliding doors are likely to be open for ventilation. Yet it is the guest spa we have even more concern about. Guests could and would create as much noise as they like, with no interference to the Applicants. Yet there is no acoustic barrier to our property and we would be subjected to all manner of frivolity. Human activity is one thing; spa and a/c plant and equipment is another."

Comment: As stated above the plans have now been amended with the removal of the sliding doors to the bedrooms and replacement with highlight and normal sill windows which addresses the bedrooms. Issue was raised with the spa, air conditioning plant and equipment. The spa is located 3.6m from the common side boundary between the two properties with a new timber batten screen (1.6m in height above the deck). It is considered that the new timber batten screen be increased in height to 1.9m to ensure reasonable amenity levels for both parties. Substantial planting along the northern side boundary of the subject property as proposed with the landscaping plan and the adequate spatial separation will ensure reasonable acoustic privacy. Additionally, conditions will be included for any mechanical plant to placed within an acoustic box and/or met the requirements that noise level do not exceed 5 dB(A) above the ambient noise levels when measured from the nearest property boundary.

It is considered the above issue does not warrant refusal subject to condition(s) as recommended above.

- The Gymnasium Pavilion

"See 'east' elevation (actually NE); louvres (marked CP – cement cladding?) have line-of-sight into our kitchen living space. We argue this is unacceptable."

Comment: The original plans demonstrated glass louvres on the eastern elevation of the gymnasium pavilion which may create a potential privacy issue to the adjoining property to the north (97 Avalon Parade). The amended plans have now removed the glass louvres from the eastern elevation and replaced this with a vulcan cladding remove this potential privacy issue.

It is considered the above issue does not warrant refusal and/or further amendments via condition(s).

- Landscape (impact on trees)

"Given the E4 Zoning and its stated landscape values it is bewildering that these important trees are to be removed because of the 'proposed building footprint'.

Solution: Change the footprint in accordance with E4 values: To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values."

Comment: This Development Application was submitted with architectural plans (original and amended), a geotechnical report, biodiversity report, a bushland management report, arboricultural impact assessment report (original and amended) and a landscape plan (original and amended) which have been reviewed by Council's Senior Landscape Architect.

The landscape referral response was as follows:-

"A Landscape Plan and Arboricultural Impact Assessment are provided with the application, and the landscape proposals are suitable to enhance the existing landscape character of the site and locality. The recommendations of the arboricultural assessment are supported, subject to conditions of consent. A total of six trees are documented for removal within the site, and without an alternative design available for the retention of the trees, and in consideration of the existing quantity of native trees and palms within the site that are retained, no objection is raised subject to tree replacement within the site. It is noted that one of the nominated existing trees has been removed recently following a lightning strike. No objections are raised for the proposed removal of existing small sized trees and shrubs of low retention value within the road verge to accommodate the proposed driveway along Ruskin Rowe.

Landscape Referral has no objections to the proposal subject to tree protection measures recommended in the Arboricultural Impact Assessment, under supervision and certification of a Project Arborist, and completion of landscape works, and subject to conditions of consent."

It is considered the above issue does not warrant refusal subject to condition(s) as recommended by Council's Senior Landscape Architect within the Landscape Referral Response.

- Possible solution

"Possible Solution: take the 'Guest Accommodation' pavilion and flip the plan around its long axis. Consequences: Now the 'guests' can participate in on-site activities — their bedroom windows will face the centre of the new development.

We would then accept the blank wall (of the reversal) that is similar to the gymnasium. Visual and acoustic privacy solved!"

Comment: As discussed previously amendments were made after the meeting with the owners of 97 Avalon Parade, the owners of the subject site (2A Ruskin Rowe) and their architect which has addressed these initial concerns of visual and acoustic privacy. Additionally, as discussed under "Acoustic Privacy" above specific condition(s) will be included to ensure reasonable amenity is maintained.

- Lack of consultation

Comment: Issue was raised with the lack of consultation prior to the submission of this application from the owners of subject site. It is noted that the application was notified in accordance with the Community Consultation Plan (CCP) and following the initial submissions a meeting was arranged with the both parties and the architect. Amended plans have now been submitted, re-notified and no submissions received as part of the that re-notification.

- Insufficient information

"Survey Plan: the plan as presented does not include sufficient information beyond the applicant's property boundary to fully inform Council of the implications of the proposal on the potential amenity impacts on the neighbouring property at 97 Avalon Parade."

Comment: Issues were raised that insufficient information relating to the survey which did not demonstrate the dwelling at 97 Avalon Parade and potential amenity impacts and no landscape plan could be viewed on Council's System's. It is noted that the landscape plan was later submitted and available online on 30 September 2020, which were submitted with the Amended Master Set Plans on the same date.

Additionally, Council's Planner has attended the subject site and the property to the north (97 Avalon Parade) and considered that is sufficient information coupled with these site inspections to assess of this application.

- Non-compliance with the rear setback

"The applicant property fronts Ruskin Rowe, having its main elevation and street address off Ruskin Rowe. This suggests Ruskin Rowe is the applicant's front boundary. Thus, the common boundary with 97 Avalon Parade must constitute this property's rear boundary, not a side boundary as presented in the proposal. The Council DCP requirement for a rear boundary building envelope setback is 6.5m. The proposal does not comply."

Comment: The subject site is located on the corner of Ruskin Rowe and Avalon Parade and therefore considered a corner allotment. The northern and western boundaries are side boundaries and the eastern and southern boundaries are front boundaries. Therefore the proposal demonstrates compliance with the required side setback of 1m from the northern side boundary with the garage located 1m, the guest pavilion bedroom located 3m and the gymnasium located 1.397m from the northern side boundary.

The north-western corner point is considered as the rear setback and the nearest structure (gym) is located 16.9m from this point and is compliant with this control.

It is considered the above issue does not warrant refusal and/or further amendments via condition(s).

- The development appears to be a commercial facility for rental purposes

Comment: The proposed development is for a pavilion styled dwelling with ancillary buildings. It is noted that the subject site has a natural creek running through the site and native trees which is one the main reasons for the design. There is no mention of commercial use within the Statement of Environmental Effects and/or any other documentation lodged with this application.

- Not in keeping with the unique heritage character of Ruskin Rowe

Comment: A statement of heritage impact was lodged with the application and a review of the plans and submitted information was undertaken by Council's Heritage Officer and the following comments were:-

"Due to the pavilion design style, there is ample opportunity for vegetation to break up the bulk of the building and provide screening, which the application has mostly achieved. However concern is raised with the presentation to Ruskin Rowe and a proposed driveway crossover and hardstand parking space. Given the landscape character of the conservation area and the three car garage with access from Avalon Parade, heritage would recommend that this driveway and hardstand area be removed from the proposal, and be replaced with soft landscaping and vegetation. This would help to preserve the character of the conservation area by removing additional hard space and allowing for more soft landscaping along this boundary."

Amended plans have now deleted the hardstand and driveway from Ruskin Rowe.

Updated Comments dated 11 January 2021 from Council's Heritage Officer were as follows:-

"Amended plans have been received which remove the proposed driveway and parking space from the Ruskin Rowe frontage. This helps in resolving Heritage's concerns regarding the street presentation within the conservation area and this condition will no longer be required. However the landscaping plans have not included a replacement planting of a locally native tree to offset tree removal in this area so this condition will remain."

Given the above it is considered the amended proposal is within keeping with the unique heritage character of Ruskin Rowe and supportable subject to condition.

- The development is not supported by Natural Environment Referral Response - Flood

Comment: The initial referral response from Natural Environment Referral Response - Flood was not supported, however after the amendments to the design support subject to conditions has now been granted.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The proposal is for a new dwelling.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 Environmental Living zone, and including but not limited to following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1 Avalon Beach Locality <p>The site is located in the E4 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 landscape features such as rock outcrops and watercourses, and the retention of existing trees.</p> <p>The landscape character of the site exists as a property with many tall native canopy trees synonymous with the locality including Angophora and Eucalyptus species, and numerous Cabbage Tree Palms, other ornamental trees and palms, a watercourse, lawn and garden. The watercourse and Cabbage Tree Palms in association are synonymous as a typical natural landscape setting and this is proposed to be preserved and enhanced as a creekline landscape under the Bushland Management Plan for creek bank stabilisation and rehabilitation, and is a condition of consent included in the Natural Environment Referral Response - Biodiversity, under "Implement Ecologist's Recommendations" and "Project Ecologist".</p> <p>A Landscape Plan and Arboricultural Impact Assessment are provided with the application, and the landscape proposals are suitable to enhance the existing landscape character of the site and locality. The recommendations of the arboricultural assessment are supported, subject to conditions of consent. A total of six trees are documented for removal within the site, and without an alternative design available for the retention of the trees, and in consideration of the existing quantity of native trees and palms within the site that are retained, no objection is raised subject to tree replacement within the site. It is noted that one of the nominated existing trees has been removed recently following a lightning strike. No objections are raised for the proposed removal of existing small sized trees and shrubs of low retention value within the road verge to accommodate the proposed driveway along Ruskin Rowe.</p>

Internal Referral Body	Comments
	<p>Landscape Referral has no objections to the proposal subject to tree protection measures recommended in the Arboricultural Impact Assessment, under supervision and certification of a Project Arborist, and completion of landscape works, and subject to conditions of consent.</p>
NECC (Bushland and Biodiversity)	<p>This biodiversity referral addresses potential impacts to native vegetation and terrestrial wildlife, in addition to compliance with the following provisions:</p> <ul style="list-style-type: none"> - NSW Biodiversity Conservation Act 2016 - Pittwater LEP Clause 7.6 (Biodiversity Protection) - Pittwater DCP Clause B4.4 (Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor) <p>The proposed development includes the following works:</p> <ul style="list-style-type: none"> - Demolition of existing dwellings and structures; - Construction of new dwelling and associated structures including detached bedrooms, gymnasium and home office; - Construction of new garage and upgraded driveway; - Bank stabilisation of existing creekline and new deck structures over creek. <p>The submitted Arborist Report (Selena Hannan Consulting Arborist, 17 July 2019) assesses 29 site trees and nine street trees, and identifies three protected native trees proposed to be removed to facilitate the development:</p> <ul style="list-style-type: none"> - Tree 12: Cabbage Tree Palm (<i>Livistona australis</i>) - Tree 16: Murrogun (<i>Cryptocarya microneura</i>) - Tree 25: Swamp Mahogany (<i>Eucalyptus robusta</i>) <p>Of these, only Trees 12 and 16 are identified as having a high Useful Life Expectancy (ULE). Furthermore, the submitted Landscape Plan (Selena Hannan Landscape Design, 17 July 2019) proposes 14 new canopy trees to be planted in compensation for removal of existing trees, including provision of two advanced (100L) Cabbage Tree Palm specimens. Subject to implementation of tree protection measures as identified in the Arborist Report and compliance with the submitted Landscape Plan, it is considered that the proposal meets the technical requirement of 'no overall loss of native canopy trees' as specified under Pittwater DCP Clause B4.4 (Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor).</p> <p>Further potential biodiversity impacts associated with the proposal include loss of wildlife habitat (e.g. microbat habitat in Cabbage Tree Palms) and disturbance to native vegetation to be retained including riparian vegetation which is identified as Swamp Sclerophyll Forest in the submitted Flora and Fauna Report (Narla Environmental, July 2019) and Bushland Management Plan (Narla Environmental, August 2019). The submitted ecological reports specify a suite of mitigation measures to protect retained vegetation and wildlife habitats during and post-construction. It is considered that, subject to adherence to these mitigation measures and certification of compliance at all</p>

Internal Referral Body	Comments
	<p>appropriate stages of development, the proposal can achieve consistency with relevant technical controls of Pittwater DCP Clause B4.4 (Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor).</p> <p>Note: whilst the proposal generally complies with these requirements, the scale and site coverage of the new dwelling and associated structures seems substantial. Detailed consideration of compliance with neighbourhood character objectives and landscaped area and private open space controls may be warranted.</p>
NECC (Development Engineering)	<p>The proposed development is flood affected and as such OSD is not required. The proposed connection of stormwater to the existing creek that traverses the property must be assessed and approved by Council's Coast and Catchment Team. The existing crossing to Avalon Pde is to remain which is acceptable. The internal grade to the proposed garages is also satisfactory. A new crossing off Ruskin Rowe is proposed to a visitor parking space adjacent to the boundary. The driveway grade has been assessed and is satisfactory. The driveway crossing will require the removal of a number of street trees which must be assess and supported by Council's Landscape Officer.</p> <p>No objection to approval, subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>Note 30/11/20 The project is generally satisfactory. Concept detail of the creek stabilisation is subject to a deferred commencement.</p> <p>Note 11/11/20 Council note some good progress on the project with the proposed creek daylighting at the main deck and crossings.</p> <p><u>Riparian</u></p> <p>Design changes are satisfactory</p> <ul style="list-style-type: none"> grated flooring increased planting creek banks and in the area under the main deck. <p><u>Water management plan</u></p> <p>No requirement for water quality except sediment pits prior discharge</p>

Internal Referral Body	Comments
	<p>to the creek. Refer to development engineer assessment for the stormwater plan condition prior construction certificate.</p> <p><u>Creek Remediation works / Artificial Channelling / Restoration and Rehabilitation</u></p> <p>Creek bed and bank work documentation is unclear and cannot be assessed.</p> <p>Council is not designing for private owner. A suitable consultant should be involved in the creek design, alternatively a creek experienced contractor might help the civil engineer to achieve best practice for the site conditions (Total Earth Care, Toolijooa, Dragonfly, Soil Conservation Services,...).</p> <p>The supporting documentation should be provided were creek work will be undertaken (localised or full lot extent). That should include as a minimum view plan, longitudinal section, details cross section design and typical details.</p> <p>Sandstone boulders or logs are acceptable for the project and should be sized to creek flows.</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>The development application should be demonstrating the feasibility of the proposed development in compliance with the following clauses of the Pittwater 21 DCP:</p> <ul style="list-style-type: none"> · B5.12 Stormwater Drainage Systems and Natural Watercourses, · B5.13 Development on Waterfront Land, and · B5.8 Stormwater Management - Water Quality - Low Density Residential <p>The project expected outcomes are:</p> <ul style="list-style-type: none"> · The protection of waterways and improved riparian health · Stormwater and creek flows are safely managed · Appropriate setback between waterways and development · The integrity of stormwater drainage systems, easements and natural watercourses are maintained. · Stormwater flows including overland flow have continuity and are not impeded.

Internal Referral Body	Comments
	<p>The site inspection and discussions (18/11/19) following the PLM and first DA submission reiterated the project outcome. To meet the project environmental outcomes Council advised to include a range of measures with:</p> <ul style="list-style-type: none"> • regular daylight opening of the main large deck (with grating) covering the creek as the deck reconstruction level is low for natural light access. • secondary new crossing to allow light penetration (grating) for natural light • use of sandstone for creek bed substrate and scour protection as required • maintain a reasonable building setback from the top of bank and riparian (especially the proposed building western corner on the South bank) <p>It was also clarified, as per PLM recommendation, that the works encroaching on or within the bed and banks of the creek will trigger an Integrated Development application from the NSW Natural Resources Access Regulator.</p> <p>The project is not conforming with the following controls:</p> <p><u>Water Management Plan</u></p> <p>The Water Management Plan is to clearly demonstrate that the proposed works, including any modifications to the creek will not impair the ecological function and stability of the waterway on site and properties up and downstream. References to the flood report are imperative due to the nature of flooding on this site. A water Management Plan with supporting documentation is to be submitted demonstrating the feasibility of the proposed watercourse works within the site.</p> <p><u>Artificial channelling</u></p> <p>The proposed bank stabilisation concrete structure under the central existing deck is an artificial channel and is not supported.</p> <p><u>Restoration and rehabilitation</u></p> <p>The proposed design is reducing the general connectivity between the creek and the adjacent riparian corridor:</p> <p>Council requires that the riparian corridor is enhanced (B5.12) through the establishment of appropriate building setbacks from the top of bank and re-establishment of a core riparian zone.</p>

Internal Referral Body	Comments
	<p>Council requires that the creek bed and bank stability to be ensure with appropriate restoration technics using soft engineering and sandstone rocks.</p> <p>The proposed concrete filled mat is not satisfactory for creek rehabilitation and is not supported.</p> <p><u>Encroachments or low lying overhangs</u></p> <p>Structures within the bed and banks are not supported, nor encroachments or low-lying overhangs over the creek cross-section. The creation of new creek crossing on the downstream part of the site (linking the proposed Office to the proposed Dining) is not supported in its current form.</p> <p>Council requires that the riparian corridor is enhanced (B5.12) through the establishment of appropriate building setbacks from the top of bank and re-establishment of a core riparian zone.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed DA generally complies with the flood controls in the DCP and LEP.
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>The proposal has been referred to Heritage as the subject property is in a heritage conservation area</p> <p>Ruskin Rowe Heritage Conservation Area</p>
	Details of heritage items affected
	<p>Details of the item as contained within the Pittwater heritage inventory is as follows:</p> <p><u>Statement of significance:</u></p> <p>The Ruskin Rowe Heritage Conservation Area is significant in the evolution and pattern of the history of New South Wales for its design principles and patterns that are still clearly legible. The street is named after Harry Ruskin Rowe, a prominent Sydney architect who subdivided the area in 1950. Rowe's vision was to create a special subdivision with large lots in which vegetation would dominate over houses. This area represents the most "pure" example of the character of residential developments which were occurring in the Avalon area after WWII. Ruskin Rowe has research potential for its innovative subdivision design and is also scientifically significant due to the low density nature of the area and the retention of a wide range of fauna, including koalas, bandicoots and native birds.</p>

Internal Referral Body	Comments		
	<p><u>Physical description:</u> The first section of Ruskin Rowe runs southwest from Avalon Parade to Elouera Road, then continues for a short distance west before curving again to the southwest and continuing in that direction, terminating in a loop at its southern end. The original subdivision lots are arranged on either side of this central thoroughfare and are long rectangular parcels with houses set well back from the street with a mix of sweeping lawns, remnant native trees and in many cases dense landscaping. The relatively few lots subdivided since 1950 are battleaxe subdivisions of some of the earlier lots.</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	<p>The proposal seeks consent for the construction of a new mostly single storey pavilion style dwelling. The property is bisected by a creek and has frontages to both Ruskin Rowe and Avalon Parade. In terms of heritage significance, the frontage to Ruskin Rowe and its treatment is considered to be more important than Avalon Parade. Additionally one of the defining and important characters of the conservation area is the preservation of lush landscaping and for buildings to recede among the vegetation. Heritage also notes the similarities between this proposal and withdrawn proposal DA2019/0883.</p> <p>Due to the pavilion design style, there is ample opportunity for vegetation to break up the bulk of the building and provide screening, which the application has mostly achieved. However concern is raised with the presentation to Ruskin Rowe and a proposed driveway crossover and hardstand parking space. Given the landscape character of the conservation area and the three car garage with access from Avalon Parade, heritage would recommend that this driveway and hardstand area be removed from the proposal, and be replaced with soft landscaping and vegetation. This would help to preserve the character of the</p>		

Internal Referral Body	Comments
	<p>conservation area by removing additional hard space and allowing for more soft landscaping along this boundary.</p> <p>Additionally T26 (Peppercorn) which is proposed to be removed to accommodate the hardstand area and is in poor health, should be replaced by a locally native tree in the same area which is capable of a minimum height of 4m and spread of 4m. This will help to preserve the character of the conservation area by providing additional vegetation screening to the Ruskin Rowe elevation and helping to break up the eastern facade presentation. This would also offset the loss of the swamp mahogany (T25) along this boundary.</p> <p>Therefore Heritage recommends two conditions of consent being the removal of the parking space and driveway on Ruskin Rowe and the replacement tree planting in this area.</p> <p>Updated Comments 11 Jan 2021</p> <p>Amended plans have been received which remove the proposed driveway and parking space from the Ruskin Rowe frontage. This helps in resolving Heritage's concerns regarding the street presentation within the conservation area and this condition will no longer be required. However the landscaping plans have not included a replacement planting of a locally native tree to offset tree removal in this area so this condition will remain.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p> <p>Further Comments</p> <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 3 June 2020 - Amended 11 Jan 2021</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Nominated Integrated Development – Natural Resources Access Regulator - Water Management Act 2000 (s91 Controlled Activity)	The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), the proposed works are exempt from the need to obtain a controlled activity approval and no further assessment by this agency is

External Referral Body	Comments
Approval for works within 40m of watercourse)	necessary.

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

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.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1029778S_02 dated 7 April 2020).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	55

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.8m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
1.9A Suspension of covenants, agreements and instruments	Yes
Part 2 Permitted or prohibited development	Yes
2.7 Demolition requires development consent	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 5 Miscellaneous provisions	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
Part 7 Additional local provisions	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes

Clause	Compliance with Requirements
7.10 Essential services	Yes
Schedules	Yes
Schedule 5 Environmental heritage	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	3.4m - 6.8m (Avalon Parade) 3.9m - 7.3m (Ruskin Rowe)	Nil - 47.7% Nil - 40%	No No
Side building line	2.5m (west)	16.344m	N/A	Yes
	1m (north)	1m - 3m	N/A	Yes
Rear building line*	6.5m	16.9m	N/A	Yes
Building envelope	3.5m	Within	N/A	Yes
	3.5m	Within	N/A	Yes
Landscaped area	60% (1521.6sqm)	60.4% (1532sqm)	N/A	Yes

*The site is identified as a corner allotment and the proposal demonstrates compliance with the rear building line, which due to the irregular block shape has been taken as the south-western point of the site.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Section A Shaping Development in Pittwater	Yes	Yes
A1 Introduction	Yes	Yes
A1.7 Considerations before consent is granted	Yes	Yes
A4 Localities	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
Section B General Controls	Yes	Yes
B1 Heritage Controls	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3 Hazard Controls	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4 Controls Relating to the Natural Environment	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5 Water Management	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B6 Access and Parking	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 Site Works Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
Section C Development Type Controls	Yes	Yes
C1 Design Criteria for Residential Development	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5 Design Criteria for Other Development	Yes	Yes
C5.17 Pollution control	Yes	Yes
Section D Locality Specific Development Controls	Yes	Yes
D1 Avalon Beach Locality	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

D1.8 Front building line

Description of non-compliance

The proposed garage is located at a varying setback of 3.4m at the nearest point and extending to 6.8m from the site's front boundary on Avalon Parade, presenting a 47.7% variation to the 6.5 metre requirement. It is noted that due to the irregular configuration of the site boundaries and the proposed position of the garage that compliance is met at the southern end of the garage fronting Avalon Parade.

The proposed dwelling is located at a varying setback of 3.9m at the nearest point and extending to 7.3m from the site's front boundary on Ruskin Rowe, presenting a 40% variation to the 6.5 metre requirement. It is noted that due to the irregular configuration of the site boundaries and the proposed position of the dwelling that compliance is met at the eastern end of the dwelling fronting Ruskin Rowe.

Merit consideration

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

To achieve the desired future character of the Locality. (S)

Comment:

The proposed garage provides formal and compliant on-site parking and the dwelling demonstrates varying setbacks to Ruskin Rowe ensuring the development maintains the desired future character of the locality. The proposed garage is consistent with the bulk and scale of garage development within the surrounding locality. With consideration of the topography and natural features (including the creek and native trees) of the site, it is considered the development has been sited in a way which responds to the existing site constraints and does not present an unreasonable or adverse impact on the amenity of adjoining site's, the streetscape or the natural environment. It is therefore considered that the desired future character of the locality is achieved despite the non-compliance.

The amenity of residential development adjoining a main road is maintained. (S)

Comment:

While the subject site does not adjoin a main road, it is considered that the non-compliance would not result in a worse amenity impact than that of a compliant setback.

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

Comment:

Sufficient vegetation exists within the front setback area between the development and the front boundary to provide sufficient screening to visually reduce the built form.

Vehicle manoeuvring in a forward direction is facilitated. (S)

Comment:

The proposed driveway and garage arrangement will allow facilitate manoeuvring in a forward direction to and from Avalon Parade.

To encourage attractive street frontages and improve pedestrian amenity.

Comment:

The setback of the proposed garage and dwelling is consistent with that of sites within the surrounding area which feature similar topography constraints. Notwithstanding the non-compliance, sufficient space remains within the front setback area for additional vegetation planting to provide an attractive street frontage and improve pedestrian amenity.

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

Comment:

The proposal has been designed and located to sensitively respond to the constraints of the site by minimising excavation and keeping bulk and scale to a minimum while providing formal and compliant on site parking and dwelling footprint. Siting the proposal does not require the removal of significant vegetation on site and allows for sufficient space for planting to screen the structure if necessary. As mentioned above, the location, design and setback of the structure is consistent with sites of similar constraint in the surrounding area. It is therefore considered the development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P21DCP and the objectives specified in S1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$21,765 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,176,475.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A Regulation 2000 to DA2020/0572 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 1 DP 22361,2 A Ruskin Rowe, AVALON BEACH, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Deferred commencement - Creek Design

The applicant must provide a detailed concept plan for the creek work demonstrating the creek will be restored and rehabilitated to support bed and bank stability, flow carrying capacity and ecological function.

The supporting documentation should be provided where creek work will be undertaken (localised or full lot extent).

The documentation should include as a minimum view plan, longitudinal section, details cross section design and typical details as well as a brief report explaining the design criteria and rationale.

Sandstone rock material is acceptable for the project and should be sized to creek flow conditions.

Evidence required to satisfy these conditions must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. 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
1727.DA.03 A	24 September 2020	Sandberg Schoffel Architects
1727.DA.04 A	24 September 2020	Sandberg Schoffel Architects
1727.DA.05 A	24 September 2020	Sandberg Schoffel Architects
1727.DA.06 A	24 September 2020	Sandberg Schoffel Architects

1727.DA.07 A	24 September 2020	Sandberg Schoffel Architects
1727.DA.08 A	24 September 2020	Sandberg Schoffel Architects
1727.DA.09	23 April 2020	Sandberg Schoffel Architects
1727.DA.10	23 April 2020	Sandberg Schoffel Architects
1727.DA.12	22 April 2020	Sandberg Schoffel Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Statement of Heritage Impact	March 2020	Sandberg Schoffel Architects
Geotechnical Assessment Report	17 July 2019	Crozier Geotechnical Consultants
Flood Risk Management Report	18 February 2020	NB Consulting Engineers
Biodiversity Impact Assessment	July 2019	NARLA Environmental
Bushland Management Plan	August 2019	NARLA Environmental
Arboricultural Impact Assessment	18 March 2020	Selena Hannan Landscape Design

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LP02-D (Issue D)	23 September 2020	Selena Hannan Landscape Design

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	12 August 2019	Sandberg

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.

3. **Approved Land Use**

Nothing in this consent shall authorise 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:

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

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

A detached studio is defined as:

"detached studio" means a habitable building that is used for purposes ancillary to a dwelling house such as a home office, entertainment area, art studio or guest room and--

- (a) is established in conjunction with a dwelling house, and
- (b) is on the same lot of land as the dwelling house, and
- (c) is separate from the dwelling house, and
- (d) is not used as a separate dwelling house, and
- (e) does not contain any cooking facilities.

Any variation to the approved land uses beyond the scope of the above definitions will require the submission to Council of a new development application.

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

4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal 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.

5. 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

6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$21,764.75 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$2,176,475.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater

Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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.

7. 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.

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

8. Erosion and Sediment Control Plan

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

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

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

Reason: Protection of the receiving environment.

9. **Water Quality Management**

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

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

Reason: Protection of the receiving environment.

10. **Design of Stormwater Outlet Structure to Creek**

Stormwater outlet structures to the creek must be designed in accordance with DPI Water's Guidelines for Outlet Structures on Waterfront land. Guidelines can be found on Water NSW website.

No mortar is to be used on the outlet. RipRap or rocks armouring technics are acceptable. All scour protection measures must be placed using an interlocking system with varying rock sizes. Rock size should be graded and sized and placed to resist creek erosion. Grading to be detailed as follow:

Dmin
D10
D50
D90

This design is to be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To protect the surrounding creek bank from the effects of localised erosion.

11. **Amendments to the approved plans**

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

- The northern privacy for the deck (spa) is to be increased a minimum height of 1.9m.

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.

12. **Boundary Identification Survey**

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

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

this consent.

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

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

13. **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.

14. **Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

15. **Replacement Planting on Ruskin Rowe Frontage**

A locally native tree is to be planted in the same area as T26 to offset the removal of trees along this boundary and provide additional screening. This tree must be capable of providing a minimum height and spread of 4m. Updated plans demonstrating compliance with this condition are to be provided to Council's Heritage Officer for approval.

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

Reason: To preserve the heritage significance of the Ruskin Rowe Heritage Conservation Area

16. **Pier footing design near existing Red Bloodwood tree 20**

Prior to the issue of a Construction Certificate, a tree root mapping investigation within the tree protection zone of the existing Red Bloodwood identified as T20, shall be undertaken and a Tree Root Map shall be documented that will be the basis for determining construction methodology.

An Arborist with minimum AQF Level 5 in arboriculture shall supervise the works to verify tree root locations. A non-destructive root investigation shall be conducted complying with clause

3.3.4 of AS 4970-2009 Protection of Trees on Development Sites.

The root investigation shall map existing roots of significance that must not be impacted by construction works. The tree root investigation shall be conducted to confirm the following data to be used for the location/alignment of any new proposed works (pier footings for the elevated building):

- i) confirmation of the location of any tree roots at or >25mm (Ø) diameter to areas that require excavation for proposed works. Alternative alignment of proposed works shall be provided as necessary to avoid major roots, and
- ii) mapping of the suitable location/alignment of pier footings.

The Tree Root Map shall be issued to the qualified Structural Engineer as a basis for structural design, with recommended location for pier footings. Pier footing structural layout plans shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer.

The Arborist shall submit certification to the Certifying Authority, that the locations of the pier footings will be manageable in terms of tree protection measures.

Pier footing structural layout plans shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate.

Reason: tree protection.

17. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Probable Maximum Flood, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Flood Emergency Response – E2

Appropriate access to the shelter in place refuge should be available from all areas of the new development.

Floor Levels – F1

New floor levels within the development shall be set at or above the Flood Planning Level as detailed in the Flood Risk Management Report prepared by Northern Beaches Consulting Engineers Pty Ltd dated 18.02.20.

Floor Levels – F2

The underfloor area of the dwelling below the 1% AEP flood level is to be designed and constructed to allow clear passage of floodwaters. The underfloor perimeter of the dwelling is to have a minimum of 50% open area below the 1% level.

Car parking – G5

The floor level of the proposed garage shall be set at or above the 1 in 100 year flood level.

Fencing – H1

Fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open for passage of flood waters - All new fences on the property must be design with a minimum of 50% open area between the 1% flood level and natural ground level, to allow flood waters to pass through.

Recommendations

The development must comply with all recommendations outlined in:

- The Flood Risk Management Report prepared by Northern Beaches Consulting Engineers Pty Ltd dated 18.02.2020.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

18. **Implement Ecologist's Recommendations**

All pre-construction biodiversity-related measures specified in the approved Bushland Management Plan (Narla Environment, August 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures is to be certified by the Project Ecologist prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

19. **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 these conditions of consent and the approved Bushland Management Plan (Narla Environmental, August 2019). The project ecologist must have one of the following memberships/accreditation:

- Practising member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method Accredited Assessor under the NSW Biodiversity Conservation Act 2016

Evidence of engagement of the Project Ecologist is to be provided to the Principal Certifying Authority prior to issue of Construction Certificate.

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

20. **Tree Removal Protocol**

The Project Ecologist is to prepare a brief Tree Removal Protocol which includes the provision of: i) a pre-clearance survey, ii) direct supervision of tree removal, iii) protocol for rescue of fauna and relocation of log hollow sections onsite to provide fauna habitat. The pre-clearance survey must include stag-watch of hollows/cavities over at least one night immediately prior to tree removal, and where possible, camera probing to search for evidence of fauna activity. The Tree Removal Protocol must also include procedures for stop work and formal impact assessment in the event that threatened fauna species are found during the pre-clearance survey. The Tree Removal Protocol prepared by the Project Ecologist is to be submitted to the Principal Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016 and relevant Natural Environment LEP/DCP controls.

21. **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.

22. **External Finishes to Roof**

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

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

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

23. **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

24. **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 and as nominated in the Arboricultural Impact Assessment. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

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.

The Project Arborist shall be in attendance and supervise all works, including:

- i) co-ordination of works the subject of conditions of consent under "Project Ecologist" including the Tree Removal Protocol,
- ii) any works within 3 metres of the existing Cabbage Tree Palms located along the creek embankment, identified as T4, T5, T9, T10, T11, T15, T17, T18, T19, T27 and T29,
- iii) excavation and driveway construction works near existing Cabbage Tree Palms identified as T8 and T9,
- iv) excavation and deck construction works near existing Cabbage Tree Palms identified as T11 and T15,
- v) excavation for pier footings and building construction works near existing Red Bloodwood identified as T20,
- vi) works described in section 8. Tree Protection Plan and Specification nominated in the Arboricultural Impact Assessment.

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 tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: 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.

Any potential impact to trees within adjoining property as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon adjoining properties

are preserved, and shall be the subject of a modification application.

Reason: tree protection.

25. **Tree removal within the property**

This consent approves the removal of the following trees within the property impacted by development works (as recommended in the Arboricultural Impact Assessment):

- T6: Magnolia grandiflora
- T7: Magnolia x soulangiana
- T12: Livistona australis
- T16: Cryptocarya miconeura
- T25: Eucalyptus robusta
- T26: Schinus ariera (removed following lightning strike)

All are subject to tree replacement with locally native trees within the site with species as listed in the Landscape Plan.

Reason: to enable authorised building works.

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

26. **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.

27. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

28. **Sediment and erosion controls (in-stream works)**

For in-stream works a Silt Curtain/Rock Filter Dam or Sediment Weir/Staked Straw Bale Barrier /Pump to Off-stream Sediment Basin is to be installed immediately downstream of the proposed site prior to any disturbance of soil in or beside the waterway. A staked straw bale barrier may only be used when works will be completed and banks stabilised prior to forecast rain and within five days of starting in-stream work.

Controls can be removed once in-stream work has been completed and banks have been appropriately stabilised.

Reason: Protection of the receiving environment.

29. **Aquatic sediment management**

Environmental safeguards (e.g. silt curtains) are to be used during construction to prevent the escape of turbid plumes into the aquatic environment.

The safeguards must be regularly maintained and removed once the works are completed.

Reason: Protection of seagrass.

30. **Notifications for creek works**

The applicant shall provide 48 hours notice to Council's Catchment team at catchment@northernbeaches.nsw.gov.au when the creek works reach the following stages:

- a) Installation of in-stream sediment and erosion controls
- b) Commencement of boulder placement around stormwater outlets and other structures in the creek
- c) Completion of planting

Reason: To ensure compliance with the consent approved plans.

31. **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:

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

32. **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.

33. **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 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.

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

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

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

35. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing in Ruskin Rowe 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

36. **Tree and vegetation protection**

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

i) all trees and vegetation within the site, including T1, T2, T3, T4, T5, T8, T9, T10, T11, T13 A and B, T14, T15, T17, T18, T19, T20, T21, T22, T23, T27, and T29 as identified in the Arboricultural Impact Assessment, 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 not approved for removal.

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), vi) and vii) 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 prepared by Selena Hannan Consulting Arboriculturalist, as listed in the following sections:

- i) section 5.6 Impact on Trees 4, 5, 9, 10, 11, 15, 17, 18, 19, 27 and 29,
- ii) section 5.7 Construction of driveway near Tree 8 and Tree 9,
- iii) section 5.8 Construction of decking around Trees 11 and 15,
- iv) section 5.9 Impact on Tree 20,
- v) section 6. Conclusions and Recommendations,
- vi) section 8. Tree Protection Plan and Specification.

The Certifying Authority must ensure that:

- d) 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.

Note: All street trees within the road verge and trees within private property 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.

Reason: tree and vegetation protection.

37. **Relocation of Logs and Coarse Woody Debris**

Any hollows are to be salvaged from trees prior to removal from the site and reused as fauna habitat within areas of retained native vegetation on the site. Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat in accordance with relevant Natural Environment LEP/DCP controls

38. **Compliance with Ecologist Recommendations - During Construction**

All biodiversity-related measures to be implemented during construction are to be undertaken as per the approved Biodiversity Management Plan (Narla Environmental, August 2019) and these conditions of consent. Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

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

39. **Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plan LP02, issue D, prepared by Selena Hannan Landscape Design, 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) tree planting shall be located within a 9m² deep soil area and be located a minimum of 3 metres from existing and proposed buildings, and shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views,
- iii) watercourse creek embankment planting works shall be in accordance with the Bushland Management Plan, as listed in the conditions of consent included in the Natural Environment Referral Response - Biodiversity, under "Implement Ecologist's Recommendations" and "Project Ecologist".

Prior to the issue of an Occupation Certificate, a landscape report prepared by 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, excluding item iii) above which shall be certified by the Project Ecologist.

Reason: environmental amenity.

40. **Condition of retained vegetation - Project Arborist**

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/palms required to be retained, including the following information:

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

Reason: tree/palm protection.

41. **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.

42. **Certification for Creek Works**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the creek works have been completed in accordance with the plans approved at Construction Certificate.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To ensure creek works are completed in accordance with the consent approval.

43. **Works as Executed Drawings – Creek Works**

Works as Executed Drawings for the creek works, including surveyed levels, must be prepared and submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To ensure creek works are completed in accordance with the consent approval.

44. **Conditions - Prior to Occupation Cert: Certification of the Structural Stability of the Building (C2)**

A suitably qualified structural engineer is to certify the structural stability of the new development considering lateral flood flow, buoyancy, suction effects, wave action and debris load impact of the Probable Maximum Flood (PMF) design flood depths and velocities. Details demonstrating compliance are to be submitted to the Certifying Authority for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

45. **Compliance with Ecologist's Recommendations – Post Construction**

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the approved Biodiversity Management Plan (Narla Environmental, August 2019) and these conditions of consent. Satisfactory

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

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

46. **Conditions - Prior to Occupation Cert: Undercroft Area below the 1% AEP Flood Level – (F2)**

A restriction shall be imposed on the title of the land, pursuant to S88B of the Conveyancing Act confirming that the undercroft area does not impede flows and is not to be enclosed, with the perimeter having a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. The terms of such a restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

47. **House / Building Number**

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

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

Reason: Proper identification of buildings.

48. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

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

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

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 a Interim / Final Occupation Certificate.

Reason: To protect human life. (DACPLF10)

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

49. **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 fertilized 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.

Reason: to maintain local environmental amenity.

50. **General Watercourse and Riparian Areas Matters**

Unless in accordance with the approved works the Consent holder must ensure that:

a) No materials or cleared vegetation that may obstruct flow or cause damage to river banks are left within the riparian zone.

b) All drainage works must not obstruct flow of water within the watercourse. Drain discharge points are stabilised to prevent erosion. Any excavation must not result in diversion of any watercourse, bank instability or damage to native vegetation.

c) The surfaces of river banks are graded to enable the unimpeded flow of water and bank retaining structures result in a stable river bank.

d) Any vegetation or other material removed from the area of operations shall be disposed of lawfully. Burning of the material is not permitted.

e) The riparian zones are to function as ecological systems and as such, all works, access routes, roads, recreational areas, asset protection zones, service easements and any other non-ecologically functioning work or activity are to be located beyond the riparian zones other than provided by the consent.

Reason: Environmental Protection, Monitoring and Enhancement.

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

Signed



Phil Lane, Principal Planner

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



Rodney Piggott, Manager Development Assessments