

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1462
<b>Responsible Officer:</b>	Benjamin Price
<b>Land to be developed (Address):</b>	Lot 1 DP 210320, 42 Riverview Road 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>	Martin Richard Berry
<b>Applicant:</b>	THW Architects
<b>Application lodged:</b>	04/09/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	11/09/2018 to 27/09/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 528,000.00

### ASSESSMENT INTRODUCTION

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

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

determination);

- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 210320 , 42 Riverview Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Riverview Road.</p> <p>The site is irregular in shape with a frontage of 18.06m along Riverview Road and an average depth of 41.6m. The site has a surveyed area of 761.6m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two storey dwelling house with garage under.</p> <p>The site slopes from north to south and includes a cross-fall of 2m.</p> <p>The site is landscaped with lawns and gardens and includes some large trees to the front and rear of the existing building.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by one and two storey dwelling houses.</p>

Map:



## SITE HISTORY

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

TA2018/0078 Tree permit for the removal of the 20m gumtree to the rear of the existing house, shown on the survey. Approved 23 August 2018

## PROPOSED DEVELOPMENT IN DETAIL

The proposal includes:

### Ground Floor Level

- Alterations and additions to the existing ground floor level to provide for new entry, media room, open plan kitchen, dining and living room, pantry and laundry;
- Guest bedroom and bathroom; and
- Covered rear deck with stair access to rear yard.

### First Floor Level

- Alterations and additions to existing first floor level to provide for four bedrooms (Master suite with en-suite and walk in robe) and two bathrooms.

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

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

are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</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 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 insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction</p>

Section 4.15 Matters for Consideration'	Comments
	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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

Internal Referral Body	Comments
NECC (Bushland and	The proposed development has been assessed against the following

Internal Referral Body	Comments
Biodiversity)	<p>provisions:</p> <ul style="list-style-type: none"> <li>- Pittwater DCP Clause B4.7 (Pittwater Spotted Gum Forest - Endangered Ecological Community_</li> <li>- Pittwater LEP Clause 7.6 (Biodiversity Protection)</li> </ul> <p>The submitted arborist report assesses three trees, one of which (Tree 1) is an exempt species. Tree protection measures are proposed to safely retain assessed trees. It is considered that the proposal is compliant with relevant Natural Environment controls, subject to implementation of recommended tree protection measures.</p> <p>It is noted that the property is subject to an existing consent for Tree DA TA2018/0078. A condition of TA2018/0078 is that two <i>Eucalyptus punctata</i> be planted in a minimum pot size of 25L in an appropriate location on site and maintained for the life of the development. This condition is to be complied with.</p>

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

## 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. A323886, dated 20 August 2018).

#### **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	8.64m	1.6%	No (see cl 4.6 discussion)

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

#### Detailed Assessment

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

##### Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	8.64m
Percentage variation to requirement:	1.6%

##### 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.

##### 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 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:

The development will maintain a compatible scale relationship with the existing residential development in the area and that the development will reflect a positive contribution to the streetscape. Further, the request argues that the extent of the proposed new works where they are not compliant with Council's maximum height control do not present any significant impacts in terms of view loss for neighbours, loss of solar access or unreasonable bulk and scale.

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).

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 Low Density Residential 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 buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality,*

Comment:

The non-compliance of 1.6% will not result in a development that is of a bulk or scale that is inconsistent with the desired character of the area. The development maintains adequate setbacks from the street front boundary and landscaping to soften the built form of the building. The development will maintain the sites consistency with the desired character of the locality.

*b) to minimise adverse environmental effects on the use and enjoyment of adjoining properties and the public domain,*

Comment:

The non-compliance is minimal and suitably setback to ensure it does not result in any adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.

*c) to minimise any overshadowing and loss of privacy to neighbouring properties and to reduce the visual impact of any development,*

Comment:

The first floor additions are to the north of the existing first floor. As a result the additions will not result in any unreasonable overshadowing of the property to the south. The side elevations

incorporate highlight and narrow windows to maintain the privacy of the neighbouring properties. The non-compliance is minor and will not result in any unreasonable visual impact.

*d) to maximise solar access and amenity for public places,*

Comment:

As discussed above, the non-compliance will not result in any unreasonable overshadowing of neighbouring properties within the locality.

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

Comment:

The development is located within the existing disturbed area on the site and will not result in any impacts on the natural environment.

*(f) to manage the visual impact of development when viewed from public places, including waterways,*

Comment:

The non-compliance will retain the sites consistency with the area and will not result in any unreasonable visual impact on public places or waterways.

*(g) to allow for the reasonable sharing of views.*

Comment:

The development will not result in the obstruction of views.

## **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 proposal is considered to be low impact residential development.

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

Comment:

The development is located over the existing disturbed area and will not have an adverse impact on the above mentioned values.

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

Comment:

The development will maintain the existing appearance of a low density development that is of a scale consistent with the surrounding and nearby development.

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

Comment:

The development will not impact riparian and foreshore vegetation or wildlife corridors.

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.

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	8.2m	N/A	Yes
Rear building line	6.5m	13.2m	N/A	Yes
Side building line	North 2.5m	3.1m	N/A	Yes
	South 1m	2.95m	N/A	Yes
Building envelope	North 3.5m	Within envelope	N/A	Yes
	South 3.5m	Existing Outside envelope	N/A	No further non-compliance
Landscaped area	60% (456.96sqm)	<b>Landscaped Area</b> 53% (403.9sqm)  <b>Permitted Impervious Area</b> 6% (45.7sqm)  <b>Total</b> 59%(449.6sqm)	1.6%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	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
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	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

### Detailed Assessment

#### **C1.1 Landscaping**

The development will retain the existing canopy trees on the site and will maintain the existing landscaped area. The approval TA2018/0078 for the removal of the large tree in the rear yard requires two *Eucalyptus punctata* be planted in a minimum pot size of 25L in an appropriate location on site and maintained for the life of the development. Compliance with this consent will ensure suitable plantings on the site. This development does not warrant any further requirement of tree planting.

#### **C1.4 Solar Access**

#### Description of Non-compliance

The development will result in the overshadowing of the northern facing windows of 38 Riverview Road. The development will result in these windows receiving less than 3 hours of solar access.

#### Merit Consideration

With regard to the consideration of the variation, the development is considered under the outcomes of the control below.

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

#### Comment:

The overshadowing is a result of the rear deck and associated roof. This element is 2.2m from the side boundary and is compliant with the side setback control, rear setback control and the building envelope control. The development is of a reasonable design. Furthermore the shadow diagrams demonstrate that this property will retain solar access to the east and west during the morning and afternoon of the winter solstice. The development will not result in any unreasonable impacts on solar access within the locality.

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

#### Comment:

As discussed above, the development will retain a reasonable level of solar access to the eastern and western elevations of the subject site.

*Reduce usage and/dependence for artificial lighting. (En)*

#### Comment:

The development will maintain adequate solar access to reduce usage and dependence on artificial lighting.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of Pittwater 21 DCP 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.

### **C1.12 Waste and Recycling Facilities**

There is sufficient site area available to accommodate waste facilities.

### **D1.14 Landscaped Area - Environmentally Sensitive Land**

#### Detailed Description of Non-compliance

The Pittwater 21 DCP requires 60% of the site area to be provided as landscaped area. The proposed development includes 59% of the site area as landscaped area, inclusive of the 6% permitted for non-impervious areas. The proposal includes the removal of hard paved areas and an increased in size of the rear deck. The proposed works will result in a net reduction of impervious areas.

#### Merit Consideration

With regard to the consideration for the variation, the development is considered under the outcomes of the control below:

*Achieve the desired future character of the Locality. (S)*

#### Comment:

The proposal will maintain the existing landscaped frontage. This will ensure the proposed development will not result in any unreasonable impacts on the desired future character of the locality.



*The bulk and scale of the built form is minimised. (En, S)*

Comment:

The proposed non-compliance with the landscaped area is a result of the ground floor deck. This element is not of an unreasonable bulk or scale.

*A reasonable level of amenity and solar access is provided and maintained. (En, S)*

Comment:

The built form of the proposed additions are compliant with the setbacks and building envelope controls of the Pittwater 21 DCP. The overshadowing is not a direct result of the landscaped area non-compliance. The development incorporates generous setbacks on both sides and will ensure a reasonable level of amenity is retained to the adjoining properties.

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

Comment:

The development will retain the existing vegetation on the site. This will adequately screen the built form of the development.

*Conservation of natural vegetation and biodiversity. (En)*

Comment:

The development does not include the removal of any significant natural vegetation nor will it impact the biodiversity of the locality.

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

Comment:

The development will result in a net decrease in impervious surfaces. The development maximise water infiltration on the site.

*To preserve and enhance the rural and bushland character of the area. (En, S)*

Comment:

The existing landscaping on the site creates a bushland character. This will be maintained with the proposed development.

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

Comment:

The proposal will result in a reduction of impervious surfaces and will maximise water infiltration on the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of Pittwater 21 DCP 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.

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

The proposal will not significantly effect 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**

### **Pittwater Section 94 Development Contributions Plan**

S94 Contributions are not applicable to this application.

## **CONCLUSION**

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

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

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2018/1462 for Alterations and additions to a dwelling house on land at Lot 1 DP 210320, 42 Riverview Road, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A00-B Site	22 June 2018	THW Architects
A01-B Basement	22 June 2018	THW Architects
A02-B Ground and Demolition	22 June 2018	THW Architects
A03-B First Floor and Demolition	22 June 2018	THW Architects
A10-B Elevations	22 June 2018	THW Architects
A11-B Elevations	22 June 2018	THW Architects
A12-B Elevations	22 June 2018	THW Architects
A13-B Elevations	22 June 2018	THW Architects
A50-B Section	22 June 2018	THW Architects
A100-B Site Analysis	22 June 2018	THW Architects

<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>
Risk Analysis & Management For Proposed Additions and Alterations at 42 Riverview Road Avalon	24 August 2018	Jack Hodgson Consultants Pty Limited
Arboricultural Impact Assessment	25 August 2018	Complete Arbor Care

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

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 (DACPLB09)

### 3. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent

unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2008
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed



with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

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

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

### 5. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's [DELETE TWO – PITTWATER DCP21, WARRINGAH WATER MANAGEMENT POLICY PL850, MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003].

A certificate is to be provided to the Principal Certifying Authority with the Construction Certificate application 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 that the existing approved system can accommodate the additional flows or provide drainage plans demonstrating compliance with Council's requirements.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from development. Blank condition for prior construction certificate (DACPLCPCC1)

### 6. **External roof finishes**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

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

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

### 7. **Arborist Recommendations to be Implemented**

All recommendations specified in the submitted arborist report (Complete Arborcare, 25 August 2018) are required to be complied with at the appropriate stage of development.

Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

**Reason:** To comply with relevant Natural Environment controls

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

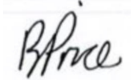
8. **Tree Retention**

In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.

**Reason:** To ensure the retention of the Urban Forest/Natural Environment.

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

**Signed**



**Benjamin Price, Planner**

The application is determined on 02/01/2019, under the delegated authority of:



**Luke Perry, Acting Development Assessment Manager**