

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1732
----------------------------	-------------

<b>Responsible Officer:</b>	Rebecca Englund
<b>Land to be developed (Address):</b>	Lot D DP 313630, 1127 Barrenjoey Road PALM BEACH NSW 2108
<b>Proposed Development:</b>	Demolition works and construction of a dwelling house including swimming pool
<b>Zoning:</b>	E4 Environmental Living
<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>	John Emery Kennedy Roslyn Anne Kennedy
<b>Applicant:</b>	Tregale & Associates Pty Ltd

<b>Application Lodged:</b>	07/01/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	19/01/2021 to 02/02/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 2,388,000.00
---------------------------------	-----------------

### PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the demolition of the existing dwelling and the construction of a new dwelling and swimming pool at the subject site.

### 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 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D12.3 Building colours and materials

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

Pittwater 21 Development Control Plan - D12.8 Building envelope

Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	Lot D DP 313630 , 1127 Barrenjoey Road PALM BEACH NSW 2108
<b>Detailed Site Description:</b>	<p>The site is trapezoidal in shape, with a 11.495m wide frontage to Barrenjoey Road, a 56.39m maximum depth and a total area of 624m<sup>2</sup>. The site adjoins the Pittwater Waterway at the MHWL at the rear, with direct pedestrian access to the sandy foreshore. With the exception of the small portion of the site below the seawall, which drops down to RL 1.49m AHD, the site is generally level with spot levels ranging from RL 3.1m AHD at the front of the site and RL2.37m AHD at the rear. An existing dwelling is located centrally on the site. A portion of the rear of the dwelling has been excavated into the site and sits approximately 1m below natural ground level. Vehicular access is gained via Barrenjoey Road, with pedestrian access to both Barrenjoey Road and to the waterway.</p> <p>The site is located within the Palm Beach and Whale Beach Locality, and is surrounded by low density residential development.</p>

Map:



## SITE HISTORY

### Site History

On 2 July 2020, a prelodgement meeting PLM2020/0134 was held in relation to the proposal. Of relevance, the prelodgement report prepared by Council advises:

- the proposed non-compliance with the foreshore building line is not supported (however, it appears that the Council officer relies upon a superseded version of the foreshore building line control),
- the proposed three storey design is not supported, but could be supported if the upper floor was designed within the pitch of the roof ,
- the proposed building colours and finishes, comprising large portions of unarticulated white rendered walls, is not supported,
- the proposed front building line, being 10m from Barrenjoey Road, complies and is supported,
- the proposed side setbacks are non-compliant, and variations may be acceptable on merit,
- the proposed landscape area non-compliance, being approximately 43% in a 60% minimum area, is supported,
- the proposed glass rear fencing does is non-compliant but supportable if required for coastal protection.

In response to Council's concerns regarding the three-storey presentation of the proposal to the waterway, the design of the dwelling has been amended to further integrate the upper floor into the roof form.

### Application History

On 21 January 2021, additional plans were provided to Council to supplement those originally submitted.

On 23 February 2021, an updated geotechnical report was provided.

On 3 March 2021, additional flood information was presented to Council.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>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>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic</p>

Section 4.15 Matters for Consideration'	Comments
	impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 19/01/2021 to 02/02/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p><b>Supported, with conditions.</b></p> <p><i>Environmental Health has been requested to provide comment on this proposal for " Demolition works and construction of a dwelling house including swimming pool" in relation to the potential disturbance of acid sulfate soils.</i></p> <p><i>The site is classified as class 4 acid sulfate soils in accordance with the Pittwater Local Environmental Plan 2014.</i></p> <p><i>Class 4 acid sulfate soils means development consent is required for:</i></p>

Internal Referral Body	Comments
	<p><i>"Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface."</i></p> <p><i>Plans supplied with the application documentation indicate that excavation of 3.25 metres below existing ground level will be required for the lower ground/basement floor level.</i></p> <p><i>Under normal circumstances, an acid sulfate soils management plan would be required for the above works.</i></p> <p><i>However, borehole testing data supplied by the report titled GEOTECHNICAL AND ACID SULFATE INVESTIGATION REPORT by Geo-Logix dated 7 December 2020 indicates the presence of sand only at these proposed excavation depths.</i></p> <p><i>Accordingly, Environmental Health concurs with the opinion of the applicants planning consultants that an acid sulfate soil management plan is not required.</i></p> <p><i>Despite the above, it is recommended that the proposal be appropriately conditioned should evidence of acid sulfate soils be revealed during works.</i></p> <p><i>Additionally, the above report also states "...Fill was encountered across the site to depths of between 0.4 and of 0.8 mbg and was typically described as moderately compacted sand with minor inclusions of gravel, ironstone blocks and brick...."</i></p> <p><i>Given the above and the age of the dwelling, it may be prudent to condition to the development to deal with the potential (but as yet unsubstantiated) presence of asbestos containing material.</i></p>
Environmental Health (Solid Fuel/Oil Heater)	<p><b>Not Supported</b></p> <p><i>Environmental Health have been requested to provide comment on the installation of a solid fuel heater as part of the proposal for "Demolition works and construction of a dwelling house including swimming pool".</i></p> <p><i>The application documentation provided little detail as to the specifications of the solid fuel heater that is intended to be installed,.</i></p> <p><i>Based on this, Environmental health recommends refusal as there is insufficient information to enable a proper determination.</i></p> <p><i>For an assessment to be undertaken the applicant must provide the specifications for the solid fuel heater to be installed, otherwise the installation of a solid fuel heater can be determined separately via a separate application under Section 68 of the Local Government Act 1993.</i></p>

Internal Referral Body	Comments
	<p><u>Planner Comment:</u> The lack of information relating to the fireplace does not warrant the refusal of the application as a whole. Rather, a condition of consent is recommended to require the deletion of the solid fuel fireplace.</p>
Landscape Officer	<p><b>Supported, with conditions.</b></p> <p><i>The development proposal is for the construction of a new dwelling.</i></p> <p><i>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 zone Environmental Living, and the following Pittwater 21 DCP Controls:</i></p> <ul style="list-style-type: none"> <li>• <i>B4.22 Preservation of Trees and Bushland Vegetation</i></li> <li>• <i>C1.1 Landscaping</i></li> <li>• <i>D12 Palm Beach Locaility</i></li> </ul> <p><i>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, and the provision of 60% landscaped area.</i></p> <p><i>The current landscape area is 21% of the site area. The proposal provides for 47.5% landscaped area. A Landscape Plan is provided with the application and includes landscape treatments that satisfy the intent of clause E4 zone Environmental Living and clause C1.1 Landscaping.</i></p> <p><i>No existing trees within the site are proposed for removal and a Arboricultural Impact Assessment is provided with recommendations for tree protection measures, including the tree protection of trees within adjoining properties. A tree root investigation for the existing Norfolk Island Pine, identified as T3 in the Arboricultural Impact Assessment, located within adjoining property No. 1125 was undertaken and concluded that existing roots discovered within the investigation trench are either retainable with the proposed construction footing or are not in conflict. A condition of consent for a Project Arborist shall be imposed to provide compliance reporting and technical advice. Likewise the project Arborist shall provide reporting on the driveway construction for nearby trees as identified in the Arboricultural Impact Assessment.</i></p> <p><i>Landscape Referral raise no objections.</i></p>
NECC (Bushland and Biodiversity)	<p><b>Supported, with conditions.</b></p> <p><i>Councils biodiversity referrals team have assessed the development application for compliance against the following relevant provisions:</i></p> <ul style="list-style-type: none"> <li>• <i>Coastal Management SEPP (2018) Clause 13 Development on land within the coastal environment area</i></li> </ul>

Internal Referral Body	Comments
	<p><i>The Arboricultural Impact Assessment (Hugh The Arborist 2020) has identified that no trees will require removal to facilitate the proposed development.</i></p> <p><i>As a result, the proposed development is considered to be in compliance with clause 13 of the Coastal Management SEPP.</i></p>
NECC (Coast and Catchments)	<p><b>Supported, with conditions.</b></p> <p><i>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</i></p> <p><u><i>Coastal Management Act 2016</i></u>  <i>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</i></p> <p><i>Further, the applicant has proposed construction of a seawall. Hence the proposed development has been assessed also against the requirements of the Section 27 of the Coastal Management Act 2016. As required, the impact &amp; risk associated with the construction of the seawall has been assessed in an Estuarine Risk Management Report &amp; Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020 .According to this report, seawall would have an adequately low risk of failure If the recommendations within the Section 7 of this report are followed and the risks of damage to the proposed seawall would be suitably mitigated. Though the report presented justifications of no maintenance clause, yet considering the impact and risk identified in the report, Council applies maintenance condition as per Section 27 (b)(ii) in approving this DA</i></p> <p><u><i>State Environmental Planning Policy (Coastal Management) 2018</i></u>  <i>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</i></p> <p><i>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Boston Blyth</i></p>

Internal Referral Body	Comments
	<p><i>Fleming Pty. Ltd. dated December 2020 and also as assessed in the submitted Estuarine Risk Management Report &amp; Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</i></p> <p><i>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</i></p> <p><u><i>Pittwater LEP 2014 and Pittwater 21 DCP - Estuarine Risk Management</i></u></p> <p><i>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</i></p> <p><i>In accordance with the the submitted Estuarine Risk Management Report &amp; Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020 , an estuarine planning level (EPL) of RL 2.45m AHD would apply at the subject site.</i></p> <p><i>On internal assessment and as assessed in the submitted Estuarine Risk Management Report &amp; Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020, the ground floor level for the proposed development is above the applicable EPL for the site.</i></p> <p><i>The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</i></p> <p><u><i>Pittwater LEP 2014 and Pittwater 21 DCP - Development on Foreshore Area</i></u></p> <p><i>A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</i></p>

Internal Referral Body	Comments
	<p><i>The DA proposes sea retaining walls works. All these proposed works are consistent with Clause 7.8(2)(b).</i></p> <p><i>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Boston Blyth Fleming Pty. Ltd. dated December 2020, the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</i></p>
NECC (Development Engineering)	<p><b>Supported, with conditions</b></p> <p><i>Initial comments (29.01.2021): The proposed development requires excavations up to 3.5m to facilitate the proposed basement, which requires submission of a Geotechnical Report and Risk Assessment, including forms 1 and 1(a) in accordance with Pittwater clause B3.1 Pittwater 21 DCP.</i></p> <p><i>As a result, the application cannot be supported due to lack of information.</i></p> <p><i>Amended comments (01.03.2021): All stormwater will be collected and directed to Pittwater. As per BASIX Report, Applicant must install a rainwater tank of 8500 litres on the site.</i></p> <p><i>The recommendations of the risk assessment required to manage the hazards due to extensive earthworks at site and as identified in the Geotechnical Report prepared by Geo-Logix Pty Ltd dated 15th Feb 2021 are to be incorporated into the construction plans.</i></p> <p><i>The access to site will remain same i.e. via Barrenjoey Road. Applicant to apply for vehicle crossing application.</i></p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p><b>Supported, with conditions.</b></p> <p><i>The proposed development involves the demolition of the existing dwelling and the construction of a new 3-storey dwelling including lower ground living and a car stacker. The subject site is identified as at risk of flooding and the applicant has provided a Flood Management Report in support of the development application. The Flood Management Report has undertaken site-specific modelling to determine the relevant flood regime and the impact of the development. The Flood Management Report and subsequent</i></p>

Internal Referral Body	Comments
	<i>supplementary information demonstrates that the flood risk to the proposed dwelling can be effectively managed subject to conditions.</i>
Parks, reserves, beaches, foreshore	<b>Supported, with conditions.</b>  <i>The development can be supported with conditions. No access from public land is permitted for the purposes of construction and no part of the development shall be on public land.</i>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP 55 - Remediation of Land

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

## SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1144657S dated 1 December 2020).

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

Commitment	Required Target	Proposed
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Pass

Energy	50	50
--------	----	----

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

### SEPP (Infrastructure) 2007

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

### SEPP (Coastal Management) 2018

The site is identified as being within the Coastal Environmental Area and Coastal Use Area under the provisions of State Environmental Planning Policy (Coastal Management) 2018 (**CM SEPP**), and the provisions of this policy are applicable in relation to the proposal. Following detailed assessment of the proposed development, the consent authority can be satisfied of the following:

- the proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP,
- the proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1)(a) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1)(a) of the CM SEPP,
- the surrounding coastal and built environment and the bulk, scale and size of the proposed development has been considered, and
- the proposal is not likely to cause increased risk of coastal hazards on the site or other land.

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

### Pittwater Local Environmental Plan 2014

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.4m	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### **7.8 Limited development on foreshore area**

In accordance with subclause 1(a), development consent must not be granted for new development on land in the foreshore area unless it is replacing an existing building also located within the foreshore building and the existing encroachment is not intensified.

The existing dwelling extends up to 2m seaward of the foreshore building line. The proposed new dwelling also extends seaward of the foreshore building line, however the footprint of the encroachment is reduced with regard to both the area and seaward extent of the encroachment. As such, development consent may be granted to the works within the foreshore area.

In accordance with subclause 2, development consent must not be granted unless the consent authority is satisfied with certain matters,. The matters listed are addressed individually, as follows:

- a. *the development will contribute to achieving the objectives for the zone in which the land is located, and*

Comment: The proposed development is consistent with the objectives of the E4 Environmental Living zone, as prescribed by PLEP 2014.

- b. *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*

Comment: The application has been supported by elevations and 3D images which demonstrate that the appearance of the proposed new dwelling will be compatible with that of surrounding dwellings. The consent authority can be satisfied that the bulk and scale of the proposal is consistent with the form of surrounding and nearby development, and is not inconsistent with that of the wider Palm Beach locality.

- c. *the development will not cause environmental harm such as:*

- i. *pollution or siltation of the waterway, or*
- ii. *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora*
- iii. *habitats, or*
- iv. *an adverse effect on drainage patterns, or*  
*the removal or disturbance of remnant riparian vegetation, and*

Comment: The proposed development has been referred to the relevant referral departments and the consent authority can be satisfied that the proposal will not cause environmental harm.

- d. *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*

Comment: The proposed development will not cause congestion of the foreshore area, nor will it generate conflict between people walking along the foreshore or those utilising the waterway.

- e. *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*

Comment: The current access arrangement along the foreshore, whereby pedestrians can move along the sandy foreshore in most tide conditions, will not be compromised by the proposal.

- f. *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*

Comment: The portion of the development within the foreshore area will not compromise the significance of the waterfront site.

- g. *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*

Comment: The proposed new development, that is sited within the footprint of the existing dwelling, will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposal is considered to be a positive addition to the streetscape and the row of development fronting the waterway, consistent with the desired future character of the locality.

- h. *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment: The application has been reviewed by Council's Flooding and Coastal Management Teams, who have confirmed that the proposal has been designed to be safe from coastal and flooding processes, including consideration of climate change factors.

As such, the consent authority can be satisfied that the proposal is consistent with the matter prescribed by subclause 2.

Furthermore, the proposal is considered to be a reasonable response with respect to the matters listed in subclause 3, with public access maintained along the shoreline, below the existing seawall.

Overall, the consent authority can be satisfied that the proposal is consistent with the provisions of clause 7.8 of PLEP 2014.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
--------------------	-------------	----------	--------------	----------

Front building line	10m	10m	-	Yes
Side building line	2.5m (North)	1.5m (minimum)	1m	No
	1m (South)	1m	-	Yes
Building envelope	3.5m (North)	Within envelope	N/A	Yes
	3.5m (South)	Outside envelope (uncovered balcony only)	700mm	No
Landscaped area	60% 374.4m <sup>2</sup>	49% 308m <sup>2</sup>	66.4m <sup>2</sup> 18%	No

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	No	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.8 Estuarine Hazard - Medium Density Residential	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	No	No
D12.5 Front building line	Yes	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.11 Fences - General	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

#### **A4.12 Palm Beach Locality**

The proposed three storey development is inconsistent with the desire for development within the Palm Beach locality to be a maximum of two storeys in any one place. As the lower level is primarily located below natural ground level, the proposal does not present as a three storey dwelling and the apparent size of the resultant dwelling is not inconsistent with that of surrounding dwellings. Overall, it cannot be said that the subterranean level detracts from consistency with the desired future character of the locality, despite the proposal technically being identified as a three storey dwelling.

#### **C1.3 View Sharing**

No submissions have been raised by adjoining or nearby properties with regards to impact upon views.

- 1129 Barrenjoey Road

The adjoining dwelling at 1129 Barrenjoey Road appears to enjoy views in a south-westerly direction from the upper floor rear balcony, over the roof of the existing dwelling. The proposed dwelling extends higher than the existing dwelling, and is likely to impact upon this existing, peripheral view. Nonetheless, the property enjoys expansive views from the north-west through to the south-west from both levels of the dwelling, and as the property is a direct waterfront property, there is no risk to the view available across their own rear boundary and within the foreshore area. Furthermore, it is noted that the dwelling is comparably wide and extends across two lots, and as such, the impact would be avoided by moving further to the north on the same balcony. The view corridor in question is obtained across a side boundary and as the impact can be attributed to a compliant built form of the proposal, the likely impact is considered to be minor and reasonable.
- 1125 Barrenjoey Road

The existing dwelling is situated further forwards than that currently proposed. This should result in a minor improvement of views from the dwelling to the south of the site.

In consideration of the lack of objection, and the likely minor impacts, the proposed development is considered to achieve consistency with the view sharing control.

### **C1.5 Visual Privacy**

The proposed new dwelling comprises elevated decks and windows associated with living spaces that provide potential for overlooking of adjoining properties. Whilst screening is provided in these instances, the screening is operable at the discretion of the future occupants, which does not ensure on-going privacy for adjoining property owners. Nonetheless, the proposal is considered to provide an appropriate outcome with regard to the waterfront context of the site, that is consistent with the balance between privacy and views demonstrated throughout the catchment of the site. The reasonableness of the proposal is also somewhat evident by the lack of submissions from adjoining properties, who have not raised concern in regards to any aspect of the proposal.

The proposed development has been designed to ensure that habitable rooms and outdoor living areas optimise visual privacy through good design and provide a sense of territory and safety for residents. As such, the proposal is considered to be consistent with the outcomes of this control, and the proposal is considered acceptable on merit.

### **D12.3 Building colours and materials**

The applicant seeks consent to utilise for light colours and materials on the external surfaces of the proposed new dwelling. Whilst the prevalence of white walls on adjoining dwellings is acknowledged, the use of light colours and materials is not consistent with the desired future character of the locality, and does not assist in minimising the visual impact of the development or ensuring that the built form is secondary to landscaping. A condition of consent is recommended to ensure the use of darker colours and materials.

### **D12.6 Side and rear building line**

#### Side building line

A portion of the northern elevation is proposed to be sited 1.5m from the northern side boundary, inconsistent with the 2.5m minimum setback prescribed. The proposed non-compliance is limited to a 13.6m long portion of the dwelling that is located centrally along the northern side elevation, with those portions of the building immediately presenting to the public domain setback 2.5m from the northern side boundary. In addition to those areas sited in accordance with the 2.5m minimum setback, the proposed dwelling incorporates a central courtyard, which provides further articulation and relief along the northern boundary.

Despite non-compliance with the minimum setbacks prescribed, the proposal is consistent with the outcomes of the control, as follows:

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

Comment: The non-compliant side setbacks do not detract from consistency with the desired future character for the Palm Beach Locality.

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

Comment: The non-compliant elements of the proposal are located centrally on the proposed dwelling, and do not readily present to the public domain. The primary facades of the dwelling,

that present to Barrenjoey Road and the waterway are designed in strict adherence with the minimum setbacks prescribed, and the bulk and scale of the proposal presenting to the public domain is appropriately minimised.

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

Comment: The proposal does not result in any unreasonable impacts upon views.

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

Comment: The development, as a whole, is considered to be appropriately sited to encourage view sharing between properties.

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

Comment: The non-compliant elements of the proposal do not attribute to any unreasonable impacts upon privacy, amenity or solar access to adjoining properties.

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

Comment: The application was supported by a detailed landscape plan, which has been endorsed by Council's Landscape Architect.

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

Comment: The proposed development is sited with varying setbacks, which ensure appropriate articulation and modulation along both side elevations. Despite non-compliance in small areas, the proposal is considered to be an appropriate response to the development of the site.

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

Comment: The application will result in the enhancement of landscaping on the site, which will act to soften the visual impact of the proposal.

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

Comment: Not applicable.

#### Rear building line

As the site is burdened by the foreshore building line and the associated provisions of PLEP 2014, the minimum rear building line prescribed by P21 DCP is not applicable.

#### **D12.8 Building envelope**

The control provides that the building envelope may be measured from the FPL, as opposed to existing ground levels, on flood affected sites. With this in mind, the proposed new dwelling is wholly maintained within the prescribed envelope, with the exception of the southern-most part of the upper floor rear balcony, which protrudes beyond the envelope by a maximum of 700mm. The offending glass balustrade of the balcony associated with the master bedroom does not give rise to any unreasonable impacts upon the amenity of the area, and does not attribute to the perception of excessive bulk and

scale. As such, the objectives of the control are achieved, despite a minor breach of the prescribed envelope.

#### **D12.10 Landscaped Area - Environmentally Sensitive Land**

The application proposes a landscaped area of 307.9m<sup>2</sup> or 49% of the total site area, inconsistent with the 60% minimum prescribed by this control. It is noted that the applicant went through a prelodgement meeting to discuss this non-compliance prior to Council, at which time, Council advised

*Does not comply - supported*

*The site is to provide 60% landscaping to comply with the DCP requirement. Plans submitted with the Pre-lodgement have calculated the proposed soft landscaped area for the site as being approximately 43%.*

*Whilst this does not comply with the requirements of the control, the area is significantly higher than the existing soft landscaped area, with a vast improvement particularly within the front setback area.*

*As a result the variation to the landscaping requirement is supported as the proposal includes an increase in soft landscaping within the curtilage of the site that improve the landscape setting, particularly important considering the significant increase in height, bulk and scale.*

Despite support from Council in the prelodgement process, the application was marginally amended to provide additional landscaping, and Council's Landscape Architect is supportive of the enhanced landscaping proposed in the Landscape Plan provided. The proposed development is supportable on merit, as the outcomes of the development control are achieved, as follows:

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

Comment: The bulk, scale and landscaped character of the resultant development is consistent with that anticipated by the Palm Beach Locality. The reduced landscaped area is compensated by the high quality landscaping proposed in the Landscape Plan provided to support the application.

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

Comment: Despite a larger footprint, the proposal is well modulated and articulated to ensure an appropriate built form outcome.

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

Comment: The reduced landscaped area does not give rise to any unreasonable impacts upon the amenity of adjoining properties.

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

Comment: The proposal will result in a considerable increase to vegetation on the site, which will positively contribute to the streetscape. The proposed landscaping will also act to soften the visual impact of the development as seen from Barrenjoey Road, the Pittwater Waterway, and adjoining properties.

- *Conservation of natural vegetation and biodiversity.*

Comment: The site does not contain any significant vegetation or biodiversity. However, the

proposed landscaping will enhance the vegetated nature of the site to promote biodiversity values.

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

Comment: The proposed development has been designed to appropriately manage stormwater runoff generated on the site. Council's Development Engineering have reviewed the proposal in this regard and raise no objections.

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

Comment: The proposed landscaping will enhance the vegetated nature of the site, despite the non-compliant landscaped area proposed.

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

Comment: The proposal provides sufficient soft surface area, and as above, an appropriate stormwater management system has been devised for the site.

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

## POLICY CONTROLS

### Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$23,880 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,388,000.

## CONCLUSION

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/1732 for Demolition works and construction of a dwelling house including swimming pool on land at Lot D DP 313630, 1127 Barrenjoey Road, PALM BEACH, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Proposed Site Plan DA-01	27 November 2020	Tregale & Associates
Proposed Lower Ground/Basement Floor Plan DA-02	27 November 2020	Tregale & Associates
Proposed Ground Floor Plan (Entry Level) DA-03	27 November 2020	Tregale & Associates
Proposed First Floor/Attic Level Floor Plan DA-04	27 November 2020	Tregale & Associates
Proposed Roof Plan DA-05	27 November 2020	Tregale & Associates
Elevation 1 - West Elevation (Facing Beach) DA-07	27 November 2020	Tregale & Associates
Elevation 2 - North Elevation (Facing 1129) DA-08	27 November 2020	Tregale & Associates

Elevation 3 - East Elevation (Facing Barrenjoey Road) DA-09	27 November 2020	Tregale & Associates
Elevation 4 - South Elevation (Facing 1125) DA-10	27 November 2020	Tregale & Associates
Section/Elevation 5 - East Pavilion (Facing Beach Pavilion) DA-11	27 November 2020	Tregale & Associates
Section/Elevation 6 - West Elevation (Facing Front Pavilion) DA-12	27 November 2020	Tregale & Associates
Diagrammatic Section A-A DA-13	27 November 2020	Tregale & Associates
Diagrammatic Section B-B DA-14	27 November 2020	Tregale & Associates
Diagrammatic Section C-C DA-15	27 November 2020	Tregale & Associates
Landscape Plans Sheets 1, 2 and 3 of 3, all revision C	20 November 2020	Paul Scrivener Landscape

Engineering Plans		
Drawing No.	Dated	Prepared By
Surface Flow Path Plan and Elevation FM1, revision D	24 November 2020	Acor Consultants
Flood Mitigation Works Sections FM2, revision D	24 November 2020	Acor Consultants
Stormwater Management Plans C1, C2, C3, C4 and C5, all revision C	26 November 2020	Acor Consultants

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment Report	25 November 2020	Hugh The Arborist
Bushfire Risk Management Report	12 October 2020	Building Code & Bushfire Hazard Solutions Pty Limited
Estuarine Risk Management Report & Coastal Engineering Report, Issue 2	18 December 2020	Horton Coastal Engineering Pty Ltd
Flood Risk Management Report	18 December 2020	Acor Consultants
BASIX Certificate 1144657S	1 December 2020	Gradwell Consulting
Geotechnical Risk Management Report & Acid Sulphate Assessment	15 February 2021	Geo-Logix

- 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>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	15 October 2020	[unknown]

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

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

## 2. **Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the

- excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and

construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$23,880.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$2,388,000.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

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

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

### 5. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from

the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

### 6. **Stormwater Disposal**

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

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

### 7. **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 Geo-Logix Pty Ltd dated 15th Feb 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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### 8. **Flooding**

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

#### 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 relevant Flood Planning Level, 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 relevant Flood Planning Level.

Car parking – D6

All access, ventilation and any other potential water entry points, including entry ramp crests to the basement/lower ground floor shall be at or above the relevant Flood Planning Level.

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the relevant 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.

9. **No Clearing of Vegetation**

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

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

Reason: To protect native vegetation.

10. **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.

**11. 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.

**12. Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

**13. Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

**14. No part of the development permitted on public land**

No part of the development shall be on Public Land and a registered surveyor is required to certify that no part of the development is on public land prior to issue of the Construction Certificate.

Reason: Protection of land and assets under Council care, control and management .

**15. Estuarine Hazard Design Requirements**

The following applies to all development:

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected

by estuarine processes.

To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

16. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.45m AHD with the seawall in place has been recommended in an Estuarine Risk Management Report & Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020 and has been adopted by Council for the subject site. These shall be applied to all development proposed below this level as follows:

- All structural elements below 2.45m AHD shall be of flood compatible materials;
- All potential entry points for estuarine inundation into the dwelling should be located at or above 2.45m AHD;
- All electrical equipment, wiring, power supplies (including electrical fittings, outlets and switches), fuel lines or any other service pipes and connections adjacent to and external to the dwelling must be located either at or above 2.45m AHD or waterproofed to this level; and
- All electrical equipment, wiring, power supplies (including electrical fittings, outlets and switches), fuel lines or any other service pipes and connections to the west of the dwelling should be located above a level advised by a coastal engineer or waterproofed, to avoid the likelihood of contact with splashing waves and spray; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.45m AHD external to the dwelling.

Reason: To ensure aspect of the development are built at the appropriate level.

17. **Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the approved Estuarine Risk Management Report & Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020 and these recommendations are to be incorporated into construction plans.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

18. **Structural Engineering for Estuarine Risk**

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life (taken to be 60years as justified and accepted by Council) the development is able to withstand the wave impact forces and loadings identified in the approved Estuarine Risk Management Report & Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020

Note: The potential for component fatigue (wear and tear) should be recognised for the less severe, but more frequent, wave impact loadings.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

19. **Engineers Certification of Plans**

The structural design shall be prepared by and each plan/sheet signed by, a registered

professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

20. **Risk Mitigation works to minimise risks to the proposed seawall**

The risks of damage to the proposed seawall would be suitably mitigated when the recommendations within the Section 7 of the submitted Estuarine Risk Management Report & Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020 are followed,  
Details demonstrating compliance with this requirement are to be prepared by a suitably qualified coastal engineer and submitted to the certifying authority for approval prior to issue of this Construction certificate.,

Reason: Risks are reasonably mitigated

21. **Consistency with Bushfire Recommendations**

A suitably qualified bushfire consultant is to confirm that the construction certificate detail is consistent with the recommendations of the Bushfire Risk Management Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issuance of the construction certificate.

Reason: To minimise risk of bushfire.

22. **External Colours and Finishes**

A schedule of external colours and finishes is required to demonstrate:

- The use of a mid-dark tone, equivalent to or darker than Colorbond 'Windspray', on all external weatherboards, masonry, cladding, shutters and screens.
- With the exception of balustrades, eaves and window trim, the use of white or light tones is not permitted.
- The standing seam weathered zinc used for roofing, gutters and downpipes is to be non-reflective.

The schedule of external colours and finishes is to be provided to the certifying authority prior to the issuance of the construction certificate.

Reason: To minimise the visual impact of the development.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

23. **Project Arborist**

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

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree

root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

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

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

- i) excavation and construction works near all trees identified as T1, T2, T3, T5, T6 and G1, within the site and within adjoining properties, as listed under sections 8, 9, 10, and 11
- ii) tree protection fencing as shown in Appendix 1B.

All tree protection measures specified must:

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

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

Note:

- 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.

**24. Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

**25. 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

**26. Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees and vegetation within the site, 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), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:

- i) section 8. Conclusions, referencing works for Tree 1 and 2 specifically, noting 8.3.1 Tree Sensitive Driveway Construction for tree 2,
- ii) section 9. Recommendations,
- iii) section 10. Arboricultural Work Method Statement and Tree Protection Requirements,
- iv) section 11. Hold Points.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: tree and vegetation protection.

27. **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 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.

28. **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.

29. **No Access Through Waterfront Land**

Construction access is not permitted to the construction site from the beach.

Reason: Protection of the waterway and foreshore.

30. **Demolition Works - Asbestos**

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

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent

visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

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

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

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

31. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

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

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

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

33. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

34. **Requirement to notify about new Acid Sulfate Soils evidence**

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the

Principal Certifying Authority prior to further commencement.

Reason: protection of the environment

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

Any asbestos material that may be discovered during works shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act
- Work Health and Safety Regulation
- How to safely remove asbestos: Code of Practice by Safe Work Australia
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation

2005

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.

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

**36. Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plans.

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

Reason: environmental amenity.

**37. Condition of Retained Vegetation - Project Arborist**

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

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

Reason: Tree protection.

**38. Stormwater Disposal**

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

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

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

No Priority or environmental weeds (as specified on the NSW WeedWise website) 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.

40. **Restriction as to User over flood deflection wall**

A restriction as to user shall be created on the title over the flood deflection wall in order to:

1. Prohibit the removal or modification of the flood deflection wall.
2. The flood protection offered by the flood deflection wall must be continuous and at a minimum level of 3.15m to 3.4m AHD. Such levels are to be detailed to Australian Height Datum on the Section 88B instrument and submitted to Council for approval.

Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such restriction.

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.

41. **Positive Covenant for flood deflection wall**

The Applicant shall submit a positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) to be created on the final plans and accompanying 88B instrument, requiring the proprietor of the land to maintain the flood deflection wall in accordance with the industry and manufacturing standards to ensure ongoing flood protection.

The terms of the positive covenant are to be prepared to Council's standard requirements, which are available from Northern Beaches Council. Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such covenant.

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

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

42. **Confirmation of Consistency with Bushfire Recommendations**

A suitably qualified bushfire consultant is to confirm that the as-built development is consistent with the recommendations of the Bushfire Risk Management Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure that the development is constructed to minimise risk from bushfire.

43. **Consistency with schedule of external colours and finishes**

The as-built development is to be consistent with the schedule of external colours and finishes required by this consent.

Evidence confirming compliance is to be presented to the Principal Certifying Authority prior to

the issuance of the occupation certificate.

Reason: To minimise the visual impact of the development.

44. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

45. **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.

46. **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.

47. **Flooding Certification**

A suitably qualified flood engineer is to confirm that the as-built development is consistent with the recommendations of the Flood Risk Management Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issuance of the occupation certificate.

Reason: To ensure that the as-built development has been constructed safe from hazards.

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

48. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

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

Reason: To maintain local environmental amenity.

49. **Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the approved Estuarine Risk Management Report & Coastal Engineering Report prepared by Horton Coastal Engineering Pty. Ltd dated 18 December 2020 and these recommendations are to be maintained over the life of the development.

Reason: To ensure preservation of the development and the estuarine environment; and to apply a maintenance condition as per Section 27(b)(ii) of the Coastal Management Act 2016.

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

**Signed**



**Rebecca Englund, Planner**

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



**Rodney Piggott, Manager Development Assessments**