

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/0246
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<b>Responsible Officer:</b>	DM Planning (independent planning consultant)
<b>Land to be developed (Address):</b>	Lot 9 DP 752046, 120 Prince Alfred Parade NEWPORT Lot 34 DP 13457, 120 Prince Alfred Parade NEWPORT Lot 35 DP 13457, 120 Prince Alfred Parade NEWPORT Lot B DP 391307, 120 Prince Alfred Parade NEWPORT Lot LIC 190387, 120 Prince Alfred Parade NEWPORT
<b>Proposed Development:</b>	Demolition works, subdivision of 4 lots into 2 lots and the construction of 1 dwelling on each lot including swimming pools and landscape works
<b>Zoning:</b>	C4 Environmental Living W1 Natural Waterways
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Bravo Futura Residential Development No. 1 Pty Ltd
<b>Applicant:</b>	Ella Maree Miles

<b>Application Lodged:</b>	01/03/2022
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	05/10/2022 to 02/11/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	25
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$5,203,803.00
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### EXECUTIVE SUMMARY

This development application seeks consent for demolition works, subdivision of 4 lots into 2 lots and the construction of 1 dwelling on each lot including swimming pools and landscape works.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) under the 'contentious development' provisions (more than 10 unique submissions) and the 'conflict of interest' provisions (a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979 and who is related to the applicants).

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979 (EP&A Act), the provisions

relevant Environmental Planning Instruments including Pittwater Local Environment Plan 2014 (PLEP), Pittwater Development Control Plan 2014 (PDCP), and the relevant codes and policies of Council. In consideration of the proposal and the merit consideration the development proposal is:

- 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 EPI's
- Consistent with the objects specified in Section 1.3 of the EP&A Act

The proposal is also 'integrated development' under section 91 of the Water Management Act 2000. General Terms of Approval have been issued by Department of Planning and Environment – Water.

The proposed development has been publicly exhibited twice resulting in twenty-seven (27) submissions. Twelve (12) of these relate to the removal of the existing Fig Trees in the adjoining Park and are not directly related to the proposed development. The remaining objections relate primarily to view loss arising from the proposed planting of canopy trees. The issues raised in the submissions are addressed in the "Public Notification" section of this report.

The proposal does not result in any variations to the principal development standards under PLEP 2014. There are some variations to the building envelope, front setback, and landscaped area provisions under PDCP.

The application has been amended twice to reduce building height, increase landscaping and to address road reserve issues with a crib wall. Subject to conditions, the application is supported by internal and external referrals, with the exception of Council's Landscaping Officer.

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

Accordingly, it is recommended that the application be approved subject to the attached conditions

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks consent for the demolition of the existing dwelling and associated structures, subdivision of 4 lots into 2 lots and the construction of two contemporary dwelling-houses, each with integrated garage, swimming pool and associated landscape works.

In detail, the proposal involves the following:

### Subdivision:

Subdivision of the existing four (4) Torrens Title Lots into two (2) Torrens Title Lots:

- 120 Prince Alfred Parade (western lot – left) – proposed site area 800sqm
- 120a Prince Alfred Parade (eastern lot – right) – proposed site area 831.6sqm

### Demolition works:

- Demolition of the existing dwelling house and detached garage and studio.

### 120 Prince Alfred Parade:

- Construction of a dwelling house comprising of:

Ground level:	The north section contains open plan kitchen, living and dining areas leading on to terrace and pool areas. The south section contains the service areas including, pantry, laundry, cellar, lift well powder room, stairwell, sauna, storage room and gym.
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First floor level:	Four bedrooms, all with ensuites; home office, media room, bathroom; stair well, lift well and linen store.
Entry level:	Double garage, main entry, and guest bedroom with ensuite.

- Suspended concrete driveway
- Elevated timber deck and steel pedestrian access bridge
- Swimming Pool and associated works
- Landscaping including additional plantings
- Tree removal

120A Prince Alfred Parade:

- Construction of a dwelling house comprising of:

Ground level	The north section contains open plan kitchen, living and dining areas leading on to terrace and pool areas. The south section contains the service areas including, home office pantry, laundry, cellar, lift well powder room, stairwell, sauna, storage room and gym. The garage is also provided at this level.
First floor level	The first-floor level has been designed as the sleeping quarters and relaxation component of the dwelling. This dwelling provides four bedrooms on the first floor along with a home office and media/children's retreat area.

- Suspended concrete driveway access from the south-eastern corner of the site
- Pedestrian bridge from street level
- Swimming Pool and associated works
- Landscaping including additional plantings

**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 - 7.2 Earthworks  
 Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards  
 Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area  
 Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality  
 Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve

Pittwater 21 Development Control Plan – C1.1 Landscaping  
 Pittwater 21 Development Control Plan – C1.3 View Sharing  
 Pittwater 21 Development Control Plan - D10.7 Front building line  
 Pittwater 21 Development Control Plan - D10.11 Building envelope  
 Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	120 Prince Alfred Parade, Newport
<b>Detailed Site Description:</b>	<p>The subject site consists of four allotments located on the northern side of Prince Alfred Parade.</p> <p>The site is irregular in shape with a frontage of 58.87m to Prince Alfred Parade and a rear boundary to Salt Pan Cove. The site has a surveyed area of 1,631.6m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living zone and W1 Natural Waterways zone and accommodates a single storey dwelling house, detached garage with studio and a licensed boatshed. A concrete driveway runs from the south-eastern corner of the site to the garage.</p> <p>The site slopes steeply from the street and is then relatively flat from the existing dwelling footprint toward the waterfront. A concrete crib and concrete retaining wall up to 2m high supports the fill batter for the road. Low brick retaining walls terrace the slope downhill from the front boundary.</p> <p>A level lawn area extends from the rear of the dwelling house to the water. A low sandstone block seawall supports the fill for the lawn.</p> <p>Trees are located on the periphery of the site and on the adjacent Council reserve (Florence Park) and consist of a mixture of native and non-native, planted and self-sown mature and immature trees.</p>

Map:



### Detailed Description of Adjoining/Surrounding Development

The site adjoins Florence Park on its eastern boundary and Salt Pan Bay to the north. Adjoining and surrounding development is characterised by detached dwellings in landscaping settings.

The adjoining dwellings to the west of the site 118A, 118, 116A, 116 and 114 Prince Alfred Parade are built close to the front boundary with a four-storey appearance when viewed from Salt Pan Cove.

### 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:

- Pre-lodgement Meeting PLM2021/0314 was held on 02/12/2021 for Subdivision of land (re-subdivision from 4 into 2 lots) and construction of 2 dwellings. The concluding comments from this meeting note the following:

*"The design of the proposed structures and their character are generally considered to have merit and complement the surrounding environment. The close proximity of the two dwellings however is of significant concern in relation to view loss. It is advised that the design should be amended to achieve greater physical separation as well as increase the ratio of landscaped open space on each lot. It is important that any variation sought as mentioned above should be analysed in depth as to how it still meets the outcomes of each control."*

### NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited, on two separate occasions (original and revised scheme), 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 twenty-seven (27) submissions from:

Name:	Address:
Mrs Elizabeth Grace Daly	13 Elvina Avenue NEWPORT NSW 2106
Mrs Diana Cooke	121 Prince Alfred Parade NEWPORT NSW 2106
Mr Robert James Jackson Stewart	22 Elvina Avenue NEWPORT NSW 2106
Mrs Joy Clark	PO Box 209 NEWPORT BEACH NSW 2106
Roy Cottam	20 Elvina Avenue NEWPORT NSW 2106
Ragni Ella Van Der Merwe	28 Elvina Avenue NEWPORT NSW 2106
Mr Wallace Sydney Ward	18 Elvina Avenue NEWPORT NSW 2106
Mr Michael John Mitton	PO Box 1123 NEWPORT BEACH NSW 2106
Mr Warren Terrence Mason	33 Elvina Avenue NEWPORT NSW 2106
Mr Matthew William Neville	10 Elvina Avenue NEWPORT NSW 2106
Ms Nicole Julia Steven	113 Prince Alfred Parade NEWPORT NSW 2106
Peter Hall	119 Prince Alfred Parade NEWPORT NSW 2106
Ms Ingrid Statis	105 Prince Alfred Parade NEWPORT NSW 2106
Mr Christopher David Thomas	12 Elvina Avenue NEWPORT NSW 2106
Frank Cigana	55 Central Road AVALON BEACH NSW 2107
Richard Pitt	26 Elvina Avenue NEWPORT NSW 2106
Mrs Deborah May Hodge	132 Prince Alfred Parade NEWPORT NSW 2106
Mr Paul Meehan	107 Prince Alfred Parade NEWPORT NSW 2106
Robyn Doyle	6 Elvina Avenue, NEWPORT NSW 2106
Michael and Maria Hawes	4 Elvina Avenue, NEWPORT NSW 2106
Bill Tulloch	Address not provided

The following issues were raised in the submissions:

- Request for the removal of trees located in the adjoining park
- Request for replacement or deletion of proposed canopy trees or conditions to restrict the height of vegetation on the site
- Non-compliance with the building height and side building envelope controls
- The width and scale of the proposed development is excessive
- Request for height poles
- The design is rectangular and box-like and unsympathetic to its natural setting
- The proposal does not include adequate landscaping

The above issues are addressed as follows:

- **Trees located in the adjoining park and road reserve**

Twelve (12) submissions request the removal of the existing Fig trees in the adjoining park (Florence Park). The submissions raise safety concerns and problems with stormwater drainage.

Comment:

The Fig trees in question are not located on the subject site and their removal does not relate to the proposed development. Requests for the removal of these Fig trees should be submitted to Council as a separate matter.

- **Canopy trees**

The amended landscape plan includes numerous canopy trees included in response to Council's Landscape Team. Five neighbouring properties object to the inclusion of the canopy trees on the grounds of unacceptable view loss.

Comment:

The issue of view loss arising from the planting of canopy trees is discussed in detail through this report. A condition of consent is recommended to substitute the Cabbage Tree Palms with a lower height tree species.

- **Request for height restrictions on proposed vegetation on the site**

Seven (7) submissions have requested that proposed plantings along the road reserve be restricted to 2m.

Comment:

The final planting in the road reserve is not the subject of this application and requires separate approval. Council's Engineers have included a condition specifying the requirements for the Civil works in the road reserve which includes a requirement for landscaping to maintain sightlines for the driveway crossings which would limit the hedge to a height of 1.2m.

- **Non-compliance with building height**

Comment:

The height of the proposed dwelling on 120 Prince Alfred Pde exceeded the 8.5m building height, however, the amended proposal has reduced the building height of 120 Prince Alfred Pde to achieve compliance with the building height.

- **Request for height poles**

Three submissions have requested that height poles be erected on the site so that view impacts can be properly assessed.

Comment:

The amended proposal complies with the 8.5m maximum building height. Given that most of the proposed development is below street level and behind the existing hedge in the road reserve, height poles are not required to enable a view assessment. View loss is assessed in detail in the PDCP section of this report.

- **Non-compliance with building envelope**

Comment:

The amended plans have reduced the non-compliance with the building envelope. A minor variation to the building envelope at 120 Prince Alfred Pde remains along the eastern elevation, however this breach will have no adverse amenity, sunlight access or view impacts. The minor breach of the side building envelope is assessed in detail in the PDCP section of this report and is found to be reasonable.

- **The design is rectangular and box-like and unsympathetic to its natural setting**

These concerns were raised by an anonymous objector.

Comment:

The amended proposal has reduced the bulk of the upper level of 120 Prince Alfred Pde and reduced the building height for both dwellings. The contemporary design of the proposal satisfies the relevant planning controls and is consistent with the character of the area.

- **The proposal does not include adequate landscaping**

The submissions raised concerns that there are no significant trees either in front of the dwellings (when viewed from the waterway) or between the dwellings.

Comment:

The amended landscape plan includes numerous trees, shrubs and groundcovers on the site and is assessed as reasonable subject to conditions.

**REFERRALS**

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p><b>Supported</b></p> <p>An Acid Sulfate Soil assessment report has been provided by the applicant. The intrusive below ground investigation found no potential acid sulfate soils in any of the 4 bore samples where excavation will be done. According to the Acid Sulfate Soil Manual (1998), none of the triggers have been met to require further investigation or a formal management plan. We are satisfied that the information provided demonstrates a very low likelihood of exposure of acidic soils during excavations.</p>
Landscape Officer	<p><b>Unsupported</b></p> <p>The development application is for the demolition of the existing dwelling house, subdivision into (2) Torrens Title lots and the construction of a new dwelling house on each new lot including a swimming pool and associated landscaping works.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living and W1 Natural Waterways zone, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland</li> <li>Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D10 Newport Locality</li> </ul> <p>The property is located in the C4 Environmental Living zone by majority and in part in the W1 Natural Waterways zone for the portion identified as Lot 9 DP752046 adjoining the waterway, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone.</p> <p>The updated Landscape Plan submitted is based on an architectural layout that is predominantly unchanged including the retention of the proposed encroachment into the front setback by the buildings. The architectural layout provides a layout where the landscape outcomes are unable to be achieved. Given the site planning layout, the updated Landscape Plan continues to be unable to satisfy the objective requirements of the C4 Environmental Living zone and the requirements of DCP clause C1.1</p>





Internal Referral Body	Comments
	<p>Landscaping, where in " all development a range of low-lying shrubs, medium-high shrubs and canopy trees shall be retained or provided to soften the built form" and at least "2 canopy trees in the front yard and 1 canopy tree in the rear yard are to be provided on site" and "trees to be planted are to be of sufficient scale to immediately add to the tree canopy of Pittwater and soften the built form".</p> <p>The updated Landscape Plan includes public land encroachments across the road reserve verge that are not supported except for street tree planting. However the presence of tree planting upon public land cannot be utilised to satisfy the landscape controls of the DCP, and this shall be contained within the development property.</p> <p>The encroachment of the proposed buildings into the front setback eliminates any capability for canopy trees to be established as any canopy trees would be located in close proximity to the building and thus typical canopy tree development will not be achieved, and additionally and realistically canopy trees in close proximity to buildings present ongoing issues and potential damage to buildings. It is noted that the DCP requires canopy trees to be located 5 metres from a building or 3 metres is pier and beam construction is utilised and the proposed front setback therefore will not provide an adequate area for canopy tree establishment. The one proposed canopy tree planting, as it stands is within 2 metres of the proposed buildings and hence may be conceived as exempt and removable under the 2m exemption rule.</p> <p>Arboricultural Impact Assessment is submitted and recommends tree protection measures such as excavation techniques, tree protection fencing and ground protection for trees located within Florence Park in vicinity of the works and advises that no adverse effects are expected if the development works are managed in consultation with a qualified Arborist, and includes the requirement for pruning of such selected trees and no objections are raised to 10% pruning under a development consent should the application be approved. Any requirements for additional pruning shall be subject to a separate application to Council's Tree Services business unit.</p> <p>The landscape component of the development proposal is not supported due to inadequate landscape outcomes within the front setback. An increased building setback is required to receive support from Landscape Referral whereby adequate soil volume and area is available for canopy tree establishment, and thus soften the built form.</p> <p><u>Planner Comment:</u></p> <p>The external consultant planner has opted not to request compliance with the front setback control. This would be inconsistent with the front setbacks of the adjoining development to the west (at 118A, 118,</p>

Internal Referral Body	Comments
	<p>116A, 116 and 114 Prince Alfred Pde) and is impractical for vehicular access given the steep topography at the front of the site.</p> <p>While the proposal does not provide two canopy trees in the front setback area of each site, the proposed landscape scheme includes eleven (11) additional trees and numerous shrubs elsewhere on the site. In addition, the canopies of three (3) very large Hills weeping Fig trees (&gt;25m high with 25m canopy spread), currently overhang the site, effectively restricting the planting of additional canopy trees in the front setback of 120a Prince Alfred Parade.</p> <p>Given the existing landscaping adjoining the site proposed landscaping on the site, the proposal is assessed as achieving Council's objectives for landscaping.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported</b></p> <p>Council's Biodiversity referral team have reviewed the application for consistency against the State Environmental Planning Policy (Coastal Management) 2018 - Coastal Environment Area and PDCP Part B4.11 Land Adjoining Bushland.</p> <p>The proposal is located on an established residential property, with no remnant native vegetation and limited biodiversity values. The existing tree canopy predominantly consists of non-local native species, including exempt exotic fig trees. Whilst the subject site is located in a sensitive coastal area, there appears to be no impacts to marine vegetation, native vegetation and fauna, and their habitats, as a result of the proposal. Potential impacts to water quality are assessed separate to this referral and require the provision of sediment and erosion controls.</p> <p>As identified in Council's landscape referral, proposed landscaping provides for inadequate tree canopy. Any future plans should include provision for replacement canopy trees including suitable local species; <i>Angophora costata</i>, <i>Banksia integrifolia</i>, <i>Eucalyptus botryoides</i>, <i>Syncarpiaglomulifera</i>, <i>Corymbia maculata</i>, and <i>Eucalyptus paniculata</i>.</p> <p>Despite the lack of adequate landscaping proposed, biodiversity impacts of the proposal remain negligible.</p>
NECC (Coast and Catchments)	<p><b>Supported subject to conditions</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Coastal Management) 2018 (clauses 13, 14 &amp; 15); and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>The application meets the requirements of the relevant Environmental Planning Instruments and</p>

Internal Referral Body	Comments
	<p>policies. The Estuarine Risk Management Policy for Development in Pittwater and B3.10 Estuarine Hazard - Subdivision Controls have been addressed. The final floor level is above the base estuarine planning level (EPL) of RL 2.67m AHD and no development is proposed below the EPL. It is also noted that plans have been amended to comply with Part 7, Clause 7.8 of the Pittwater LEP to prevent development within the foreshore area.</p> <p>The application is supported subject to conditions:</p> <ul style="list-style-type: none"> <li>• Installation and maintenance of erosion and sediment controls (prior to commencement)</li> </ul>
NECC (Development Engineering)	<p><b>Supported subject to conditions</b></p> <p><u>Original comments:</u></p> <p>The proposal includes the subdivision of the existing four lots into two lots and the construction of two new dwellings and demolition of the existing dwelling. In terms of the proposed subdivision, the applicant has not included a draft subdivision plan by a Registered Surveyor and as such it is unclear how the lot areas have been calculated. In this regard a draft plan of subdivision must be provided for the proposal. The plan must not include any structures and must indicate the proposed and existing boundary dimensions, lot areas and any proposed or existing easements.</p> <p>The proposed development does not require on-site stormwater detention. The connection of stormwater to Salt Pan Cove is to be assessed by Council's Coast and Catchment Team. The submitted stormwater plan is acceptable.</p> <p>The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>The proposed driveway crossing widths and grades are acceptable. The applicant has demonstrated that vehicles can enter and exit the site in a forward direction for the proposed dwelling at 120A which is acceptable. It is considered that the existing hedges which have been shown to be removed along a portion of the frontage be completely removed to improve the sight distance for vehicles exiting 120.</p> <p>A review of the comments from Road Assets and Landscaping indicates that they do not support the proposed elevated crossings or the landscaping proposed in the road reserve. Also a footpath has been requested to be provided along the frontage up to the adjacent reserve. It is considered that all these issues must be addressed to the satisfaction of Council's Road Assets and Landscaping Teams prior to final assessment by Development Engineering.</p> <p>Development Engineering cannot support the application due to insufficient information to address the subdivision design in accordance with clause C4 of the DCP.</p>



Internal Referral Body	Comments
	<p><b><u>Amended comments in response to additional Information submitted 21/09/22:</u></b></p> <p>The submitted draft subdivision plan is acceptable. Road Assets has supported the proposal subject to issues that are addressed via conditions.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p> <p>The proposal is therefore supported</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p><b>Supported</b></p> <p>The proposed DA generally complies with the flood controls in the LEP and DCP.</p> <p>The DA involves demolishing existing structures and subdividing the existing 4 lots into two lots. A new dwelling is proposed to be constructed on each lot. Council's flood information report indicates only one lot, Lot 35 (eastern most lot) is mapped as being affected by flooding in the PMF event only. It is not affected by the 1% AEP event. The PMF flooding affects only the rear portion of the site.</p> <p>The proposed dwellings habitable floor and garages finished floor levels are all located above the FPL and the 1% AEP respectively.</p> <p>In flood emergency, occupants of both dwelling can evacuate away from site and/or shelter in place by evacuating to the first floor, which is located above the PMF flood level.</p> <p>Proposed pool and fencing area located outside of the 1% AEP, this is considered satisfactory.</p>
NECC (Water Management)	<p><b>Supported</b></p> <p>The revised stormwater management strategy is satisfactory.</p> <p>This application has been assessed against relevant legislation and policy relating to water quality, waterways, riparian areas, and groundwater.</p> <p>The property is part of the catchment for Salt Pan Cove foreshore and Pittwater bay more broadly. The proposal is subject to the Northern Beaches Council Water Management for Development Policy.</p> <p>The proposal is a subdivision and triggers the standards set out in Table 5 – General Stormwater Quality Requirements of the Northern Beaches Council Water Management for Development Policy.</p>
Parks, reserves, beaches, foreshore	<b>Supported subject to conditions</b>



Internal Referral Body	Comments
	<p>The development application is for the demolition of the existing dwelling house, subdivision into (2) Torrens Title lots and the construction of a new dwelling house on each new lot including a swimming pool and associated landscaping works.</p> <p>The development site is located adjacent to Florence Park Reserve and Salt Pan Cove waterway. The proposed development represents an extensive building elevation to the waterway, however with the retention of the existing trees within the W1 Natural Waterways zone, the visual impact is reduced and is consistent with adjoining dwellings presentation to the waterway.</p> <p>The proposed development adjoining Florence Park Reserve is buffered by the existing tree planting within the Reserve. Public access to the reserve is not impacted by the proposed development and the development is not detrimental to the landscape character of the adjoining Reserve, and as such Parks, Reserves and Foreshores raise no concerns with the development proposal.</p> <p>No physical encroachments over the site boundaries are permitted under the development application, and new structures and built elements are not permitted beyond the site boundaries.</p> <p>All development works must ensure that surface sediment runoff and/or erosion is controlled, managed and contained within the site boundaries and prevented from travelling across the boundary and into the Reserve and Waterway.</p>
Road Reserve	<p><b>Supported subject to conditions</b></p> <p><u>Original comments:</u> The proposed development does not have a significant impact on existing road infrastructure assets however the proposed suspended driveways and pedestrian bridges are considered excessive and may negatively impact on the existing retaining wall. Consideration should be given to creating on ground structures as a preference. The private hedges on the road reserve encroach on the public footway area and limit pedestrian access. Former Pittwater Council policy restricted hedges to the property boundary. The hedges negatively impact pedestrian safety and will limit sight distance at driveways. Accordingly, the hedges should be removed and alternative planting considered (or pruned heavily back to ensure 1.2-1.5m clearance from the kerb) and incorporate footpath construction along the frontage and provide a connection to the adjoining reserve. The condition of the crib wall shown on the survey plans must be determined prior to approval and any works impacting this wall will need detailed consideration as part of a Road Act application for civil works to Council's Development Engineering Team.</p> <p><u>Comments on revised plans 26/09/2022. (Rev C)</u></p>



Internal Referral Body	Comments
	<p>No objection in principle to the proposed driveway and pedestrian access ways, including the demolition of existing landscaping walls on the public road reserve.</p> <p>The pedestrian access structures, and suspended driveway works together with the proposed road reserve landscaping to be subject to an Application for Civil Works on the road reserve under the Roads Act 1993, conditioned by the Development Engineering Team. The approval of the civil works to include conditions requiring the applicant to maintain the verge landscaping (if acceptable to Council's Landscape Architect) (including maintaining the existing hedge to less than 1.2m high and clear of pedestrian and sight lines), pedestrian and driveway structures. A 1.5m wide concrete footpath is to be provided to Council standards across the frontage of the site providing a connection to the adjoining reserve to be included in the Civil Works Application.</p> <p>The road reserve formation to be supported by retaining walls built within the property boundary as part of the demolition of the existing boundary walls and drainage channels.</p> <p>Civil Works Application to include requirement for the completion of landscaping to be certified by an appropriately qualified person as being compliant with the approved landscaping plans submitted with the Civil Works Application.</p> <p>Council's Landscape Architect to provide comments regarding plant selection on Council's road reserve. Any changes to landscape requirements to be included in Application for Civil Works.</p> <p>Development Engineering Team to provide suitable conditions.</p>

External Referral Body	Comments
<b>Ausgrid</b>	<p>Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.</p> <p>The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.</p>
<b>Nominated Integrated Development – Natural Resources Access Regulator - Water Management Act 2000 (s91 Controlled Activity Approval for works within 40m of watercourse)</b>	<p>On 10 October 2022, the Department of Planning and Environment—Water, issued their General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the Water Management Act 2000 (WM Act).</p>
<b>Aboriginal Heritage Office</b>	<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>

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to stormwater, plan dimensions/scales. The details were received on 28 September 2022 and 14 November 2022.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent</p>
<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>	<p><b>(i) Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>



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 (Resilience and Hazards) 2021**

#### Chapter 2 – Coastal Management

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

#### **Division 3 Coastal environment area**

##### **2.10 Development on land within the coastal environment area**

*1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

- a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- b) coastal environmental values and natural coastal processes,*
- c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- f) Aboriginal cultural heritage, practices and places,*
- g) the use of the surf zone*

#### Comment:

The proposed development is unlikely to cause adverse impacts on the ecological environment, coastal values and processes, marine vegetation, access to the beach or heritage.

*(2) Development consent must not be granted to development on land to which this clause applies*

*unless the consent authority is satisfied that:*

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

#### Comment:

The proposed development incorporates measures to avoid adverse impacts on the ecological environment, coastal values and processes, marine vegetation, access to the beach or heritage.

## **Division 4 Coastal use area**

### **2.11 Development on land within the coastal use area**

*1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*

*a) has considered whether the proposed development is likely to cause an adverse impact on the following:*

*(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

*(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*

*(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*

*(iv) Aboriginal cultural heritage, practices and places,*

*(v) cultural and built environment heritage, and*

*(b) is satisfied that:*

*(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*

*(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*

*(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

*(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

#### Comment:

The proposal will not impede access to the foreshore, or degrade the visual amenity of the coast or heritage.

#### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. A preliminary site investigation has been undertaken by White Geotechnical to address the requirements of the SEPP. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the proposed residential development.

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

BASIX certificates have been submitted with the application (see Certificate Nos. 1258806S and 1258883S, both dated 9 February 2022). Both proposed dwellings satisfy the required water, thermal comfort and energy targets.

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

#### **SEPP (Transport and Infrastructure) 2021**

#### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections.

**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
Minimum subdivision lot size	700sqm	120: 800sqm	N/A	Yes
		120A: 831.6sqm		
Height of Buildings	8.5m	120: 8.5m	N/A	Yes
		120A: 7.53m	N/A	Yes

Clause 4.3 Building Height

The measurement of building height on the original architectural plans was based on the “Bettar” Court Case which allowed measurements from extrapolated ground levels on excavated sites. This was supported by Council at the pre-lodgement meeting. Since lodgement of the application, Council has adopted the “Merman” Court Case interpretation for building heights, that being from ground level (existing).

In order to maintain compliance with the newly interpreted measurement of building height, the building height of 120 Prince Alfred Parade has been reduced to comply with maximum building height of 8.5m from ground level (existing). The proposed dwellings on both 120 and 120a Prince Alfred Parade are fully compliant with the maximum building height provisions under Clause 4.3 of PLEP2014.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision – consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	N/A
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes

Clause	Compliance with Requirements
7.2 Earthworks	Yes
7.7 Geotechnical Hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

## PITTWATER DEVELOPMENT CONTROL PLAN

Built Form Control 120	Requirement	Proposed	% Variation	Complies
Front building line	6.5m	2.1m – 3.6m	68%	No
Rear building line	6.5m	Foreshore building line applies	N/A	Yes
Side building line	East 1m	1.66m	N/A	Yes
	West 2.5m	2.6m	N/A	Yes
Building envelope	East – 3.5m	Outside envelope (Encroachment between 0.83m to 1.84m at entry level and first floor level)	23.7% to 52.6%	No
	West – 3.5m	Within envelope	N/A	Yes
Landscaped Area	60%	52% (416.2sqm)	13%	No

Built Form Control 120A	Requirement	Proposed	% Variation	Complies
Front building line	6.5m	2.7m	58%	No
Rear building line	6.5m	Foreshore building line applies	N/A	Yes
Side building line	East 2.5m	2.5m	N/A	Yes
	West 1m	1.6m	N/A	Yes
Building envelope	East – 3.5m	Within envelope	N/A	Yes
	West – 3.5m	Within envelope	N/A	Yes
Landscaped Area	60%	59.5% (495.21sqm)	0.8%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
<b>Section A Shaping Development in Pittwater</b>		
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A4.15 Waterways Locality	Yes	Yes
<b>Section B General Controls</b>		
B1.3 Heritage Conservation	Yes	Yes
B1.4 Aboriginal Heritage Significant	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated land and potentially contaminated land	Yes	Yes
B3.7 Estuarine Hazard – Low density residential	Yes	Yes
B3.10 Estuarine Hazard – Subdivision	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change	Yes	Yes
B3.12 Saltmarsh EEC	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
<b>C1 Design Criteria for Residential Development</b>		
C1.1 Landscaping	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	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
<b>C4 Design Criteria for Subdivision</b>		
C4.1 Subdivision – Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.3 Subdivision - Transport and Traffic Management	Yes	Yes
C4.4 Subdivision - Public Roads, Footpath and Streetscape	Yes	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	Yes	Yes
<b>D10 Newport Locality</b>		
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.12 Landscaped Area - General	No	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes
D15.1 Character as viewed from a public place	Yes	Yes
<b>D15 Waterways Locality</b>		
D15.3 Building colours and materials	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high-water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D15.18 Seawalls	Yes	Yes
D15.19 Dredging	Yes	Yes

## Detailed Assessment

### C1.1 Landscaping

#### Merit consideration

The PDCP requires at least 2 canopy trees in the front yard and 1 canopy tree in the rear yard. Given the steep topography at the front of the site, and the reduced front setback, the provision of 2 canopy trees in the front setback is impractical.

The landscape plans show one canopy tree in the front setback of 120 Prince Alfred Parade and none at 120a Prince Alfred Parade.

It is noted that the PDCP allows a variation; where canopy trees are to be retained on a site, planting of additional canopy trees shall be assessed on a merit basis. While there are no canopy trees on the site, there are three (3) very large (>25m in height) Hills Weeping Fig trees located adjacent to the eastern boundary of the site, in the adjoining public reserve. The canopies of these trees overhang the site, effectively restricting the planting of additional canopy trees in the front setback of 120a Prince Alfred Parade.

The planting schedule details numerous additional plantings throughout the site. Given the constraints of the site, the large Fig trees adjoining the site and the multitude of additional plantings proposed, the outcomes for section C1.1 are satisfied.

### C1.3 View Sharing

#### Merit consideration

The PDCP requires that all new development be designed to achieve a reasonable sharing of views from surrounding and nearby properties.

View loss objections have been received from the following five properties located to the south of the site:

- 101 Prince Alfred Parade
- 105 Prince Alfred Parade
- 6 Elvina Avenue
- 10 Elvina Avenue
- 12 Elvina Avenue

The PDCP lists the following outcomes for view sharing:

- A reasonable sharing of views amongst dwellings.
- Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.
- Canopy trees take priority over views.

The controls include:

- view sharing as determined by the application of the Land and Environment Court's planning principles for view sharing; and

- views are not to be obtained at the expense of native vegetation.

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

## 1. Nature of the views affected

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

### Comment to Principle 1:

The views available from the objecting properties are water views of Old Mangrove Bay, Pittwater and distant views of Ku-ring-gai Chase Park National Park. The views are not whole views, being obscured by existing vegetation and development. The views include water/land interface.

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

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

### Comment to Principle 2:

The views are obtained in a northerly direction, across front, rear and side boundaries. The views are enjoyed from the living areas and decks. The views are obtained from sitting and standing positions. Images of the view, taken from each of the objecting properties, are shown in Figures 1-5 below.



Figure 1. Available view from 105 Prince Alfred Parade





**Figure 2. Available view from 4 Elvina Ave**



**Figure 3. Available view from 6 Elvina Ave**



**Figure 4. Available view from 10 Elvina Ave**



**Figure 5. Available view from 12 Elvina Ave**

### **3. Extent of impact**

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

*it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".*

Comment to Principle 3:

The proposed built form will have minimal impact on existing views. This is largely due to the existing hedge along the street frontage. For some properties, there may be a minor loss of water view in the foreground as a result of the proposed two/three storey dwellings and extension of the building footprint toward the waterway. The extent of view loss arising from the proposed built form is assessed as **minor**.

#### **4. Reasonableness of the proposal that is causing the impact**

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

Comment to Principle 4:

The proposed dwellings comply with the relevant built form controls with the exception of a minor breach to the side boundary envelope (No 120) and the front setback (both dwellings). The front setback breach is of minimal relevance to the view loss impacts, while the side boundary envelope breach will have minimal impact on views (see below for further detail). As the minor view loss is a result of compliant elements of the development, consideration must be given to whether a more skilful design could achieve the same development potential while reducing the impact on views.

In response to the more skilful design question, the proposal has been amended twice to reduce overall height and bulk at the upper level of 120. The minor view impacts from the proposed built form are assessed as reasonable.

Considerable concerns have been raised by neighbouring properties regarding view loss from the proposed canopy trees.

The proposal includes the planting of

- 9 x *Elaeocarpus reticulatus* (Blueberry Ash), maximum height 7 to 10m; and
- 5 *Livistonia australis* (Cabbage Tree Palm), maximum height 15m.

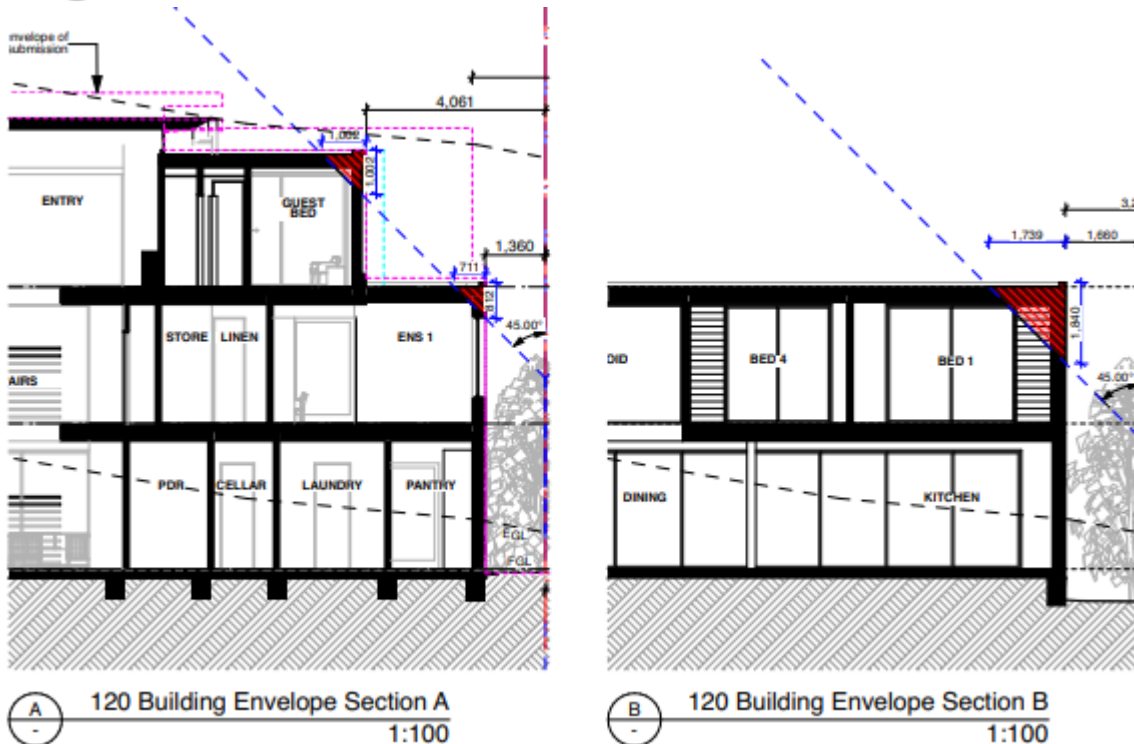
The *Elaeocarpus reticulatus* (Blueberry Ash), are proposed to be planted along the side boundaries, at the lower levels of the site and therefore are unlikely to result in view loss.

However, the *Livistonia australis* (Cabbage Tree Palm), reach heights of 15m with a bushy crown on a tall narrow trunk which could potentially result in view loss. When mature, these trees offer little landscaping screening when viewed from within the site itself but could result in the loss of views to the objecting properties. In order to mitigate against potential view loss in the future, a condition of consent is recommended to amend the landscape plan to substitute the Cabbage Tree Palms with a suitable native species that does not exceed 8.5m in height at maturity.

#### **Clause D10.11 Building Envelope (excluding Newport Commercial Centre)**

Description of non-compliance

Clause 10.11 requires buildings to be sited within an envelope that measured 3.5m above ground level at the side boundaries and 45 degrees.



As shown in the sections above, the proposed dwelling at 120 Prince Alfred Pde, does not comply with the side building envelope along the eastern elevation. In this regard, the proposal involves a breach of 1m at the entry level and up to 1.84m at first floor level.

The breach at the first-floor level is below street level and therefore will have no visual or view impacts when viewed from the street or from the properties located to the south of the site. As the area of breach faces the proposed dwelling at 120A Prince Alfred Parade, the concurrent design of the two dwellings, ensures that there are no unreasonable amenity impacts arising from the minor breach.

The minor breach of the envelope at the entry level is behind the existing hedge and will not be perceived from the public domain. It will not result in any adverse visual impacts on the character of the locality or the streetscape by way of excessive bulk. The minor breach of the envelope will not result in unreasonable impacts on neighbouring amenity by virtue of view loss, privacy or overshadowing. Despite the breach the proposal is consistent with the outcomes of the control.

### Merit consideration

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

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

#### Comment:

Under A4.10 Newport Locality of PDCP, the proposal is consistent with the objectives of the desired future character of Newport. The proposal will achieve a height that steps down from the adjoining properties to the west, following the slope of the land.

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

#### Comment:

The proposed development involves a compliant side setbacks and compliant building height. The majority of both dwellings are below street level and therefore impact on streetscape will be minimal. The building scale and density is appropriate and is consistent with surrounding development. The

proposed development sits well below the canopies of the surrounding Fig trees which reach heights up to 28m.

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

Comment:

The built form setbacks along the eastern boundary achieve compliance for the majority of the built form. The breach occurs between the proposed dwellings. Setbacks to the foreshore and public reserve are respected. As such, the proposed development will positively contribute to the spatial characteristics of the existing natural environment.

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

Comment:

The proposed development has a bulk and scale that is in keeping with surrounding development.

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

Comment:

The subject site is positioned on the low side of Prince Alfred Parade at a level approximately 8.0m lower than the properties on the opposite, high side of the road. Due to the level difference, the location of existing vegetation and the design of the proposal which includes a significant setback of the upper floor to the side boundaries to allow for view corridors, the proposal is not expected to give rise to an unreasonable view loss.

When viewed from the waterway, the proposed development will be lower and have more landscaping than the development adjoining the site to the west.

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

Comment:

The proposal involves a design that includes adequate articulation of building bulk and physical separation to ensure that there would be no unreasonable impact on amenity. Additionally, the design of openings at the side boundaries is adequately minimised to prevent loss of privacy.

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

Comment:

The proposal includes a comprehensive landscape plan which incorporates substantial additional vegetation to screen and soften the proposed built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the PDCP, and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **D10.13 Landscaped Area - Environmentally Sensitive Land**

The subject site is located within Area 1 of the Landscaped Area Map, therefore the site requires a minimum of 60% landscaped area.

The proposed development provides the following;

- 120 Prince Alfred Pde – 52% (416.2m<sup>2</sup>) of the total site area as landscaped area (13% variation)
- 120A Prince Alfred Pde –59.5% (495.2m<sup>2</sup>) of the total site area as landscaped area (0.8% variation)

While the proposal is numerically non-compliant, it is consistent with the underlying objectives of the control, as outlined below, and is therefore supported on merit.

#### Merit consideration

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

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

Comment: The proposed development is consistent with the desired character for the Newport locality.

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

Comment: The proposed development complies with the 8.5m building height and the bulk and scale is consistent with surrounding development. The dwelling facades are modulated and incorporate shade elements, including decks and pergolas. The proposed building colours and materials harmonise with the natural environment.

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

Comment: The proposed development is not expected to unreasonably impact upon the amenity of adjacent properties or the public domain.

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

Comment: There is no significant vegetation proposed for removal. Substantial additional plantings are proposed.

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

Comment: Council's Biodiversity team state that biodiversity impacts arising from the proposed development are negligible.

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

Comment:

Council's Engineers advise that the proposed stormwater treatment, soil erosion and siltation controls are assessed as satisfactory, subject to conditions.

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

Comment:

The proposal will not affect the bushland character of the area.

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

Comment: While the proposed development does not meet the numerical requirement for landscaped area, the non-compliance is minimal, and the amount of soft surface retained is comparable to other properties in the locality. The remaining soft surface of the site is considered to sufficiently provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

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

## 7.12 CONTRIBUTIONS

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$52,038 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 01% of the total development cost of \$5,203,803

## CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 21 Development Control Plan; and
- Codes and Policies of Council.

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

A critical issue in the assessment of this application is the potential loss of views to neighbouring properties arising from the proposed canopy trees. In this regard, a condition is recommended to amend the landscape plan to substitute the *Livistonia australis* (Cabbage Tree Palm) with lower height canopy trees. This will reduce potential view impacts while achieving the landscape objectives for the site.

The proposal also includes a breach to the front setback, and minor breaches to the side boundary envelope and landscaped area controls. Sufficient environmental planning grounds existing to support variations to these controls. The breaching elements will not give rise to any adverse visual impacts, view impacts or unreasonable amenity impacts to neighbours.

The height, bulk and scale of the proposed development is consistent with other neighbouring developments and the building height steps down from the adjoining properties to the west, following the slope of the land.

Overall, the development is a high-quality design that performs well against the relevant controls and, subject to conditions, will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal has therefore been recommended for approval.

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/0246 for Demolition works, subdivision of 4 lots into 2 lots and the construction of 1 dwelling on each lot including swimming pools and landscape works on land at 120 Prince Alfred Parade, NEWPORT, subject to the conditions printed below:

## CONDITIONS

### 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Driveway profile, DA01, revision D	11.11.2022	Corben Architects
Site plan, DA03, revision D	11.11.2022	Corben Architects
Ground level plan, DA05, revision D	11.11.2022	Corben Architects
First floor plan, DA06, revision D	11.11.2022	Corben Architects
Entry level plan, DA07, revision D	11.11.2022	Corben Architects
North and south elevations, DA08, revision D	11.11.2022	Corben Architects
Eastern elevations, DA09, revision D	11.11.2022	Corben Architects
Western elevations, DA10, revision D	11.11.2022	Corben Architects
Sections, DA11, revision D	11.11.2022	Corben Architects
Streetscape and materials/finishes schedule, DA12, revision D	11.11.2022	Corben Architects
Building envelope section, DA13, revision D	11.11.2022	Corben Architects
Erosion and sediment control plan, DA17, revision D	11.11.2022	Corben Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Subdivision Plan	15.07.2022	DP Surveying
Stormwater Management Plan – 120A Prince Alfred Pde	14.04.2022	Taylor Consulting
Stormwater Management Details – 120A Prince Alfred Pde	04.02.2022	Taylor Consulting
Excavation plan	4.02.2022	Taylor Consulting
Driveway plan – 120A Prince Alfred Pde	4.02.2022	Taylor Consulting
Stormwater Management Plan – 120 Prince Alfred Pde	14.04.2022	Taylor Consulting



Stormwater Management Details – 120 Prince Alfred Pde	04.02.2022	Taylor Consulting
Excavation plan	4.02.2022	Taylor Consulting
Driveway plan and long sections – 120 Prince Alfred Pde	4.02.2022	Taylor Consulting
Swept path analysis TX16422.00, C1.00, C1.01, C2.00, C2.01, C2.02	11.02.2022	Triaxial Consulting

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Statement of Environmental Effects	11 February 2022	Four Towns Pty Ltd
Geotechnical Report Ref:J3814	12 November 2021	White Geotechnical Group
BASIX Certificate 1258806S (120A Prince Alfred Pde)	9 February 2022	Delisle Hunt Wood Pty Ltd
BASIX Certificate 1258883S (120 Prince Alfred Pde)	9 February 2022	Delisle Hunt Wood Pty Ltd
Arboricultural Impact Assessment	11 February 2022	Michael Shaw
Letter - Existing Crib Retaining Wall - 120 & 120a Prince Alfred Parade, Newport	13 September 2022	Taylor Consulting

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

- b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- c) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Landscape concept plan, sheet 1, issue F	21.11.2022	Interlink
Landscape concept plan, sheet 2, issue F	21.11.2022	Interlink

<b>Waste Management Plan</b>		
<b>Drawing No./Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	08.02.2022	Ella and Luke Miles

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. Amendments to the approved plans

The following amendments are to be made to the approved landscape plan:

A landscape plan prepared by a qualified Landscape Architect or Landscape Consultant to a scale of 1:100 or 1:200 and conforming to the Pittwater 21 Development Control Plan and relevant conditions of this Consent, must be submitted to Council's or the Principal Certifier's satisfaction with the Construction Certificate application.

The plan shall be consistent with the approved landscape plan referenced in Condition 1 of this consent, subject to the following amendments:

- a) The removal of the Cabbage Tree Palms from the landscape plan and planting schedule;
- b) Replacement with suitable native canopy trees to offset the removal of the Cabbage Tree Palms. The canopy trees shall grow to a maximum height of 8.5m at maturity. The new trees shall be planted at a minimum pot size of 100L and grown to Australian Standard 2303:2018 Tree stock for landscape use.

Reason: To minimise view impacts to properties located to the south of the site.

### 3. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	undated
Controlled Activity Approval	Department of Planning and Environment – Water	10 October 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

### 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 demolishedThe 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:

Swimming Pools Act 1992

- (i) Swimming Pools Amendment Act 2009
  - (ii) Swimming Pools Regulation 2018
  - (iii) Australian Standard AS1926 Swimming Pool Safety
  - (iv) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (v) 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 sewerred areas or managed on-site in unsewerred 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 Section 7.12 Contributions Plan 2022

A monetary contribution of \$52,038.03 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$5,203,803.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

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

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

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

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

The applicant is to lodge a Bond of \$30,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

### 9. **Tree Protection Plan**

A Tree Protection Plan shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures to protect the following trees identified in the Arboricultural Impact Assessment as follows:

- i) existing tree numbers 1, 2, 3, 4, 5, 6, 7, 8, and 9 within the public reserve,
- ii) existing tree number 10 within the development property.

The Tree Protection Plan shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating the following:

- i) layout of the development, including existing and proposed underground services,
- ii) location of all trees identified for retention, including extent of canopy,
- iii) access routes throughout the site for construction activity,
- iv) plan documentation of tree protection measures including: location of tree protection fencing / barriers including any existing that must be retained during works, and/or; root protection in the form of mulching or boards proposed within the tree protection zone, as required; and trunk and branch protection within the tree protection zone, as required,
- v) location of stockpile areas and materials storage,
- vi) inspection hold points,
- vii) other general tree protection measures.

Tree protection methods are to be in accordance with AS4970-2009 Protection of Trees on Development Sites.

Reason: Tree protection.

### 10. **Stormwater Disposal**

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

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group Ref:J3814 dated 12 November 2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

## 12. **Flooding**

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

### Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 2.12m AHD.

### Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of 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 – B2

All new development must be designed 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.

### Building Components and Structural Soundness – B3

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 to cut electricity supply during flood events.

### Floor Levels – C1

New floor levels within the development shall be set at or above the Flood Planning Level of 2.62m AHD.

### Car parking – D5

The floor level of the proposed garage shall be set at or above the 1% AEP flood level of 2.12 m AHD.

### Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

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.

## 13. **Traffic Management and Control**

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



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

14. **Detailed Design of Stormwater Treatment Measures - Major**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Stormwater Management Plans (TAYLOR CONSULTING, 14 April 2022) and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

15. **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 referenced in Condition 1 of this consent 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.

16. **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.

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

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

The application is to include Civil Engineering plans for the design of the driveway crossing, pedestrian accesses, footpath and associated retaining walls which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. A 1.5 metre wide concrete footpath along the frontage of the site.
2. Structural details for the required retaining walls to support the road reserve formation. The retaining wall is to be located within the property boundary.
3. Structural details for the proposed driveway crossing including the barrier walls.

4. Services plan and concurrence from the relevant service authority if any service is to be adjusted as part of the works.
5. Engineering long sections and cross sections.
6. Landscaping plan to demonstrate sight lines for the driveway crossings.
7. Form 2 of the Geotechnical Risk Management Policy for Pittwater.

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

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

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

#### 18. **Vehicle Driveway Gradients**

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

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

Reason: To ensure suitable vehicular access to private property.

#### 19. **Utilities Services**

Prior to the issue of the Construction Certificate, the Applicant is to obtain the following:

- (a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development have been made; and
- (b) Evidence that notification has been received from a utility authority that, requirements for the development can be provided.

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

Reason: To ensure that services have been provided as required by this Consent.

#### 20. **Structural Adequacy and Excavation Work**

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

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

Reason: To provide public and private safety.

#### 21. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

## 22. **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.

## 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](http://www.sydneywater.com.au) for:

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

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

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

# CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

## 24. **Tree removal within the property**

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

- i) tree numbers 5, 16, 18, and 19,
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

## 25. **Works on Land Owned or Managed By Council**

No encroachments are to be carried out on Land owned or managed by Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.), and landscaping works on Land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

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

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period. 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.

27. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

- 118A Prince Alfred Pde, Newport

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

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

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

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

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

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

## 29. **Installation and Maintenance of Sediment and Erosion Control**

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

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

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

## 30. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites.

The Project Arborist shall be in attendance and supervise all excavation and construction works near the following existing trees:

- i) tree numbers 1, 2, 3, 4, 5, 6, 7, 8, and 9 located in the adjoining public reserve,
- ii) tree number 10 located within the development property.

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

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all 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:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

## 31. **Tree and vegetation protection**

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
  - ii) all trees and vegetation located on adjoining properties,

iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

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

The Principal Certifier must ensure that:

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

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

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. No excavated material, building material storage,

site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Tree and vegetation protection.

### 32. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Project Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

### 33. **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.

### 34. **Wildlife Protection**

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

Reason: To protect native wildlife.

### 35. **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.

36. **Substitution of Stormwater Treatment Measures**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

37. **No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

38. **Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

39. **Protection of Council's Public Assets**

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services Business Unit to resolve the matter to Council's satisfaction.

Reason: To protect and/or restore any damaged public asset.

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

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

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



- i The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

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

#### 41. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

#### 42. **Survey Certificate**

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

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

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

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

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

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

#### 43. **Civil Works Supervision**

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

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

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

#### 44. **Footpath Construction**

The applicant shall construct a 1.5 metre wide concrete footpath along the frontage of the site. The works shall be in accordance with the following:

(a) All footpath works are to be constructed in accordance with Section 138 Road Act approval

(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Road Act approval for footpath.

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

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

45. **Traffic Control During Road Works**

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

Reason: Public Safety.

46. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing Normal Low 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 kerb, footpath and 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.

47. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation not included in landscape plan and/or watercourses, are to remain undisturbed during the construction works.

All storage, stockpiling and parking of vehicles must be within the existing hard stand area or designated area outside Tree Protection Zones. Tree protection measures are to be in place should construction works impinge on canopy trees or their root plate zones.

Reason: To protect wildlife habitat.

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

48. **Landscape completion**

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

- i) approved landscape works are contained solely within the lot boundaries,
- ii) no approval for landscape works outside of the lot boundaries is granted, and any proposed landscape works within the public road reserve is subject to a separate road reserve works application under section 138 and 139 of the Roads Act, for approval or otherwise.

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

Reason: Environmental amenity.

49. **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 Principal Certifier, assessing the health and impact on all existing trees required to be retained as listed in the Arboricultural Impact Assessment, including the following information:

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

Reason: Tree protection.

50. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.

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

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

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

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

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

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

52. **Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by TAYLOR CONSULTING. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

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

Reason: Protection of the receiving environment.

53. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands.

Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

#### 54. **Stormwater Treatment Measures Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:

- a) Work as executed drawings
- b) Intent of the stormwater treatment measures including modelled pollutant removal rates
- c) Site detail showing catchment for each device
- d) Vegetation species list associated with each type of vegetated stormwater treatment measure
- e) Impervious area restrictions to maintain the water balance for the site
- f) Funding arrangements for the maintenance of all stormwater treatment measures
- g) Identification of maintenance and management responsibilities
- h) Maintenance and emergency contact information

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:

- a) Activity description, and duration and frequency of visits Additionally for vegetated devices:
  - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
  - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing

- a) Activity description, and duration and frequency of visits
- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)

f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)

g) Requirements for inspection and maintenance records, noting that these records are

required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

55. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

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

Reason: Protection of the receiving environment.

56. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- i Compare the post-construction report with the pre-construction report,
- i Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- i Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

58. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls.

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

Reason: Safety and Compliance with this consent.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

60. **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.

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

61. **Landscape maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

62. **Maintenance of Stormwater Treatment Measures - Major**

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

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

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

Reason: Protection of the receiving environment.

63. **Swimming Pool/Spa Motor Noise**

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

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

## **CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE**

### **64. Provision of Services for Subdivision**

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots.

### **65. Sydney Water Compliance Certification**

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

### **66. Release of Subdivision Certificate**

The final plan of subdivision will not be issued by Council until the development has been completed in accordance with terms and conditions of the development consent.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

### **67. Subdivision Certificate Application**

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919



## **FINAL DECLARATION**

Consultant Name: Danielle Deegan, DM Planning

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.