

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1761
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 28 DP 228119, 287 Hudson Parade CLAREVILLE NSW 2107
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Jill Patricia Morrison-Churchill
Applicant:	Jill Patricia Morrison-Churchill

Application Lodged:	07/01/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/01/2021 to 02/02/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 27%
Recommendation:	Approval

Estimated Cost of Works:	\$ 139,000.00
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### Executive Summary

The application is for alterations and additions to a dwelling house to provide an attached double garage and minor alterations to the dwelling house. The application is referred to the Development Determination Panel (DDP) as there is a building height variation of 27%.

The site is very unusual in that there is no direct vehicular access from Hudson Parade and the site is serviced by a private access road which traverses the centre of the site and to the south of the dwelling. To the south of the private access road is a rocky escarpment which is generally unsuitable for development. The existing building is situated over a steeply sloping section of the site and provides level access from the private access road. The proposed garage sits over the steep land and matches the existing floor level of the dwelling and level of the access road. As a result of the site constraints, the proposed garage is non-compliant with the 8.5m building height and is up to 10.81m at the

maximum point.

It is noted that Clause 4.3(2D) Pittwater LEP makes a concession for such circumstances where a portion of the building may be up to 10m on sites with a slope in excess of 30%. For the proposed development the majority of the building is less than 10m, except for the eave extension. Due to the eave encroachment the proposal requires a Clause 4.6 Variation request and it must be determined by the DDP due to being in excess of 10% of the development standard (noting the development standard is 8.5m when the building exceeds 10m on a sloping site).

The garage is considered to provide an improved outcome for the site with regards to off-street parking, as currently vehicles are required to park in narrow parking bays along the access road and there is limited room for any visitor parking. The scale of the building as viewed from both the access road and from Hudson Parade is consistent with the scale and form of development on the surrounding sites.

The application was notified for a period of 14 days and no submissions were received. It is noted that the originally submitted plans included a first floor bedroom over the garage which was subsequently deleted from the proposal following Council expressing concerns with the excessive building height and scale of the first floor. Following deletion of this first floor, the building height resulting from the garage is supported.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development is for alterations and additions to a dwelling house. Specifically the proposal consists of:

- Alterations to the ground floor to provide internal access stairs, en suite, amendment to bedroom 1, double garage and balcony;
- Alterations to the lower ground floor to extend balcony and provide staircase access;
- Amendment to driveway to provide garage access;
- Removal of five trees.

## **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 Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - D3.9 Building envelope

Pittwater 21 Development Control Plan - D3.14 Construction, Retaining walls, terracing and undercroft areas

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 28 DP 228119 , 287 Hudson Parade CLAREVILLE NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Hudson Parade.</p> <p>The site is irregular in shape with a frontage of 15.2m along Hudson Parade and a depth of 45m. The site has a surveyed area of 1415.4m<sup>2</sup>. The site is highly irregular in that the site cannot be accessed directly from Hudson Parade due to the steep, densely vegetation slope which is between the dwelling and Hudson Parade. The site is traversed by an access way to the south of the dwelling, which is a common access way serving the adjoining dwellings on the southern side of Hudson Parade.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a one and two storey dwelling house, situated over a sloping section of the site, with access off the common shared accessway to the south of the dwelling.</p> <p>The site has steeply sloping (in excess of 30% slope) from the south to the north. To the south of the common accessway is rocky outcrops and vegetation and is undeveloped.</p> <p>The site has a number of significant canopy trees including Pittwater Spotted Gum Trees and other locally native species, along with a variety of low lying vegetation.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by two storey dwellings, with access via the common shared accessway, all set within the slope of the will and escarpment.</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:

- **N0306/17** Alterations and additions to the dwelling, approved by Northern Beaches Council on 22 August 2017. This included the lower floor additions to the understorey of the building, including deck.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning	None applicable.

Section 4.15 Matters for Consideration'	Comments
agreement	
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&amp;A Regulation 2000)</p>	<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 updated landscape plan, updated arborist report, amended plans to reduce the height of the development and updated stormwater plans.</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 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 Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(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>

Section 4.15 Matters for Consideration'	Comments
	<b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 from 19/01/2021 to 02/02/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><b><u>Supported subject to conditions</u></b></p> <p>The development application is for alterations and additions to an existing dwelling.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 zone Environmental Living, and the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; and D1 Avalon Locality.</p> <p>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, including a 60% Landscaped Area requirement.</p> <p>Amended plans and reports are provided. A Arboricultural Impact Assessment provides recommendations for the removal of five (5)</p>

Internal Referral Body	Comments
	<p>native trees with no design alternative for retention. Two (2) of these trees are tall canopy trees typical of the landscape character of the area.</p> <p>Should the proposal be granted approval in its current layout, the two (2) existing trees of high retention value (Angophora and Spotted Gum) shall be replaced with like for like species within the property.</p> <p>A Landscape Plan is provided that includes the provision of small native trees and understory planting, and with the condition for planting of two (2) tall canopy replacement trees the LEP objective of the E4 zone and the DCP landscape controls can be achieved.</p> <p>Landscape Referral raise no objection the amended plans and report proposal, subject to conditions.</p>
NECC (Bushland and Biodiversity)	<p><b><u>Supported subject to conditions</u></b></p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p><b>Biodiversity Conservation Act 2016 (BC Act)</b>  <b>Pittwater Local Environmental Plan (PLEP)</b></p> <ul style="list-style-type: none"> <li>7.6 Biodiversity Protection</li> </ul> <p><b>Pittwater Development Control Plan (PDCP)</b></p> <ul style="list-style-type: none"> <li>B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community.</li> </ul> <p><b><u>Updated Recommendation</u></b></p> <p>Natural Environment - Biodiversity notes the submitted Landscape Plan (Alex Woodside 2021) and amended Arborist Report (Bradshaw 2021).</p> <p>The application seeks to remove 5 trees, including four (4) prescribed trees (1 <i>Corymbia maculata</i>, 1 <i>Angophora costata</i>, 1 <i>Ceratopetalum gummiferum</i> and 1 <i>Banksia serrata</i>), to be replaced in accordance with the Landscape Plan (Alex Woodside 2021) which includes a minimum of replacement 6 trees. The provision of these replacement plantings ensures consistency with B4.7 of the Pittwater DCP.</p> <p>Subject to conditions the Natural Environment Unit - Biodiversity referral team find the application to be consistent against relevant environmental controls.</p> <p><b><u>Original Recommendation - 22/02/2021</u></b></p> <p>The Natural Environment Unit - Biodiversity are unclear on the extent of tree removal required. The submitted Arborist Report (Bradshaw</p>

Internal Referral Body	Comments
	<p>2020) specifies 3 trees to be removed, while the Master Plan (H &amp; C Design 2020) designates 5 trees for removal. The Master Plan should be amended to show the retention of trees 4 &amp; 5 or the Arborist Report must be updated accordingly.</p> <p>Additionally both the Statement of Environmental Effects (Vaughan Milligan 2020) and the Arborist Report (Bradshaw 2020) both identify opportunity for replacement planting to meet the objectives of PLEP 7.6 and PDCP B4.7, however no Landscape Plan has been sighted within the application that demonstrates appropriate locations for replacement plantings. The submitted Landscape Plan must also demonstrate compliance with the objectives of PDCP B4.7, including:</p> <ul style="list-style-type: none"> <li>• Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).</li> <li>• Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.</li> </ul>
NECC (Development Engineering)	<p><b><u>Supported subject to conditions</u></b></p> <p><u>Stormwater Discharge</u> The stormwater plans propose to discharge the site stormwater to an natural watercourse. As this watercourse is located in the neighboring property and any proposed connection may require an easement the applicant is to demonstrate the legal right to discharge to the watercourse located in the adjacent property.</p> <p><u>On Site Detention</u> The stormwater plan proposes to offset the OSD requirement via the provision of rainwater tanks. In accordance with Clause 9.3.1 of Council's Water Management for Development Policy offset can be credited for 25% of the rainwater volume provided in excess of the Basix requirements. As the proposed development does not require a Basix tank and the possibility that the water tanks may be removed in future, the option to offset the OSD volume cannot be supported. The Applicant shall provide OSD in accordance with Clause 9.3.1 of Council's Water Management for Development Policy.</p> <p><b>Additional Information Received on 12/04/2021</b> The amended stormwater plan proposes to discharge site stormwater to a dispersion trench. But the geotechnical report recommends discharge to the water course in the neighboring property. As this may require an easement, the site discharge shall be connected to the Kerb in Hudson Parade as conditioned.</p> <p>No objections to approval subject to conditions as recommended.</p>
NECC (Riparian Lands and	<b><u>Supported subject to conditions</u></b>



Internal Referral Body	Comments
Creeks)	This application has been assessed against relevant legislation for the protection of waterways. It is considered unlikely that this application will have an adverse impact on the integrity and resilience of the biophysical, ecological and hydrological environment. It is therefore recommended for approval subject to conditions.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<b><u>Supported without conditions</u></b>  The property is slightly flood affected on the eastern side. However the proposed development is outside the flood extent.

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

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP 55 - Remediation of Land

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

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

A BASIX certificate has been submitted with the application (see Certificate No. A394351\_02 dated 4 April 2021).

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 issues were raised subject to their usual terms of approval.

## **SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

### **10 Development on certain land within coastal wetlands and littoral rainforests area**

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
  - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
  - (c) *the carrying out of any of the following:*
    - (i) *earthworks (including the depositing of material on land),*
    - (ii) *constructing a levee,*
    - (iii) *draining the land,*
    - (iv) *environmental protection works,*
  - (d) *any other development.*

### Comment:

Not within littoral rainforest or wetlands area.

### **11 Development on land in proximity to coastal wetlands or littoral rainforest**

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*

- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

No located on land in proximity to coastal wetlands or littoral rainforest.

## **12 Development on land within the coastal vulnerability area**

*Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:*

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
  - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
  - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
  - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures  
are in  
place  
to  
ensure  
that  
there  
are  
appropriate  
responses  
to, and  
management  
of,  
anticipated  
coastal  
processes  
and  
current  
and  
future  
coastal  
hazards.*

Comment:

Not within coastal vulnerability area.

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

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*
  - (g) *the use of the surf zone.*

Comment:

The matters listed in (a) - (g) have been considered with regards to the developments impact. Council is satisfied the proposal will not cause adverse impact.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
  - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

Council is satisfied the proposed development has been designed to avoid impact.

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

- (1)
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
    - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
    - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
    - (iv) *Aboriginal cultural heritage, practices and places,*
    - (v) *cultural and built environment heritage, and*
  - (b) *is satisfied that:*
    - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
    - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited*

- and will be managed to minimise that impact, or  
 (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and  
 (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

Council is satisfied the development will not impact upon the matters listed in (a) and has been designed to avoid impact.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

**15 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

Proposal does not increase coastal hazards.

**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	10.81m	27%	No

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes



*(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:

*The proposal will provide for the construction of alterations and additions to an existing dwelling to provide for increased amenity for the site's occupants.*

*The non-compliance with the height control to the north-eastern extremity of the roof over the proposed garage addition to the existing ground floor level of the dwelling, which will maintain the same maximum ridge level for the dwelling of RL 52.810m arises as a direct result of the site's sloping topography.*

*The new works maintain a bulk and scale which is in keeping with the extent of surrounding development, with a consistent palette of materials and finishes which will provide for high quality development that will enhance and complement the locality.*

*Notwithstanding the non-compliance with the maximum building height control, the new works will provide an attractive residential development that will add positively to the character and function of the*



*local residential neighbourhood. It is noted that the proposal will maintain a consistent character with the built form of nearby properties.*

*The proposed new works will not see any unreasonable impacts on the views enjoyed by neighbouring properties.*

*Due to the northerly orientation of the site and as outlined in the shadow diagram information which supports the application, the works will not see any adverse impacts on the solar access enjoyed by adjoining dwellings.*

*The general bulk and scale of the dwelling as viewed from the public areas in Hudson Parade and the wider public view of the site, together with from the surrounding private properties, will be largely maintained.*

*The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:*

- The proposed additions will maintain the general bulk and scale of the existing surrounding dwellings and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land (cl 1.3(c)).*
- Similarly, the proposed development will provide for improved amenity within a built form which is compatible with the surrounding character of Hudson Parade which also promotes the orderly and economic use of the land (cl 1.3(c)).*
- The proposed minor additions to the dwelling are considered to promote good design and enhance the residential amenity of the buildings' occupants and the immediate area, which is consistent with the Objective 1.3 (g).*
- The proposed development improves the amenity of the occupants of the subject site and respects surrounding properties by locating the development where it will not unreasonably obstruct views across the site and will maintain the views from the site (1.3(g)).*

*The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the provision of a building that provides sufficient floor area for future occupants and manages the bulk and scale and maintains views over and past the building from the public and private domain. These are not simply benefits of the development as a whole, but are benefits emanating from the breach of the maximum building height control.*

*It is noted that in Initial Action, the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:*

*87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

*As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.*

Council Officer Comment:

The assertions made by the applicant are generally agreed with, in that the proposed building although

non-compliant with the building height will provide a development that is consistent with the scale and form of development within the surrounding context. The non-compliance is a direct result of the sloping topography of the land, the existing levels of the access road and the need to provide off-street car parking for the site. The current situation for off-street parking is the use of informal parking bays along the access road, which results in congestion and difficulty navigating along the access way and provides no opportunity for visitor parking if occupied by the residents.

The proposed garage will result in secure, off-street parking that will not restrict vehicle movements along the access way and will provide a better outcome for the site and for surrounding properties.

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 building as visible from the private access road (which also services the surrounding dwellings) appears as single storey. This is consistent with the developments in the locality, with the additional floor area provided underneath following down the topography of the

land. The building as visible from Hudson Parade will appear as two stories (with undercroft) which is consistent with the immediate vicinity of the site. This is consistent with the character of the locality.

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

Comment:

The building as viewed from both the north and south elevation is entirely compatible with the scale of the development upon the surrounding land, which consist of two storey buildings on the escarpment with the resulting non-compliance a result of the fall of the land and the requirement for vehicular access off the private access road.

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

Comment:

The adjoining properties will retain solar access in accordance with the DCP controls.

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

Comment:

The proposal will not result in a view impact.

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

Comment:

The undercroft area does not result in excavation (apart from footings) to provide for the development. The proposed construction method has lesser impact upon the natural landform than a design that would require excavation. In addition, due to the established private access road level and to achieve a flat driveway gradient between the access road and garage, the garage is required to be an elevated design resulting in an undercroft area due to the steep topography of the land. The building does not obscure any significant rock outcrops or significant topographical features of the land.

The building design is a result of the site constraints including the steep topography and location of the existing private access road. The garage is the only suitable location for parking on the site and the location is considered a suitable response to the constrained nature of the site, whilst resulting in a building form consistent with the surrounding sites.

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

Comment:

The building largely screened by vegetation to the north of the site and is not highly visible from Hudson Parade due to the slope of the land and dense vegetation. There are no heritage items which would be impacted as a result of the development.

## 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 remains as a dwelling house and the use is not intensified. The proposal requires removal of 5 trees (2 are of high retention value) but this is as a result of the need to provide parking for the site and there being no other reasonable alternatives for the site. The tree removal is supported by Council's biodiversity team and landscape officer and conditions are recommended for off-set planting.

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

Comment: The alterations and additions are found to not have an unreasonable impact on the biodiversity value, scenic value or scientific value of the site. Off-set planting can be accommodated within the site and there is ample area for this to occur.

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

Comment: The proposed use as a dwelling is a low density use. The building design is a result of the site constraints including the steep topography and location of the existing private access road. The garage is the only suitable location for parking on the site and the location is considered a suitable response to the constrained nature of the site, whilst resulting in a building form consistent with the surrounding sites. There is sufficient existing landscaping between the dwelling and Hudson Parade to mitigate the visual impact of the undercroft area.

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

Comment: The proposed development requires the removal of two (2) high value native trees. However, this has been assessed by Council's landscape and biodiversity team who support the proposal and is reasonable given the constrained nature of the site and the ability to provide off-set planting which will be required as a condition of consent.

## 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, and in accordance

with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Height of building Development Standard associated with a single dwelling house (Class 1 building).

## **7.6 Biodiversity protection**

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

*(a) whether the development is likely to have:*

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

*(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to minimise and mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

## **7.7 Geotechnical hazards**

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) *site layout, including access,*
- (b) *the development's design and construction methods,*
- (c) *the amount of cut and fill that will be required for the development,*
- (d) *waste water management, stormwater and drainage across the land,*
- (e) *the geotechnical constraints of the site,*
- (f) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The proposed development is supported by a geotechnical risk assessment, architectural plans, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:

- (a) *the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

- (b) *the consent authority is satisfied that:*

- (i) *the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
- (ii) *if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
- (iii) *if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

## **Pittwater 21 Development Control Plan**

### Built Form Controls

<b>Built Form Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation*</b>	<b>Complies</b>
Front building line	6.5m	18.239m (Hudson Parade)	N/A	Yes
Rear building line	6.5m	22.8m (South boundary)	N/A	Yes
Side building line	2.5m	2.5m (NE Boundary)	N/A	Yes
	1m	2.87m (W Boundary - Existing)	N/A	Yes

Building envelope	3.5m	Outside envelope (W Boundary - Existing)	N/A	No - However Existing
	3.5m	Outside envelope (NE Boundary)	N/A	No
Landscaped area	60%	70.9% ( 1004.6sqm)	N/A	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 x 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
A4.3 Bilgola Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
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
C1.9 Adaptable Housing and Accessibility	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	Yes	Yes
D3.7 Side and rear building line	Yes	Yes
D3.9 Building envelope	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	No	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

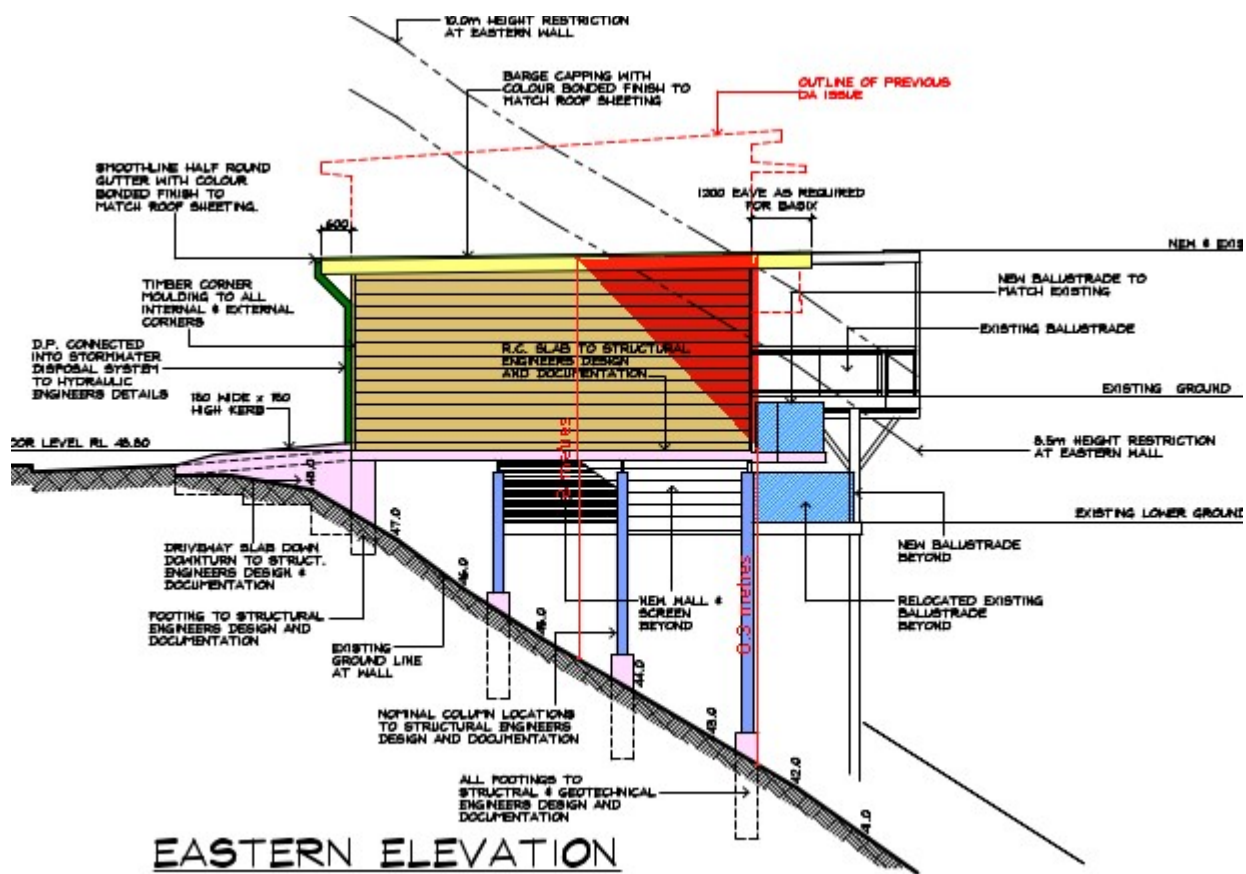
### **D3.9 Building envelope**

#### DCP Control

The DCP requires that the building envelope is complied with, which consists of a height plane projected at 45 degrees at a height 3.5m above the boundary.

The below figure shows the extent of non-compliance which is highlighted in red.





The DCP allows variations to be considered where the land is in excess of 30% slope. The subject site is well over 30% slope and therefore the variation is considered on merit below.

### Merit Consideration

*To achieve the desired future character of the Locality. (S)*

Comment: The proposal, as viewed from the access road to the south of the dwelling, will present as a single storey building, which is consistent with how these properties are viewed when driving along the private access road. The proposal will not be visually noticeable when driving along Hudson Parade due to the topography of the land, with the site sitting well above and setback from Hudson Parade. In addition there is substantial landscaping between the proposal and Hudson Parade to soften the building form.

*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 proposal is surrounded by established landscaping and the building will remain below the predominant canopy tree level.

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

Comment: The proposal is consistent with how garages and buildings have been designed along the private access road, by presenting as single storey to the access road and then the lower floors below following the topography of the land. The proposal is consistent in design to the existing dwelling. The

proposal provide compliant setbacks to meet the character of the area.

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

Comment: The proposed structure presenting as single storey from the private access road and two stories from the north, is consistent with the surrounding buildings. The garage in the proposed location is the only viable option for site given the topography, constraints and landscaping. Although non-compliant with the control, the garage will provide opportunity for off-street parking consistent with how the surrounding sites have been developed.

*Equitable preservation of views and vistas to and/or from public/private places. (S)*

Comment: No view impacts will arise from the proposal.

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

Comment: The balcony design is consistent with the existing design of the dwellings, and do not result in unreasonable overlooking that would not otherwise be anticipated due to the site topography. Solar access is maintained to surrounding properties as shown in the submitted shadow diagrams.

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

Comment: The proposed tree removal is acceptable given this is the only viable location for a garage for the existing dwelling. Replacement planting has been proposed.

The proposed development is consistent with the outcomes of the control and therefore the variation is supported in this particular circumstance.

### **D3.14 Construction, Retaining walls, terracing and undercroft areas**

#### **DCP Control**

Undercroft areas are to be a maximum of 3.5m.

The proposed development results in an undercroft area of between 1m and 5.9m.

#### **Merit Consideration**

In considering the merits of the variation, the proposal is considered against the outcomes of the control as follows:

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

Comment: The building form, as viewed from the private access road, will not present undercroft and will present as a single storey building. The building is not visually prominent as viewed from Hudson Parade, as the site sits well above the road level and is obscured by the natural vegetation. Trees and vegetation are retained to the northern side of the dwelling between the garage and the road. The proposed design is not inconsistent with the design of the surrounding dwellings, with many of those including undercroft areas, and the exiting building design on the site.

*To protect and minimise disturbance to natural landforms.*

Comment: The undercroft area does not result in excavation (apart from footings) to provide for the development. The proposed construction method has lesser impact upon the natural landform than a design that would require excavation. In addition, due to the established private access road level and to achieve a flat driveway gradient between the access road and garage, the garage is required to be an elevated design resulting in an undercroft area greater than 3.5m due to the steep topography of the land. The building does not obscure any significant rock outcrops or significant topographical features of the land.

*To encourage building design to respond sensitively to natural topography.*

Comment: As explained above, the building design is a result of the site constraints including the steep topography and location of the existing private access road. The garage is the only suitable location for parking on the site and the location is considered a suitable response to the constrained nature of the site, whilst resulting in a building form consistent with the surrounding sites.

The proposal is consistent with the outcomes of the control and therefore the variation 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 \$ 695 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 139,000.

## **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.

In summary, a detailed assessment has been required for the following specific issues:

- Building Height Clause 4.6 Variation Request
- Building envelope non-compliance
- Undercroft area.

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 DA2020/1761 for Alterations and additions to a dwelling house on land at Lot 28 DP 228119, 287 Hudson Parade, CLAREVILLE, 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>
Site Plan, Rev G	5/04/2021	H and C Design
Lower Ground Floor Plan, Rev G	5/04/2021	H and C Design
Ground Floor Plan, Rev H	5/04/2021	H and C Design
Roof Plan, Rev H	5/04/2021	H and C Design
East Elevation, Rev H	5/04/2021	H and C Design
South and North Elevation, Rev B	5/04/2021	H and C Design
Western Elevation and Section 1, Rev B	5/04/2021	H and C Design
Section 2, Rev B	5/04/2021	H and C Design
Sediment Control Plan, Rev B	5/04/2021	H and C Design

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
D101, D102, D103 and D104 Issue C	1/04/2021	NB Consulting Engineers

<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>
Arboricultural Impact Assessment	7 April 2021	Bradshaw Tree Services
BASIX Certificate No. A394351_02	4 April 2021	Ewen Finnane
Geotechnical Assessment, 33306Zrpt	28 October 2020	JK Geotechnics

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

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Landscape Plan Sheet and Materials and Planting Palette, Revision B	21/04/2021	Alex Woodside

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan, Rev G	5/04/2021	H and C Designs

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

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

**2. Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost

of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

### 3. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved

waste/recycling centres.

- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

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

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

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

- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2018
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.



- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$695.00 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 \$139,000.00.

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

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

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

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

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

### 5. **Security Bond**

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics dated 28/10/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **Amendment of Landscape Plans**

The submitted Landscape Plan (Alex Woodside 2021) is to be amended in accordance with the following:

- Deletion of *Corymbia citriodora* (Lemon-scented Gum) and replacement with *Corymbia maculata* (Spotted Gum)
- Provision of at least two *Corymbia maculata* (Spotted Gum), and one *Angophora costata* (Sydney Red Gum)

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

8. **Traffic Management and Control**

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

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

9. **Certification and Design of Elevated Parking Facility Work**

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the

issue of the Construction Certificate.

Reason: Safety and Compliance with this consent.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by NB Consulting Engineers, job number 130101, drawing number D101 to D104, dated 1/04/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. OSD to be provided in accordance with Clause 9.3.1 of Council's Water Management for Development Policy.
- ii. The proposed dispersion trench shall be deleted. The site stormwater discharge is to be connected to the kerb in Hudson Parade.

Detailed drainage plans, including engineering certification, 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 stormwater and stormwater management arising from the development.

**11. Vehicle Driveway Access**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels adjoining the private access driveway are to match existing levels. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property.

**12. 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.

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

**13. Tree Removal within the Property**

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

- i) tree 1 - Spotted Gum, subject to tree replacement
- ii) tree 2 - Smooth Barked Apple, subject to tree replacement
- iii) tree 3 - NSW Xmas Bush

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact

Assessment do not require Council consent for removal, including: tree 4 - Old Man Banksia (by height exemption) and tree 5 - Illawarra Flame Tree (by species exemption).

Reason: To enable authorised building works.

**14. Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

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

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

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

**16. Protection of Rock and Sites of Significance**

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

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

**17. Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation, unless identified for retention on approved plans or by conditions of consent,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation

- with an Arborist with minimum AQF Level 5 in arboriculture,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
  - vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
  - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
  - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
  - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.
- c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:
- i) section 4 Recommendations
  - ii) section 6.1 Appendix B Tree locations and Tree Protection
  - iii) section 7 Appendix G Tree Protection Specifications

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

#### 18. **Road Reserve**

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

Reason: Public safety.

19. **Survey Certificate**

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

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

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

20. **Traffic Control During Road Works**

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

Reason: Public Safety.

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

21. **Landscape Completion**

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

- i) one (1) *Corymbia maculata* and one (1) *Angophora costata* shall be planted within the property, with at least one (1) east of the new garage,
- ii) all trees shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- iii) tree planting shall be located within a 9m<sup>2</sup> deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees.

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

Reason: Environmental amenity.

22. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the amended Landscape Plans (Alex Woodside 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

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

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

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

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

24. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system 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. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system 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 detention system is maintained to an appropriate operational standard and not altered.

25. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

27. **Landscape Maintenance**

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

planting.

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

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

Reason: To maintain local environmental amenity.