

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0128
Responsible Officer:	Danielle Deegan
Land to be developed (Address):	Lot 3 DP 1170985, 24 Chisholm Avenue AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Richard Francis Smith Bianca Marie Martin
Applicant:	Richard Smith Architect
Application lodged:	15/02/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	20/02/2019 to 08/03/2019
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,675,500.00

ASSESSMENT INTRODUCTION

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

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

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

SITE DESCRIPTION

Property Description:	Lot 3 DP 1170985 , 24 Chisholm Avenue AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Chisholm Ave.</p> <p>The site is irregular in shape with a frontage of 26.85m to Chisholm Ave, a depth along the southern boundary of 90.34m and a frontage to Hilltop Rd of 9.45m. The site has a surveyed area of 2,597m². There is an unformed public pathway adjacent to the southern boundary, connecting Chisholm Ave with Hilltop Rd.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single storey house at the high-point of the site and a hardstand parking area and carport in the north-east section of the site. Access to the parking area is via an angled driveway from Chisholm Ave, the lower portion of which traverses both the public pathway and 26 Chisholm Ave.</p> <p>The site slopes away steeply to the East and West from a central ridge running north-south.</p> <p>The site is heavily vegetated with native trees including Angophora and spotted gums as well as a variety of other species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwellings in heavily landscaped settings with relatively large distances between neighbouring dwellings.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

On 24 November 2016, Development Application N0425/16 for construction of a carport and storage shed, including retaining wall and paving, was approved by Pittwater Council.

This structure has since been constructed.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following:

- Demolition of the existing dwelling house
- Construction of a two storey dwelling house comprising of:
 - lower level: two x bedrooms, entry, office, laundry, bathroom, WC, lift shaft, stairs to upper and lower levels
 - upper level: master bedroom suite, WC, kitchen, lounge, dining, sitting area, front deck, lift shaft and stairs to lower level
- Construction of a double garage excavated into the hillside beside the house, accessed from the existing driveway. The garage and associated lift provide an accessible and undercover path of travel into the home.
- Excavation
- Landscaping works including tree removal and tree planting,
- External timber stairs

The existing carport, storage shed and turning area will be retained.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</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 Matters for Consideration'	Comments
	Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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 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 1 submission/s from:

Name:	Address:
Miss Vanita Pamela Ogden	26 Chisholm Avenue AVALON BEACH NSW 2107

The following issues were raised in the submission and each have been addressed below:

- concerns regarding the use of the roof garden above garage
- ground stability from excavation near southern boundary

The submission was consequently withdrawn as the matters raised within the submission were addressed by applicant to the objectors satisfaction. The issues raised are addressed below:

- Concerns that roof garden above garage may be used for entertaining
Comment: A recommended condition of consent will require that the roof not be used for entertaining.
- Concern regarding the ground stability during excavations

Comment: The Geotechnical Assessment submitted in support of the proposal contains recommendations which will form part any development consent.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of existing trees and vegetation, and the completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D1 Avalon Beach Locality</p> <p>A Landscape Plan and an Arboricultural Impact Assessment is provided with the application.</p>
NECC (Bushland and Biodiversity)	<p>This application was assessed under Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP Clause B4.7 Pittwater Spotted Gum. The site is also mapped as Pittwater Spotted Gum (PSG) Endangered Ecological Community (EEC) within the SMCMA V3 mapping (OEH 2016).</p> <p>The specific LEP and DCP control objectives to be complied with: <i>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</i> <i>Development shall restore and/or regenerate Pittwater Spotted Gum Endangered Ecological Community and provide links between remnants.</i> <i>Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.</i> <i>Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).</i> <i>Development shall ensure any landscaping works are outside areas of</i></p>

Internal Referral Body	Comments
	<p><i>existing Pittwater Spotted Gum Endangered Ecological Community and do not include Environmental Weeds.</i></p> <p>Council's Natural Environment - Biodiversity section supports the application, subject to conditions.</p> <p>Detailed comments</p> <p>The proposal is for the demolition of the existing dwelling and the construction of a new dwelling including 2 car garage and associated lift, driveway, and new watertank associated with the existing OSD. Extensive excavation will be carried out within the hillside which includes the garage and lift system. The proposed development is largely located within the footprint of the existing dwelling. The site's vegetation currently consists of large native canopy trees with a mixed understorey of mostly exotic species.</p> <p>The Arboricultural Impact Assessment report (Urban Forestry Australia, Feb 2019) assessed 44 trees. The proposal will remove 3 large native trees (T17 <i>Angophora costata</i>, T30 <i>Eucalyptus punctata</i>, T31 <i>Corymbia gummifera</i> [dead]) and 2 exempt trees T27 <i>Pittosporum undulatum</i> and T41 <i>Grevillea robusta</i>. The Arborist Report also states that an additional 5 large native trees will be subject to major (>10% encroachment) within their Tree Protection Zones (T1 <i>Angophora costata</i>, T16 <i>Angophora costata</i>, T34 <i>Eucalyptus punctata</i>, T40 <i>Angophora costata</i>, T42 <i>Eucalyptus paniculata</i>).</p> <p>The Flora and Fauna Impact Assessment and Biodiversity Management Plan combined report (Ecological Consultants Australia Pty Ltd, March 2019) assesses the impacts of the proposed development on PSG EEC and provides biodiversity management actions. This report found that PSG EEC occurs onsite as well as habitat, including hollow-bearing trees, for threatened species such as the Powerful Owl and microbat species. Formal Assessments of Significance were conducted for PSG EEC, Powerful Owl and threatened microbat species, all concluding that the proposal is not likely to significantly affect these threatened entities.</p> <p>The submitted Landscape Plan indicates 4 large native replacement tree plantings and areas are labelled as "<i>new native planting</i>" to the east, south and west of the new proposed dwelling. The area to the north of the proposed dwelling is labelled as "<i>retain and regenerate existing lawn terrace - non-native planting 100m²</i>". No other plantings species or quantities has been specified.</p>
NECC (Development Engineering)	The property has been identified as being in a H1 Geotechnical hazard area. The geotechnical report prepared by White geotechnical group has certified that an "Acceptable Risk" can be achieved. On site Detention Basin will be required to be provided. No Development Engineering objection subject to conditions,
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral

Internal Referral Body	Comments		
	The proposal has been referred to heritage as it is within proximity of two heritage items		
	Ashlar (house and garage) at 32 Hilltop Road		
	House at 30 Hilltop Road		
	Details of heritage items affected		
	Details of the items as contained within the Pittwater heritage inventory is as follows:		
	Ashlar		
	<u>Statement of Significance</u> The house "Ashlar" has historical significance as there is evidence of it being the earliest development in the locality. The stone house and stone garage as well as the existing unglazed terracotta tiles is a common style from the late 19th to early 20th century and therefore has architectural significance. The dwelling has a high level of aesthetic and scenic value.		
	<u>Physical Description</u> Stone house and stone garage. The original roof of the house has been replaced with concrete tiles. Garage still has original unglazed terracotta tiles. Dry stone wall on front boundary. Bushland setting.		
	House - 30 Hilltop Road		
	<u>Statement of Significance</u> The house at 30 Hilltop Road, Avalon Beach, built c1935-47 for the Rigby family, has historic and aesthetic significance as a good example of a vernacular weekender, typical of the early Newport Avalon Clareville Beach Estate subdivisions, evolving as a structure subordinate to the landscape. This house is an increasingly rare, little-modified example of its type.		
<u>Physical Description</u> The house comprises a stone ground level and a timber framed second level with a timber trussed roof structure originally clad with terracotta tiles. The original tiles were replaced c1970s with cedar shingles, which were more recently replaced with corrugated iron.			
Other relevant heritage listings			
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	NO		
Australian Heritage Register	NO		
NSW State Heritage	NO		

Internal Referral Body	Comments
	Register
	National Trust of Aust (NSW) Register
	RAIA Register of 20th Century Buildings of Significance
	Other
	NO
	NO
	N/A
	Consideration of Application
	<p>The proposal seeks consent for the construction of a new dwelling house on the subject property. While the property has a Chisholm Road address, it has an access handle that descends down to where it adjoins Hilltop Road roughly opposite the heritage house at number 30. Given this access handle is heavily vegetated, there are no work proposed in this area and the separation afforded by the road reserve, it is considered that the proposal will have no impact upon the items, or their significance.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>
	Further Comments
	<p>COMPLETED BY: Brendan Gavin, Strategic Planner</p> <p>DATE: 20 February 2019</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.
Aboriginal Heritage Office	<p>Conclusion / General Comments</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council</p>

External Referral Body	Comments
	should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 992988S, dated 11 February 2019).

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

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	50	51

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:	10m	9.95m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

Clause 4.3(2) applies a 8.5m maximum building height to the site as shown on the Height of Buildings Map.

However, Clause 2D allows a height of 10m if the requirements of (2D)(a)-(d) are satisfied. Clause 2D states:

(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

The response of the proposed development to these requirements is addressed below:

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

Comment: Only a small portion of the roof over the deck (no walls) exceeds 8.5m and no part of the roof is more than 10m above ground.

(b) the objectives of this clause are achieved

Comment: The objectives of the building height development standard are satisfied as follows:

- The proposal is compatible with the height and scale of surrounding development
- The maximum height of the roof is lower than the ridge of the existing home being demolished
- Overshadowing of neighbouring properties is negligible
- View impacts to neighbouring properties are negligible
- The building is designed to respond to the natural topography
- There is little visual impact on the natural environment and it will not be visible from nearby heritage items
- The proposal will have minimal visual impact from the public domain due to the generous front setback and the substantial vegetation on the site

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

Comment: The site is steeply sloping. The building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%) as illustrated on the building sections.

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

Comment: The proposed development utilises stepped floor levels to take into account the topography of the site and minimise its profile to neighbouring properties.

Pittwater 21 Development Control Plan

Built Form Controls

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Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	10.7m	N/A	Yes
Rear building line	6.5m	8.5m	N/A	Yes
Side building line	2.5m	23m (north)	N/A	Yes
	1m	4.35m (south)	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	69%	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	N/A	N/A
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	N/A	N/A
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
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	N/A	N/A
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Management		
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	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
D1.20 Scenic Protection Category One Areas	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0128 for Demolition works and construction of a dwelling house on land at Lot 3 DP 1170985, 24 Chisholm Avenue, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp
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Drawing No.	Dated	Prepared By
DA01 - Site Plan	8 February 2019	Richard Smith Architect
DA02 - Waste Management and Demolition Plan	8 February 2019	Richard Smith Architect
DA03 - Stormwater Management Plan and Landscape Plan	8 February 2019	Richard Smith Architect
DA04 - Lowest Level	8 February 2019	Richard Smith Architect
DA05 - Lower Level	8 February 2019	Richard Smith Architect
DA06 - Upper Level	8 February 2019	Richard Smith Architect
DA07 - Roof Plan	8 February 2019	Richard Smith Architect
DA08 - Section DD and Elevations	8 February 2019	Richard Smith Architect
DA09 - Elevations S and E	8 February 2019	Richard Smith Architect
DA10 - Sections AA and BB	8 February 2019	Richard Smith Architect

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Statement of Environmental Effects	undated	Richard Smith Architect
BASIX Certificate 992988S	11 February 2019	Richard Smith Architect
Arboricultural Impact Assessment	February 2019	Urban Forestry Australia
Geotechnical Investigation	8 February 2019	White Geotechnical Group

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	13 February 2019	Richard Smith Architect

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

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

2. **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

3. 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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

(k) 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 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.
- (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

4. 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 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, 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

5. On slab landscape planting and associated works

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate,

i) indicating the proposed method of waterproofing to the concrete slabs and planters to which soil and planting is being provided,

ii) indicating soil type, plant species, irrigation, services connection, maintenance activity schedule and soil depth compliant with iii) below:

iii) the following minimum soil depths are required to be provided:

-300mm for lawn and groundcovers

-600mm for shrubs

-1 metre for trees

iv) certification shall be provided by a structural engineer that the roof garden planter is designed structurally to support the 'wet' weight of landscaping (materials, soil and established planting).

Reason: to ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White geotechnical group (J20181) dated 8 February, 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. On-site Stormwater Detention

Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application or S68 Local Government Act Approval. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.7 of Pittwater 21 DCP

Detailed drainage plans, including engineering certification confirming the above requirements

have been satisfied and complying with Council's requirements, are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development

8. Installation of Nest Boxes

A minimum of 2 nest boxes suitable for threatened microbats are to be installed in the retained trees throughout the retained vegetation. The Project Ecologist must specify the location so that they are installed as per industry standard, at an appropriate height and aspect, as well as being location away from artificial night light.

A certificate demonstrating compliance must be prepared by the project ecologist and submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To maintain wildlife habitat in accordance with relevant Natural Environment LEP/DCP controls (DACNECPCC1)

9. Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent and the Flora and Fauna Impact Assessment and Biodiversity Management Plan combined report (Kingfisher Ecology a.k.a. Ecological Consultants Australia Pty Ltd, dated February 2019).

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

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

Employment of a project ecologist is to be certified in writing by 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.

10. Compliance with Arborist's Recommendations – Pre-construction

All pre-construction tree protection measures specified in the submitted arborist report and these conditions of consent are to be implemented at the appropriate stage of development.

The existing driveway is to be the construction access. There is an additional tree that has not been assessed, one large *Angophora costata*, immediately adjacent to the right of the driveway within Council's road reserve, which will require trunk protection throughout construction to ensure no trunk damage by construction machinery.

Compliance with pre-construction measures including tree protection is to be certified by the

project arborist in writing including photographic evidence prior to issue of the Construction Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNECPCC2)

11. Preparation of Landscape Plans

Detailed Landscape Plans are to be prepared and certified by a qualified landscape architect, arborist or ecologist and are to include the following:

- the location of existing trees and vegetation to be retained, removed and/or planted. The structural root zone (SRZ) and tree protection zone (TPZ) of all existing trees should be indicated in accordance with Arboricultural Impact Assessment (Urban Forestry Australia, February 2019).
- A planting schedule in accordance with PDOP B4.7 control, at least 80% plants used in the landscaping for this development must be local native species as per the Pittwater Spotted Gum species list published by the SMCMA v3 (OEH 2016). The planting schedule is to specify details including stratum, species/common names, quantities, pot sizes and staking details.
- The proposed finished treatment of garden areas, including soil depth and the location of retaining walls and underground services.
- Provision of replacement tree plantings of 2 *Angophora costata* and 2 *Corymbia maculata* as per submitted plans

The Landscape Plan species list is to be certified by the Project Ecologist and submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

12. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are 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)

13. 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:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o 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

14. **Project Arborist**

A Project Arborist with AQF Level 5 qualification in horticulture is to be appointed to supervise and certify tree protection measures for the following existing trees:

- Tree 16 - Sydney Red Gum: directly supervise any rock cutting to be clean without breaking up or impacting the surrounding rock shelf, and
- Tree 21 - Sydney Red Gum located in neighbours property. The proposal includes the removal of the existing informal stairs within the trees TPZ. These works are to be supervised by the Project Arborist.
- Tree 32 - Grey Gum: any excavation is to be supervised, and the existing sandstone steps north of T32 are to remain in place to minimise interference with any tree roots within the SRZ.

Additionally, the Project Arborist is to recommend tree protection measures such as tree fencing, trunk protection and ground protection, and supervise all excavation and construction works near all trees, including recommending the construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Reason: to ensure the protection of the existing landscape amenity.

15. **Tree and vegetation protection**

A) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site as identified on page 5 of the Arboricultural Impact Assessment prepared by Urban Forestry Australia dated February 2019 (T1, T2, T3, T4, T5, T6, T12, T13, T14, T16, T19, T20, T23, T25, T26, T28, T29, T32, T34, T35, T36, T37, T38, T39, T40, T42, T43, and T44), excluding exempt trees under the relevant planning instruments or legislation,
- ii) all trees and vegetation located on adjoining properties, and particularly T7 to T11, T15, T21, T22, and T24,
- iii) all road reserve trees and vegetation.

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the recommendations of the Arboricultural Impact Assessment prepared by Urban Forestry Australia dated February 2019, as listed in sections 3.1, 3.2, 3.3, 3.4 and 3.5 of the Recommendations,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
- iv) to minimise the impact on trees and vegetation to be retained and protected, 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) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
- vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, to provide for root protection measures,
- viii) should either or all of v), vi) and vii) occur during site establishment and construction works,

a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

ix) 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 AS 4970-2009,

x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

Reason: to retain and protect significant planting on development and adjoining sites.

16. Tree removal

In consideration of the assessment of tree health and condition, the following existing trees are approved for removal, based on the recommendations of the Arboricultural Impact Assessment report prepared by Urban Forestry Australia dated February 2019: tree T17, T27, T30 and T31.

17. Tree and Vegetation Removal to be supervised by the Project Ecologist

All tree proposed for clearing are to be inspected by the project ecologist prior to removal.

Inspection of tree hollows is to be facilitated by a qualified and experienced tree climber or arborist with the use of an elevated work platform where necessary. The Project Ecologist is to be physically present onsite to supervise approved tree removal.

Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of tree removals.

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.
(DACNEDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Road Reserve

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

Reason: Public Safety.

19. Protection of rock and sites of significance

All rock outcrops and ledges outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: preservation of significant environmental features.

20. Compliance with Arborist's Recommendations – During Construction

All tree protection measures to be implemented during construction, as specified in Section 3.2

Minimising Impacts to Trees to be Retained, Section 3.3 Tree Protection, Section 3.4 Arboricultural advice of the submitted arborist report and these conditions of consent are to be implemented at the appropriate stage of development and supervised by the Project Arborist.

The Arborist report provides comprehensive tree-specific protection measures which must be adhered to throughout construction.

The Arborist must be present to supervise the installation of the new proposed watertank, which is to be intergrated into the existing OSD system.

Compliance with these measures is to be certified by the project arborist in writing, including photographic evidence, prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNEEDW1)

21. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction, as specified in Section 7 of the approved Flora and Fauna Impact Assessment and Biodiversity Management Plan combined report and these conditions of consent, particularly bush regeneration and weed removal within Pittwater Spotted Gum EEC.

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. (DACNEEDW2)

22. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

23. **Landscape works**

Landscaping is to be implemented in accordance with the Landscape Plan DA03 prepared by Richard Smith Architect, including the following requirements:

- i) the existing ground levels around Tree 32 shall be maintained,
- ii) the proposed replacement tree planting (2 x Sydney Red Gums and 2 x Spotted Gums) shall be located at least 3 metres from building structures where pier and beam construction is used or 5 metres where ground strip footing are used, and shall be planted at 75 litre pot size, and planted in areas providing at least 3m x 3m of available soil area,
- iii) new native planting for privacy as shown on DA03 shall consist of locally native shrub species capable of attaining at least 3 metres in height at maturity, planted at 200mm pot size minimum, and planted no greater than 1 metre apart,
- iv) new native planting as shown on DA03 shall consist of locally native shrub and groundcover species, planted at 140mm pot size minimum, and planted to achieve a dense cover,

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 the landscape plan and the conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

24. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist (or equivalent), shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

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

Reason: to retain and protect significant planting on development sites, and protect the existing amenity.

25. An Application for Authorisation of Legal Documentation Required for Onsite Detention

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

26. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

27. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such 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 any interim / final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

28. **Certification car Parking Facility Work**

An appropriately qualified and practicing Civil Engineer shall certify to the Council / Principal Certifying Authority that the parking facility was constructed in accordance with this consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation

Reason: Compliance with this consent

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

30. **Compliance with Arborist's Recommendations – Post-construction**

All tree protection measures to be implemented, as specified in the submitted arborist report and these conditions of consent are to be implemented at the appropriate stage of development.

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Arborist in writing including photographic evidence prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

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

All biodiversity-related measures are to be implemented at the appropriate stage of development, as specified in the approved Flora and Fauna Impact Assessment and

Biodiversity Management Plan combined report 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.

32. **Certification of Landscape Plan and tree plantings**

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

The new landscaping is to be certified as complete and in accordance with approved Landscape Plans and these conditions of consent by the project arborist or project ecologist prior to issue of any Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNEFPOC2)

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

33. **Landscape maintenance**

All landscape components are to be maintained for the life of the development. A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme of the site.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

34. **Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

35. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

36. **Replacement of Canopy Trees**

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

Reason: To replace locally native trees in accordance with relevant Natural Environment LEP/DCP controls (DACNEGOG1)

37. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

38. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

39. **Dead or Injured Wildlife**

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

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

40. **Use of roof garden**

The garden area above the garage is not to be used for entertaining purposes. (DACPLGOG1)

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

Signed



Danielle Deegan, Planner

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



Daniel Miliken, Acting Development Assessment Manager