

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0309
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<b>Responsible Officer:</b>	Maxwell Duncan
<b>Land to be developed (Address):</b>	Lot 19 DP 209443, 62 Riviera Avenue AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<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>	David John Mason Chapman Heather Ruth Chapman
<b>Applicant:</b>	Heather Ruth Chapman

<b>Application Lodged:</b>	26/03/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	10/04/2020 to 28/04/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	3
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 3.5%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 378,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions for the existing dwelling house.

The works incorporate the following:

- Demolition works;
- Second floor addition;
- Ground and first floor internal alterations;
- Ground floor extension;
- First floor deck extension;
- Landscaping including tree removal;
- Double garage.

## AMENDMENTS TO THE APPLICATION

Following a preliminary assessment of the application Council wrote to the applicant on 1 June 2020 outlining a number of issues that would not allow for Council to support the application in its current form. The issues included building height non-compliance, view loss and privacy. Following receipt of the letter the applicant advised that they intended to amend the development application. Council agreed to accept amendments to the application. Following this, the applicant provided additional information to address concerns raised on 23 June 2020. Amendments to the proposal included removal of the tandem parking space to the front of the site, reduction to the size of the proposed second floor addition including lowering of the building height and extension at ground floor level.

The amendments proposed (received 23 June 2020) are minor in respect to the original plans lodged with Council, and do not result in a greater environmental impact. As such, the amended application was not re-notified to neighbouring properties. This is in accordance with Northern Beaches Council Community Participation Plan.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards  
 Pittwater 21 Development Control Plan - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - D1.11 Building envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 19 DP 209443 , 62 Riviera Avenue AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	The subject site consists of one (1) allotment located on the

northern side of Riviera Avenue

The site is regular in shape with a frontage of 18.29m along Riviera and a depth of 38.1m. The site has a surveyed area of 696.7m<sup>2</sup>.

The site is located within the E4 Environmental Living zone and accommodates a two storey dwelling house.

The site falls some 7m from the northern boundary to the street frontage.

The site in a critical biodiversity area.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by residential development typically multi-storey detached dwelling houses.

Map:



#### **SITE HISTORY**

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

**TA2020/0206** - Removal/Pruning of 6-9 Trees

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (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 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to driveway gradients and built form amendments.</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>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</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> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the</p>



Section 4.15 Matters for Consideration'	Comments
	submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <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 impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is 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 (prepared by Wayne Tucker, dated 10 February 2020) 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 10/04/2020 to 28/04/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

Name:	Address:

Name:	Address:
Stafford Loader	70 Riviera Avenue AVALON BEACH NSW 2107
Mrs Sharon Louise Oscroft	56 Riviera Avenue AVALON BEACH NSW 2107
Mr Phillip Charles Hoult	64 Riviera Avenue AVALON BEACH NSW 2107

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

- **View Loss**
- **Solar Access**
- **Visual Privacy**
- **Acoustic Privacy**
- **Bulk and Scale**
- **Loss of property value**

The matters raised within the submissions are addressed as follows:

- **View Loss**

Comment:

Concern was raised in regards to potential view loss from Nos. 56 and 70 Riviera Avenue as a result of the proposed development. The proposal has been assessed against the view loss provisions under section C1.3 View Sharing of the Pittwater 21 DCP and the Land and Environment Court Case of '*Tenacity Consulting Pty Ltd v Warringah Council* (2004) NSWLEC 140' in this report (refer to C1.3 View Sharing of the Pittwater 21 DCP). In summary, the development as amended does not cause unreasonable view loss to and from public and private open spaces and is supported.

- **Solar Access**

Comment:

Concern is raised that the proposed development will result in unreasonable overshadowing of the adjoining western property (No. 64 Riviera Avenue, Avalon Beach), particularly to the bedroom windows along the eastern elevations to the front of the dwelling house. This matter has been addressed in detail elsewhere within this report (refer to section C1.4 Solar access under the Pittwater 21 DCP section of this report). In summary, the development as amended allows for a reasonable level of sunlight to be maintained to adjoining properties between 9am and 3pm on June 21.

- **Visual Privacy**

Comment:

Concern was raised by neighbouring properties to the rear in regards to the potential overlooking between the subject site and adjoining properties. The proposal has been assessed against the privacy provisions under section C1.5 of the Pittwater 21 DCP. In summary, the proposed deck area to the rear of the property and third floor balcony propose suitable physical separation and screening between the subject site and adjoining property to mitigate the potential for direct overlooking between properties. The proposal is supported in this circumstance.

- **Acoustic Privacy**

Comment:

Concern is raised in regards to the noise impact that would result from the off-street parking on the site. The proposed off-street parking serves will serve the dwelling proposed on site. While it

is accepted there may be a noise impact associated with the off-street parking in terms of cars entering and exiting the site, the resulting impact is acceptable in this residential context.

- **Bulk and Scale**

Comment:

Concern is raised in regards to the overall bulk of the dwelling house. Detailed comments regards this concern is addressed in detail elsewhere in this report (refer to Clause 4.6 Exceptions to Development Standards under the PLEP 2014 section of this report) as well as Building Envelope (Refer to section D1.11 under the Pittwater 21 DCP).

- **Loss of property value**

Comment:

Concern is raised that the development would have an adverse impact on property value. The issue of property value is not one which can be considered under the provisions of Section 4.15 (1) of the *Environmental planning and Assessment Act 1979*. This issue does not warrant the refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application is for alterations and additions to the existing dwelling.</p> <p>Council's Landscape Referral staff have assessed the proposal against Pittwater Local Environment Plan clause E4 Environmental Living, and the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D1 Avalon Beach Locality</p> <p>The proposal in terms of landscape outcome is acceptable subject to conditions of consent to complete proposed landscape works including tree replacement and screen planting to the front and side boundaries to satisfy the relevant landscape controls, and subject to the protection of trees and vegetation in proximity to the development works identified for retention.</p> <p>A Concept Landscape Plan is provided with the development application in accordance with Council's Lodgement Requirements, subject to conditions of consent. Existing trees and vegetation are nominated on the Concept Landscape Plan for removal. Additionally a recent tree permit for removal was issued by Council under application TA2020/0206.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following biodiversity-related provisions: - Pittwater LEP Clause 7.6 (Biodiversity Protection) - Pittwater DCP Clause B4.6 (Wildlife Corridors)</p> <p>The subject site is predominately landscaped garden with some small areas of native vegetation remaining. A recent approved application to</p>

Internal Referral Body	Comments
	<p>remove three trees, in combination with removal of exempt vegetation, and the proposed removal of exotic/weed species will occur to accommodate the proposed development. A landscape concept plan has been provided, and a consent condition will be included in relation to species composition.</p> <p>The proposed development will therefore not result in impact to significant native vegetation or wildlife habitat.</p>
NECC (Development Engineering)	<p><b><u>1st Referral Comments</u></b></p> <p>Development Engineer has assessed the application and cannot support it due to the following reason.</p> <p>Driveway gradients and the proposed tandem carstand area within the private property doesn't comply with AS/NZS 2890.1:2004 and Northern Beaches Council's DCP. The gradients for the proposed tandem carstand area are not to exceed 1 in 20 (5%). 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 area. Transition gradient prior to the proposed tandem carstand area shall be provided to provide safe access.</p> <p><b><u>2nd Referral Comments</u></b></p> <p>No objection to approval, subject to conditions as recommended.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP 55 - Remediation of Land



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

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

A BASIX certificate has been submitted with the application (see Certificate No. A373602 dated 25 March 2020).

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

#### **SEPP (Infrastructure) 2007**

##### Ausgrid

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

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

##### Comment:

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

#### **Pittwater Local Environmental Plan 2014**

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

##### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.8m	3.5%	No

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

#### Detailed Assessment

#### **4.6 Exceptions to development standards**

##### Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.50m
Proposed:	8.80m
Percentage variation to requirement:	3.5%

##### Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

##### Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

##### Comment:

Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of

this clause.

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

#### **Clause 4.6 (4)(a)(i) (Justification) assessment:**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

#### **Comment:**

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

#### **Comment:**

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not*

*defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'*

s 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act(cf previous s 5)*

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

*"a) Bulk and Scale*

*The proposed alterations and additions are consistent with the height and scale of the surrounding buildings and provide a contextually sympathetic contribution to the streetscape. The visual bulk has been minimised by the proposals conformity to the natural landform/ topography further reinforced by the siting of the design consistent and sensitively to adjacent residences. The design consciously sets out to preserve a minimal footprint on the site, subsequently preserving and reinstating generous native landscaping to the frontage resulting in a heavily landscaped screened residence. Furthermore the building has been designed so that it results in a well- modulated and articulated built form with a proposed FSR that is significantly less than that permitted on the site.*

*b) Retention of Shared Views The proposed works have been designed to preserve generous side setbacks particularly to the west with minimal pitched roofs to maintain shared views from neighbouring dwellings and minimise overshadowing. The proposed upper extension has been carefully located forward on existing footprint and consolidated to one side to ensure the property maintains public and private view corridors and view sharing.*

*b) High Quality Streetscape Addition*

*The proposed addition has been architecturally designed in a contemporary fashion that is consistent with the existing and future desired character of the locality. Materials and external finishes have been selected to be contextually sympathetic and the height and roof form is compatible with existing buildings consistently present in The Riviera Ave streetscape.*

*c) Solar Amenity*

*The proposed works have been located to ensure that there is minimal overshadowing resulting from the proposal as any overshadowing falls for the most on the subject properties roof space or within the existing shadow cast by the existing residence. Subsequently solar access to existing dwellings, public reserves and streets be maintained.*

*d) Retention of Privacy to surrounding properties.*

*The proposed windows of the works have been orientated primarily to the front and rear to maintain*

*existing privacy of subject and adjacent properties. Privacy screens have been incorporated to further protect privacy to and from adjacent residences."*

**Planner's comment:**

It is acknowledged that the height control is constrained by the sloping topography of the site.

It is agreed that the proposal will maintain consistency with other development within the streetscape and that there are no unreasonable resulting amenity impacts (including view loss and solar access).

Further, it is agreed that the proposed works will provide for improved access and amenity for the building's occupants, which promotes good design and amenity

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

**Clause 4.6 (4)(a)(ii) (Public Interest) assessment:**

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E4 Environmental Living zone. An assessment against these objectives is provided below.

**Objectives of development standard**

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the PLEP 2014 are:

(1) The objectives of this clause are as follows:

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

Comment:

The proposed dwelling has been designed to step down at ground and first floor level to respond to the slope of the land. Whilst the proposal will technically exceed 2 storeys in height in any one



place, the proposed built form is well articulated and modulated, to ensure that ground and second floor addition is setback to ensure visual bulk is minimised, the amended proposal provides large side setbacks. As such, the height and scale of the proposal is considered to be reasonably consistent with the desired character of the Locality

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

Comment:

The proposed development is consistent with the height and scale of other adjoining and nearby dwellings on sloping sites. The height and scale of the proposal is compatible with that of surrounding development, and presents as appropriate when considered against recent development along the sloping northern side of the street.

*c) to minimise any overshadowing of neighbouring properties,*

Comment:

The solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms of the adjoining properties and public open spaces.

*d) to allow for the reasonable sharing of views,*

Comment:

The proposal has been assessed against the view loss provisions under Section C1.3 View Sharing of the Pittwater 21 DCP and *Tenacity Consulting v Warringah* [2004] NSWLEC 140 when considering the impacts on the views of adjoining properties in this report. In summary, the proposed development does not cause unreasonable view loss to and from public and private open spaces.

*e) to encourage buildings that are designed to respond sensitively to the natural topography,*

Comment:

The proposed second floor additional limits the level of excavation on site, ensuring the majority of work is maintained to the existing building footprint.

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

Comment:

The scale of the proposed new dwelling has been reduced, via amended plans. The resultant built form is well articulated at second floor level, subject to conditions the extent of landscaping which will further reduce the visual impact of the proposal.

## Zone objectives

The underlying objectives of the E4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or*

*aesthetic values.*

Comment:

The proposed development is acceptable in terms of its impacts on the ecological and aesthetic values. There are no known special ecological, scientific or aesthetic sites of value recorded on the subject site.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The proposed works would not have an adverse effect on those values.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment:

The proposed density and scale of the proposal is consistent with the desired outcome of the area.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The height and bulk of the proposed building has had regard to the adjoining development and the existing landscaping and topography within the subject site as well as the nearby foreshore.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E4 Environmental Living zone.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

**Pittwater 21 Development Control Plan**

Built Form Controls

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Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	15m	-	Yes
Rear building line	6.5m	7.5m	-	Yes
Side building line	2.5m (West)	3.1m (garage) 3.0m (deck) 8.35m (addition)	-	Yes
	1m (east)	3.77m (addition)	-	Yes
Building envelope	3.5m (west)	Within envelope	-	Yes
	3.5m (east)	Outside envelope 0-0.6m (Height) 3.3m (Length)	8.3%	No
Landscaped area	60% (418.02sqm)	64% (445.88sqm)	-	Yes

**\*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
A4.1 Avalon Beach Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	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
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.23 Eaves	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

## Detailed Assessment

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

#### Merit consideration

As a result of the public exhibition of the development application Council received a number of submissions raising view loss as a concern.

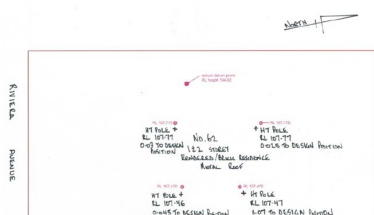
Submissions were received from two (2) neighbouring properties at Nos. 56 and 70 Riviera Avenue, Avalon Beach. To assist Council in its assessment of the application, on 8 July 2020 a request was made for the Applicant to erect height poles to reflect the envelope of the amended proposal.

The Applicant subsequently erected height poles with certification of the height and location of the poles provided by a Registered Surveyor on 15 July 2020. (Refer to plan prepared by Total Surveying Solutions dated 15 July 2020).

The location of the height poles is shown below:

We find the levels and position of the 4 Height poles to be in accordance with the Architectural plans provided by DUKTIG Design Project number 190501 DWG number A009 Revision B.

See below diagram with results from Survey showing the Heights and position of the poles.



### **Image 1- Survey confirmation of amended height poles (submitted to Council 15 July 2020)**

**Note:** For ease of reference the photos contained below include the height poles indicating the height of the proposal.

The development is considered against the underlying Outcomes of the Control as follows:

- A reasonable sharing of views amongst dwellings.

Comment:

Council received two (2) submission from surrounding residents in relation to view loss from the original and amended plans submitted. The Pittwater 21 DCP refers to the planning principal within *Tenacity Consulting v Warringah* [2004] NSWLEC 140 when considering the impacts on the views of the adjoining properties which is provided below:

**1. Nature of the views affected**

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

Comment to Principle 1:

**No. 56 Riviera Avenue, Avalon Beach**

The nature of views affected from this property would be water views of Pittwater and partial views of Scotland Island. The views would be filtered through existing development and vegetation as pictured below. At present a large portion of the views are obtained over the top of the existing dwelling house on the subject site.

**No. 70 Riviera Avenue, Avalon Beach**

The nature of views affected from this property would be water views of Pittwater to the south and ocean views to the east. The views would be filtered through existing development and vegetation as pictured below. At present a large portion of the views are obtained over the the top of the subject site.

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

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

Comment to Principle 2:

**No. 56 Riviera Avenue, Avalon Beach**

The views affected from this property are obtained over the rear boundary from the ground and first floor bedrooms and outdoor living area from both a standing and sitting position. The views are over the top of existing development. The views are filtered through existing development.

**No. 70 Riviera Avenue, Avalon Beach**

The views from this property are obtained over the rear and side boundary from the ground floor balcony to the southern side of the dwelling house from a standing position. The views are over the top of existing development and bush land. The views are filtered through existing development.



### 3. Extent of impact

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

#### Comment to Principle 3:



**Photo 1 - Ground Floor bedroom**



**Photo 2 - First floor bedroom**



*Photo 3 - Outdoor living area*



*Photo 4 - Outdoor living area looking north*

**No. 56 Riviera Avenue, Avalon Beach**

The views to Pittwater and Scotland Island from the ground floor bedroom will, to a severe extent, be lost as a result of the proposed works. Views from the master bedroom will be impacted to a minor extent (photo 2).

Qualitatively and in consideration of the existing views available from No. 56 Riviera Avenue, the extent of view loss is moderate (See photos 1- 4). While the ground floor bedroom will be impacted severely, the occupants will continue to enjoy views to the south of Pittwater and Scotland Island from the first floor bedroom as well the outdoor living area. It also noted that distant ocean views from the private open space area directly to the rear of the property remain unaffected.

Therefore, in consideration of all views the extent of impact is moderate.



Photo 5 - View over subject site looking directly south from southern balcony



Photo 6 - View looking south-east from southern balcony



Photo 7 - View from private open space looking north





Photo 8 - View from southern balcony looking west

#### **No. 70 Riviera Avenue, Avalon Beach**

The impacts of views to Pittwater and Scotland Island will be impacted to a minor extent. Distant ocean views to the east from the southern side of the property will be impacted to a severe extent.

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

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

#### Comment to Principle 4:

#### **No. 56 Riviera Avenue, Avalon Beach**

In considering the totality of impact it is noted that proposal is non-compliant with the Cause 4.3 Height of Buildings under the Pittwater LEP 2014. The amended application proposes a variation to this development standard, however a compliant proposal within the proposed footprint would not significantly improve views. The increased second floor setback proposed under the amended proposal ensures highly valued views of Scotland Island and Pittwater will be largely retained from No. 56 Riviera Avenue from the first floor master bedroom and outdoor living area. However, as noted above the water views from the ground floor bedroom will be lost. As this bedroom is at ground floor level it is highly vulnerable to additional development on the subject site.

The proposal, as amended, responds appropriately to the available views through the provision of appropriate view corridors, setbacks and building articulation to ensure highly valued views are retained and the impact on properties in terms of view loss is at worst moderate. The total severity of impacts upon water views (Pittwater) is not considered to be unreasonable, particularly noting that views from the first floor bedroom and outdoor living area will still be largely retained. A more skilful design is not likely to be able to achieve the same development

potential and amenity while reducing view impacts to neighbouring properties.

**No. 70 Riviera Avenue, Avalon Beach**

The proposal is inconsistent with the Building Height development standard under the Pittwater LEP 2014. While it is noted that the breach of this development standard will be assessed with less flexibility than that of a compliant proposal, it is noted that the impact on the totality of the views from the non-compliance is negligible. Existing ocean views to the east from this property will be severely impacted by the proposed development. Notwithstanding this, the ocean views from No. 70 Riviera Avenue, are received from across the side boundary and if a new dwelling was proposed, it is unlikely that this impact would warrant refusal of the application. The amended plans submitted to Council make a significant attempt to minimise view impacts, with the second floor addition reduced as annotated on the plans, so as to improve views to Pittwater.

Given the above, the proposal is acceptable and viewing sharing is achieved.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Comment:

As noted above, the proposed development will allow for valuable water views to be retained to a reasonable extent.

- *Canopy trees take priority over views.*

Comment:

Canopy trees on the subject site are to be retained subject to conditions.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

**C1.4 Solar Access**

Merit Consideration:

The development is considered against the underlying Outcomes of the Control as follows:

- 1) *Residential development is sited and designed to maximise solar access during mid-winter.*

Comment:

**No. 64 Riviera Avenue, Avalon Beach**

Clause C1.4 (Solar Access) of the Pittwater 21 DCP 2014 requires at least 50% of the main area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21. Further, windows to the principal living area of the proposal and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows). The subject site is a north-south orientated block, as such any overshadowing impact caused by the proposed



works only affects the property to the west in the morning. The proposed works do not increase overshadowing to the main private open space of the neighbouring site, or any of the windows on the north, west or south of the neighbouring dwelling. Any overshadowing impact caused by the proposed development on the eastern elevation of the neighbouring site to the west is negligible by midday, ensuring that a reasonable level of solar access is maintained.

The proposal is compliant with the numerical requirements of this control.

*2) A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.*

Comment:

The second floor addition is compliant with the front, side and rear setback numeric controls. These resulting complying elements of the development allow for sunlight access to the principal living rooms of the adjoining properties to the subject site.

*3) Reduce usage and/dependence for artificial lighting.*

Comment:

The proposed windows allow for solar access to the bedrooms and living rooms of the dwelling house.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCP 21 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **C1.5 Visual Privacy**

### Description of non-compliance

The Control requires private open space areas and living rooms of proposed and existing adjoining dwellings to be protected from direct overlooking within 9 metres.

### Merit consideration

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

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

Comment:

The amended plans proposed as part of this application increase the physical separation (8.35m setback) between the proposed second floor balcony and the western adjoining property to further reduce sight lines between the two properties. It is evident there are some sight lines to the windows of the adjoining western property as a result of the decking to the front of the dwelling at both first and second floor level. However, the sight lines are not the dominant views (which is directly to the front of the site) and inevitable given the sloping topography and residential use of the area. The expectation of complete privacy is not reasonable in this circumstance. Reasonable visual privacy is maintained

between the subject site and neighbouring properties.

The proposed decking to the rear of the property has incorporated a privacy screen along the western side of the deck. The screen is 1.8m above finished floor level to ensure there is no direct overlooking to the primary private open space of the adjoining western property.

- *A sense of territory and safety is provided for residents.*

#### Comment:

The proposal will allow for passive surveillance of the street.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, subject to conditions, in this particular circumstance.

### **D1.11 Building envelope**

#### Side and rear boundary Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries. The proposed development encroaches into the prescribed building envelope along the eastern elevation at a height ranging between 0m - 0.6m for a length of 3.3m. This represents a 8.3% variation to the numeric control.



Image 2- Building envelope non-compliance

#### Merit consideration

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

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

#### Comment:

The proposed development is centrally sited and is well articulated such that the dominance of the built form is reduced to ensure consistency within the streetscape. The built form will remain sufficiently screened by planting as presented to the public domain and surrounding properties. The proposal is therefore considered to achieve the desired future character of the locality.

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

Comment:

The proposed development will positively contribute to the streetscape. The development promotes a building scale and density that is below the height of the trees of the natural environment by responding to the height of the surrounding tree canopy.

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

Comment:

The development is situated predominately over the existing building footprint and does not alter the existing topography of the site. The proposed development presents a more modern and improved design, with the second floor addition centrally located on site. The encroachment is considered satisfactory in regards to the design, scale, bulk and the height of the proposal. The building form and density respond to the natural land form of the site which will be below the height of the trees of the natural environment.

-

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

Comment:

The extent of the breach relates to a minor element of the eastern elevation and in the context of the entire development, is not unreasonable or unfounded. The dwelling ensures sufficient modulation to ensure that the perceived bulk and scale of the dwelling is significantly reduced.

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

Comment:

This matter has been addressed elsewhere within the report (refer to Clause C1.3 View Sharing under P21DCP). In summary, the proposal is considered to equitably preserve the available views and vistas to and/or from public and private places.

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

Comment:

The matter of privacy has been addressed elsewhere within this report (refer to Clause C1.5 Visual Privacy under P21DCP). In summary, the proposal is considered to provide reasonable amenity for the dwelling occupants and those of adjoining and surrounding properties as a result of adequate building separation, site orientation and aspect and landscape treatment. Further, the application is accompanied by Certified Shadow Diagrams denote compliance with the solar access requirements

prescribed within Clause C1.4 of P21 DCP.

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

Comment:

As above, the proposed development does not require the removal of any significant vegetation or tree canopy. In turn, the built form will remain significantly screened from the existing provision of vegetation. Conditions of consent have been imposed requiring the protection of significant species currently on-site which will assist in the retention of landscape treatment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

A monetary contribution of \$3,780 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$378,000.

## **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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

## RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2020/0309 for Alterations and additions to a dwelling house on land at Lot 19 DP 209443, 62 Riviera Avenue, AVALON BEACH, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. **Approved Plans and Supporting Documentation**

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

#### a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A002/ Revision B	3 October 2019	DUKTIG Design



A005/ Revision B	3 October 2019	DUKTIG Design
A006/ Revision B	3 October 2019	DUKTIG Design
A007/ Revision B	3 October 2019	DUKTIG Design
A008/ Revision B	3 October 2019	DUKTIG Design
A009/ Revision B	3 October 2019	DUKTIG Design
A010/ Revision B	3 October 2019	DUKTIG Design
A011/ Revision B	3 October 2019	DUKTIG Design
A021/ Revision B	3 October 2019	DUKTIG Design
A023/ Revision B	3 October 2019	DUKTIG Design

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Bush Fire Assessment Report	10 February 2020	Australia Bushfire Consulting Services
Waste Management Plan	25 March 2020	Heather Chapman
BASIX Certificate No. A380773	22 June 2020	Savvy building design

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Concept Landscape Plan	3 October 2019	DUKTIG Design

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 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

#### 4. **Structures to be retained**

All structures indicated to be retained on the approved plans are to be retained in place at all times on site, unless otherwise approved under a subsequent application to Council.

Reason: To ensure the adequacy of retained structures in accordance with the approval.

## FEES / CHARGES / CONTRIBUTIONS

#### 5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,780.00 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 \$378,000.00.

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.

## 6. **Security Bond**

A bond (determined from cost of works) of \$1,500 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.

## 7. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$2000 as security against any damage to stormwater drainage system as part of this consent.

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



Reason: Protection of Council's Infrastructure.

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

### **8. 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. Driveway gradients within the private property are to comply with AS/NZS 2890.1:2004.

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.

### **9. Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction/demolition Dilapidation Survey of Council's Stormwater Assets, and it is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/generalinformation/engineer>

The pre-construction/demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

### **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. On-site Stormwater Detention Details**

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's Clause B5.7 in PITTWATER DCP21.

Detailed drainage plans are to be prepared in accordance with Clause B5.10 of Pittwater DCP21, by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field. The drainage plans are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.

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 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. **Amended Landscape Plan**

An Amended Landscape Plan shall be prepared and issued to the Certifying Authority for approval.

The Amended Landscape Plan shall be based on the principles of the Concept Landscape Plan A.022 prepared by Duktig Design, and with the following additional requirements:

- i) screen planting to achieve at least 2 metres in height at maturity shall be nominated across the front boundary, and shall be planted at a minimum 300mm pot container size and planted no more than 1 metre apart,
- ii) the garden planting representation shown within the front and rear yard shall be nominated by species, quantity, and pot container sizes, with screen planting to be nominated along side boundaries,

- iii) three replacement tree species shall be nominated within the front yard, consistent with the indigenous tree species of the area, or as listed in the Northern Beaches Council's Tree Guide on the Council website,
- iv) all tree planting shall installed at 75 litre pot container size and each trees shall be at least 5 metres from existing or approved building under construction, and at least 4 metres from any existing or proposed tree.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

**15. Compliance with Standards**

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

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

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

**16. External Finishes to Roof**

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

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

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

**17. Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

**18. Privacy**

A 1.8 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the deck located off the dining room as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

Reason: In order to maintain privacy to the adjoining / nearby property.

**19. Structural certification**

i. The structural adequacy and capability of the structural components of the dwelling to be retained to withstand the additional load of the proposed additions is to be confirmed by a suitably qualified structural engineer on site.

ii. The structural adequacy and capability of the existing southern retaining wall to withstand the additional load of the proposed additions is to be confirmed by a suitably qualified geotechnical engineer on site.

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

Reason: To ensure the structural adequacy of the existing structures.

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

**20. Tree removal within the property**

Approval is granted for the removal of existing trees in accordance with the Concept Landscape Plan A022 prepared by Duktig Design.

A total of three canopy native trees shall be planted within the site as replacement within the site as conditioned.

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

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

**21. Maintenance of Road Reserve**

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

Reason: Public Safety.

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

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

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 –

## The Demolition of Structures.

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

### 23. **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.

### 24. **Survey Certificate**

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

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

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

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

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

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

### 25. **Vehicle Crossings**

The Applicant is to reconstruct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/4 EH 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.

**26. Tree and vegetation protection**

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

- i) all trees and vegetation within the site not approved for removal, excluding exempt 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 generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF minimum Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF minimum Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF minimum Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF minimum Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF minimum Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF minimum Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF minimum Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

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

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

**27. Landscape works completion**

Landscape works are to be implemented in accordance with the Amended Landscape Plan.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape

architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plans and with any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

28. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, and in particular trees within the public road verge, including the following information:

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

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

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant and restriction.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site stormwater detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

30. **Post-Construction Stormwater Assets Dilapidation Report**

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets, and it is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineeringspecifications/2009084729guidelineforpreparingadilapidationsurveyofcou>

The post-construction / demolition dilapidation report must be submitted to Council for review

Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds.

Reason: Protection of Council's infrastructure.

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

**31. Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

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

**32. Landscaping in Wildlife Corridor**

Any new landscaping is to be composed of a minimum 60% (by number of plants) locally native plant species of the Pittwater Ward, as per the Native Plant Guide on Council's website.

Reason: To achieve compliance with PDCP Clause B4.6 (Wildlife Corridors)

**33. No Planting Environmental Weeds**

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

**Reason:** Weed management.

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

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

**Reason:** To protect Aboriginal Heritage.

**35. Dead or Injured Wildlife**

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

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

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

**Signed**



**Maxwell Duncan, Planner**

The application is determined on 26/08/2020, under the delegated authority of:



**Anna Williams, Manager Development Assessments**