

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1779
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Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot B DP 396339, 11 Hilltop Road AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of a dwelling house including an attached secondary dwelling and swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Shawn Francis Tranter Siobhan Louise Tranter
Applicant:	Phillip Anthony Byrne

Application Lodged:	14/10/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	01/11/2021 to 15/11/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,074,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks development consent for demolition works and the construction of a part-two / part-three detached dwelling house atop of a single storey of basement, including an attached secondary dwelling and swimming pool.

Specifically, the works comprise of:

- Demolition of existing dwelling house and associated structures.
- Construction of a new part-two / part-three storey dwelling house with basement level

carparking, swimming pool, attached secondary dwelling and associated landscaping.

Herein this report these works are described as the 'development'.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D1.5 Building colours and materials

Pittwater 21 Development Control Plan - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.11 Building envelope

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

SITE DESCRIPTION

Property Description:	Lot B DP 396339 , 11 Hilltop Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Hilltop Road, and is legally defined as Lot B in Deposited Plan 396339.</p> <p>The site is irregular in shape with a frontage of 21.335m and an average depth of 41.91m. The site has a surveyed area of 733.5m².</p> <p>The site is located within the C4 - Environmental Living zone</p>

under the Pittwater Local Environmental Plan 2014 and accommodates a dwelling house.

The topography of the site slopes downwards from east to west by approximately 11.72m. Native spotted gums line the front boundary of the property with other various vegetation scattered throughout the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by single and two-storey dwelling houses with a variation of architectural designs situated within a dense landscaped setting.

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:

DA2021/0052

Development Application for Demolition works and construction of a dwelling house including a secondary dwelling and a swimming pool - withdrawn on 23 April 2021.

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 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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&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&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&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&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&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&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&A Regulation 2000 requires the</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 01/11/2021 to 15/11/2021 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 process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Gerrit Lohr Ms Kirsten Kracht	15 Hilltop Road AVALON BEACH NSW 2107
Doyle Consulting Group	3A Kendall Road CASTLE COVE NSW 2069

The following issues were raised in the submissions:

- **Loss of views**
- **Privacy (overlooking from ground floor windows on southern elevation)**
- **Impacts caused by significant excavation**
- **Proposed landscape to not exceed 3m in height and existing eastern boundary hedge not exceed 4m in height.**

The matters raised within the submissions are addressed as follows:

- **Loss of views**

Comment:

A view loss analysis has been conducted and has been addressed in detail elsewhere in this report (*refer to Clause C1.3 - View Sharing*).

This issue does not warrant the refusal of the application.

- **Privacy (overlooking from ground floor windows on southern elevation)**

Comment:

Privacy has been addressed in detail elsewhere in this report (*refer to Clause C1.5 - Visual Privacy*).

This issue does not warrant the refusal of the application.

- **Impacts caused by significant excavation**

Comment:

Concern has been raised from the potential property damage to No.13 Hilltop Road during excavation phase. The proposed works include a maximum excavation of 4.6m for the outdoor area including the excavation for the swimming pool and excavation of 3.6m for the lower ground floor, all within close proximity to the adjoining (south) property. It is noted that a Geotechnical Assessment was undertaken with the relevant documents received.

Therefore, to address the concerns a Dilapidation Report has been conditioned to be undertaken prior to commencement of works and prior to Occupation Certificate.

This issue does not warrant the refusal of the application.

- **Proposed landscape to not exceed 3.0m in height and existing eastern boundary hedge not exceed 4m in height to retain views.**

Comment:

Concern has been raised in regards to the proposed landscaping and native trees exceeding 3m in height with the potential to impact view corridors. Clause C1.3 - View Sharing stipulates that views are not to be obtained at the expense of native vegetation. However, a condition has been included to relocate the proposed native trees in an area that will cause minimal view impacts.

The existing boundary hedge is not apart of the development application and therefore no comment can be provided.

This issue does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>
Landscape Officer	<p>The development application is for the demolition of existing structures and the construction of a new dwelling, swimming pool, a secondary dwelling, and associated works.</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 (but not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1 Avalon Locality <p>The site is located in the C4 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, to satisfy the landscape objectives of the C4 Environmental Living zone.</p> <p>The existing site contains tall canopy trees within the frontage and otherwise consists of garden planting along the boundaries. Existing street trees and all trees and vegetation within adjoining property shall be preserved. The proposed works are generally within the existing footprint with the exception of the front balcony cantilever, rear of house and the swimming pool and pergola. The proposed swimming pool and surrounds impacts upon low height vegetation under 5 metres and thus does not require Council consent for exempt species.</p> <p>The proposed development does not impact upon prescribed trees (ie protected under the DCP), and conditions shall be imposed for tree protection measures to preserve existing trees and vegetation.</p> <p>A Landscape Plan is provided and is generally acceptable subject to the provision of continuous screen planting along the side boundary to the extent of the swimming pool and paved surrounds.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for the demolition of existing house and attached secondary dwelling, construction of new double storey</p>

Internal Referral Body	Comments
	<p>dwelling with garage and secondary dwelling underneath, swimming pool and roofed pergola and landscaping. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. No objection is raised to the submitted Landscape Plan (P.A Byrne Constructions 2021). Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	<p>The existing driveway crossing is to remain which is satisfactory. There is an area at the top of the driveway where vehicles can turn and exit in a forward direction. The transition at the top of the driveway to the proposed garage is acceptable. The proposal does not required OSD and connection of stormwater to the kerb is satisfactory. The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>No objection to approval, subject to conditions as recommended.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable without conditions.

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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 2: Secondary dwellings

Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

Comment:

The proposed use is defined under PLEP 2014 as:

"secondary dwelling means a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or	Consistent.

(b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	The site is located within the C4 Environmental Living zone and, as such, the proposed use is permissible with consent under PLEP 2014.
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Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	Consistent. The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The proposed development will result in one (1) new principal dwelling and one (1) new secondary dwelling.
(3) A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	(a) There is no floor space ratio control applicable to this site. (b) The total floor area of the secondary dwelling does not exceed 25% of the total floor area of the principal dwelling, complying with <i>Clause 5.4 (9)</i> under the Pittwater Local Environmental Plan 2014.
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres. (b) parking if no additional parking is to be provided on the site.	The development application is not being refused on either of these grounds.

Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	Consistent. This application does not propose any subdivision of the existing allotment.

Conclusion

The proposed secondary dwelling is consistent with the aforementioned requirements and is supported by Council.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1158389M_02 dated 5 July 2021).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

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. A response has been received within the 21 day statutory period no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.3m	-	Yes
Floor Space for Secondary Dwelling	25% of main dwelling (69m ²)	68.7m ²	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The site is mapped as being a potential location of Aboriginal or other relics towards the western most edge of the site's boundary. Majority of the excavation will be occurring at the southern end of the property.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

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

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Pittwater 21 Development Control Plan

Built Form Controls

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Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m (Western Boundary)	3.2m - 11m (Proposed Dwelling)	50.8%	No
Rear Building Line	6.5m (Eastern Boundary)	8.4m (Proposed Outdoor Area)	-	Yes
Side Building Line	2.5m (Northern Boundary)	2.8m (Proposed Dwelling)	-	Yes
	1m (Southern Boundary)	1m (Upper Ground Floor) 1.9m (First Floor)	-	Yes
Building Envelope	3.5m (Northern Boundary)	Outside Envelope	20%	No
	3.5m (Southern Boundary)	Outside Envelope	14.3% - 54.3%	No
Landscaped Area	60% (440.1m ²)	54% (396m ²)	10% (44.1m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 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
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	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	No	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	No	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	No	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.3 View Sharing	No	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

Description of Non-Compliance

Clause B6.3 Off-Street Vehicle Parking requires 2 carparking spaces for a principal dwelling (with more than 2 bedrooms) and an additional carparking space for a secondary dwelling.

The proposed development does not provide the required additional parking for the secondary dwelling. A variation to the clause may be considered for the reduction in car parking requirements for a secondary dwelling to a minimum of 2 spaces per allotment may be considered on merit.

Merit Consideration

The proposed development will be considered against the underlying outcomes of the clause as follows:

- ***An adequate number of parking and service spaces that meets the demands generated by the development.***

Comment

The proposal adequately provides for two off-street parking spaces and a turning bay. Although Hilltop Road is considered a narrow street, on-street parking in the nearby vicinity of the development and on surrounding streets is readily available, and is likely to meet the demands

generated by the development.

- ***Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.***

Comment

To facilitate an additional parking space for the secondary dwelling a substantial increase in impervious area, loss of soft landscaping and further excavation would be required. The proposal is considered to present a safe and convenient parking arrangement which is not likely to have a detrimental effect upon pedestrian and vehicle safety.

- ***Safe and convenient parking.***

Comment

As stated above, the subject site provides for safe and convenient parking for the residents.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

B8.1 Construction and Demolition - Excavation and Landfill

Control B8.1 stipulates that any excavation greater than 1.0 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, then the overall depth of the excavation must be accompanied by a Geotechnical Report and certified forms as set out in Council's Geotechnical Risk Management Policy in relation to potential impact of excavation on land stability.

The proposed dwelling house is situated within 1.0m from the southern boundary and 2.8m to the northern boundary, with a maximum depth of approximately 3.6m for the lower ground floor plan and approximately 4.7m for the ground floor pool area.

It is noted that the proposal has been appropriately accompanied by a Geotechnical Report and certified forms, with the subject site being mapped on the Geotechnical Hazard 1 Map under the Pittwater LEP 2014.

The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

- ***Site disturbance is minimised.***

Comment

The proposed development involves a large amount of excavation due to the slope of the site and irregular shape of the lot. The excavation provides for an increase of amenity to the residents of the subject site which results in a levelled lawn, pool area and secondary dwelling space.

The levelled lawn and pool area minimises the potential for overlooking into the adjoining neighbours properties and reduces the overbearingness. The most eastern and western parts of the site will not consist of significant excavation, limiting the amount of site disturbance to the centre of the site.

- ***Excavation, landfill and construction not to have an adverse impact.***

Comment

The subject site is located on land classified as a geotechnical hazard and therefore has been accompanied by a Geotechnical Report. Subject to the recommendations noted in the Geotechnical Report it is unlikely for adverse impacts to occur.

- ***Excavation and landfill operations not to cause damage on the development or adjoining property.***

Comment

The carrying out of the development in accordance with the recommendations of the Geotech report will ensure the adjoining properties are protected. However, to ensure any future damage to the adjoining properties is appropriately recorded, a Dilapidation Report prepared by a suitably qualified person prior to and post construction period has been included via a condition of consent.

Based on the above and the submitted Geotechnical Report, the proposal is considered to therefore meet the outcomes of the control and is supported on merit in this particular instance

B8.6 Construction and Demolition - Traffic Management Plan

Clause B8.6 states that for all development where either excavated materials are to be transported from the site or the importation of fill material to the site is 100m³ or greater, a Construction Traffic Management Plan indicating truck movements, and truck routes is to be provided and approved by Council prior to the commencement of works.

The proposal will involve the transportation of approximately 353m³ of excavated material from the site. Noting that Hilltop Road is particularly narrow, a condition has been imposed requiring a Construction Traffic Management Plan to be prepared and submitted to Council prior to works commencing on site.

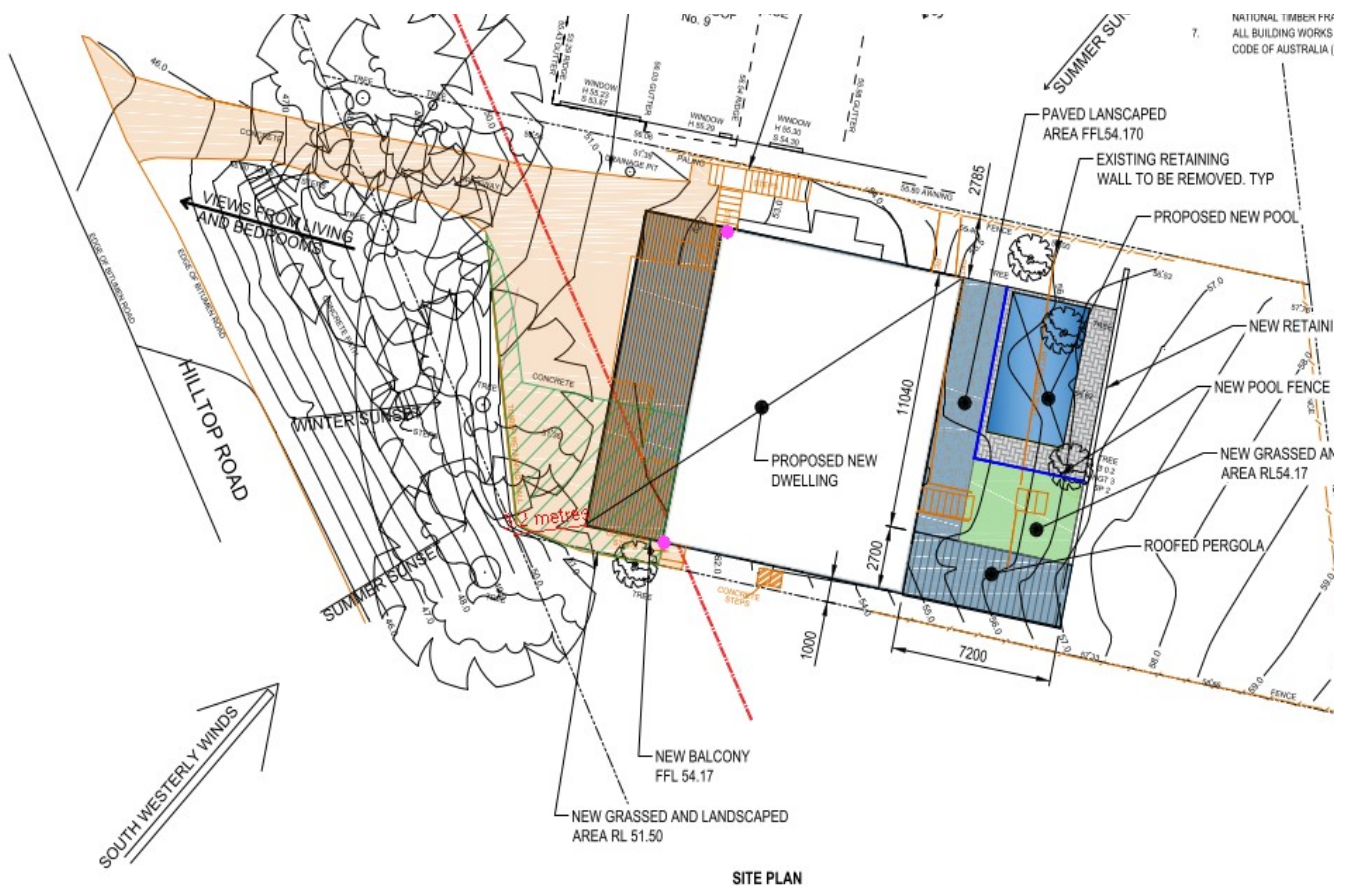
Subject to compliance with the conditions of consent, the proposal will be consistent with the outcomes and requirements of this control.

C1.3 View Sharing

Merit consideration

Following an initial site inspection of the subject site No. 11 Hilltop Road, Avalon Beach a request was made to erect height poles to determine the impact of the development on views.

The figure below shows the location of the height poles (pink dots). The height poles were surveyed at the proposed building ridge height of RL 60.27.



Two (2) submissions were received from the following properties which included concerns regarding view loss:

- 2A Chisholm Avenue, Avalon Beach; and
- 13 Hilltop Road, Avalon Beach.

A site inspection from both properties were conducted on 20 December 2021, the photos taken from the inspections will be referenced in this assessment.

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

- **A reasonable sharing of views amongst dwellings.**

Comment:

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

1. **Nature of the views affected**

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

Comment on Principle 1:

No. 2A Chisholm Avenue

The affected view to the above mentioned property is to the west consisting of Pittwater (water views) and partial views of Ku-Ring-Gai Chase National Park (land and water interface). The view is heavily obstructed by well-established native canopy trees and other types of existing vegetation.



Photo 1: Existing views from 2A Chisholm Avenue to the west over the subject site. Photo taken from main living/dining area.

No. 13 Hilltop Road

The affected view to the above mentioned property is to the north-west consisting of partial views of Pittwater (water views) and partial views of Ku-Ring-Gai Chase National Park (land and water interface). The view is also heavily obstructed by well-established native canopy trees and other types of existing vegetation.



Photo 2: Existing views from 13 Hilltop Road to the north-west over the subject site. Photo taken from front entrance balcony.

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

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

Comment on Principle 2:

No. 2A Chisholm Avenue

The views are primarily obtained from the first floor habitable rooms (living/dining area) and outdoor balcony orientated towards the side boundary of 2A Chisholm Avenue and the rear boundary of the subject site. The views are partially obstructed from both a standing and sitting position by existing vegetation.

No. 13 Hilltop Road

The views are primarily obtained from the first floor level front entrance balcony orientated

towards the front boundary of No. 13 Hilltop Road. The views are partially obstructed from both a standing and sitting position by existing vegetation.

3. **Extent of impact**

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

Comment on Principle 3:

No. 2A Chisholm Avenue

The affected view is predominantly towards the west consisting of a partial view of Pittwater (water views) and partial views of Ku-Ring-Gai Chase National Park (land and water interface). The proposed development will cause the loss of a minor section of water views that are currently interrupted significantly by canopy trees. However, majority of the water views enjoyed by 2A Chisholm Avenue will be maintained by both a sitting and standing position, with no impact to the views towards Ku-Ring-Gai Chase National Park (land and water interface).

The extent of impact is considered to be **minor**.

No. 13 Hilltop Road

The affected view is predominantly towards the north-west consisting of a narrow view of Pittwater (water views) and partial views of Ku-Ring-Gai Chase National Park (land and water interface), these views are currently interrupted by dense vegetation. Majority of the affected view in the direction over the subject site will be impacted obliquely both by sitting and standing, with only the southern section of the view being retained.

The extent of impact is considered to be **moderate**.

It is also noted that the property will retain their primary water views of Pittwater and Ku-Ring-Gai Chase National Park (land and water interface) to the west and south-west without any obstruction caused by the proposed dwelling house. These views are considered to be less interrupted by vegetation creating larger view corridors than that of the north-western view located over the subject site.

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

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

Comment on Principle 4:

The development area that impacts the main view lines is compliant with the Building Height Standard of 8.5m. The proposal has been found to exhibit non-compliance with the Front

Boundary Setback and the Side Boundary Envelope built form controls. Both elements of non-compliance have been found to be acceptable, achieve consistency with the objectives of the control and have subsequently been supported.

In relation to the building envelope, the non-compliance along the side elevation to the north does not result in an additional view impact to No. 2A Chisholm Avenue or No. 13 Hilltop Road due to the minor breach and location. Due to the portion of view being lost determined as a minor impact, it is considered reasonable in this instance.

The building envelope encroachment on the southern elevation is cause to a loss of a partial Ku-Ring-Gai Chase National Park (land and water interface) view to No. 13 Hilltop Road. However, compliance with this control would only retain a small section of the view and would generally result in a similar view loss outcome.

In context to the elevated position of both properties and the extensive range of available and retained views, it can be concluded that the extent of the breaches of the planning controls is reasonable and a more compliant design would not significantly improve the view loss outcome.

Therefore, the proposed dwelling house is considered reasonable in the circumstances of this application and does demonstrate a reasonable sharing of views.

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

Comment

The proposed development encourages innovative design solutions to improve the urban environment allowing for views to be retained from the public places and roads.

- ***Canopy trees take priority over views.***

Comment

The subject site has retained the existing canopy trees located in the front setback area and propose the planting of two new canopy trees to the rear of the property, therefore ensuring that the existing canopy trees have priority over views. However a condition of consent will be included to relocate one of the proposed canopy trees to avoid future view impacts to the west in regards to No. 2A Chisholm Avenue.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit in this particular circumstance.

C1.5 Visual Privacy

Description of Non-Compliance

Clause C1.5 Visual Privacy stipulates that private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation.

Concern has been raised through a submission in relation to the lower ground floor windows along the southern elevation for potential overlooking into the neighbouring property No. 13 Hilltop Road, due to their close proximity to the adjoining boundary. It is noted however, that these windows will overlook the driveway of the above mentioned property and will not unreasonably impact on the private open space or windows of No. 13 Hilltop Road, this being due to the orientation and siting of both properties. In

addition, existing vegetation located along the adjoining boundary should act as a landscape buffer and or screening restricting any potential overlooking.

The proposed development includes multiple windows on the northern elevation and an elevated balcony to the west elevation, all within 9.0m of the adjoining property to the north No. 9 Hilltop Road. Privacy has been addressed by window elements which include louvres and highlight windows were appropriate. In addition the proposed screen planting noted on the submitted landscape plan which runs along the northern boundary perimeter should further minimise potential overlooking into the adjoining property, it can be concluded that privacy would be maintained at a reasonable level within a residential environment.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

D1.5 Building colours and materials

Clause D1.5 Building Colours and Materials prescribes that external colours and materials shall be of dark and earthy tones, and does not permit the use of light colours.

The proposed development indicates that the primary materials for the dwelling house are to consist of a sandstone finish including light grey rendering. It is recommended that a darker grey be utilised to minimise visual prominence and compliment the natural landscape of the surrounding area.

A condition is to be imposed to ensure the proposed roof and external walls consist of a medium to dark range (BCA classification M and D) and that any roof with a metallic steel finish is not permitted in order to minimise solar reflections to neighbouring properties. Therefore, providing compliance with this clause.

D1.8 Front building line

Description of Non-Compliance

Clause D1.8 Front Building Line prescribes a front boundary setback requirement of 6.5m for all built structures (including swimming pools), other than driveways, fences and retaining walls.

The proposed dwelling house presents a varied front boundary setback of 3.2m - 11m, representing a partial non-compliance with a maximum variation of 50.8%. The northern portion of the development complies with the clause and is setback well beyond 6.5m from the boundary. The encroachment is primarily in relation to the southern portion of the development which consists of a section of the proposed upper-ground floor balcony.

Merit Consideration

The proposed development will be considered against the underlying outcomes of the control as follows:

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

Comment

The proposal is consistent with the outcomes of the desired future character of the Avalon Beach Locality. The development will achieve a height that is well below the existing tree canopy, with no significant trees to be removed. Additionally, the built form of the design is similar to that of surrounding development and is unlikely to cause an unreasonable aesthetic impact to the existing streetscape character.

- ***The amenity of residential development adjoining a main road is maintained.***

Comment

Hilltop Road is not a main road, and therefore this outcome does not apply.

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

Comment

Significant vegetation and established trees across the front setback area will be retained, which will continue to maintain the visual aesthetic of the area, reducing the visual dominance resulted from the built form. The dimensions of the landscaped open space area is sufficient in providing future opportunities for vegetation planting.

- ***Vehicle manoeuvring in a forward direction is facilitated.***

Comment

Vehicle manoeuvring in a forward direction has been demonstrated in the proposed plans, Council's Development Engineer has reviewed the proposal and is in support subject to conditions.

- ***To encourage attractive street frontages and improve pedestrian amenity.***

Comment

The development is sited well below the established tree canopy height located within the front setback area, combined with the existing vegetation, provides screening for the development when viewed from street level. Presenting a design situated within a landscaped setting and the utilisation of natural building elements such as sandstone achieves an attractive street frontage when viewed from the public domain. Furthermore, pedestrian amenity will be seen to be maintained to that of the existing, with no additional impacts being identified.

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

Comment

The front setbacks can be deemed variable along Hilltop Road, containing variations of designs including front porches and entrance stair ways encroaching the setback area. Due to the orientation and irregular shape of the subject site, the design is considered reasonable in relation to the spatial characteristics of the existing urban environment within the immediate vicinity.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

D1.11 Building envelope

Description of Non-Compliance

Clause D1.11 Building Envelope require development to be sited within a 3.5m building envelope to ensure the bulk and scale of the built form is minimised..

The proposed development encroaches the side building envelope on both the northern and southern elevation. The encroachment to the northern elevation presents a variation of 20%, with the southern elevation presenting a variation between 14.3% - 54.3% (as seen below).

- ***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 design keeps within the height of the natural environment by sitting below tree canopy height and providing a compliant Building Height. The development proposes levels of excavation to further ensure that the built form compliments that of the existing building scale of the streetscape.

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

Comment

The use of landscaping surrounding the dwelling will assist in reducing the impact of the built form and softening the appearance of the dwelling when viewed from the street and surrounding properties. The proposal is sited to relate to the spatial characteristics of the area and incorporates levels of excavation to reduce the height of the design. The design has maintained natural features of the site where possible to respond to the existing natural environment.

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

Comment

The proposal provides a variety of building materials to break up built form i.e. sandstone, timber and the use of deck structures. The utilisation of the proposed vegetation and siting the building below the canopy tree height, results in the mitigation of the bulk and scale of the dwelling house when viewed from adjoining properties and the public domain.

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

Comment

Refer to *Clause C1.3 View Sharing* elsewhere in this report for further detail regarding the preservation of views.

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

Comment

No unreasonable impacts are considered likely to impact on the level of amenity and solar access to the adjoining properties, with the proposed dwelling house accompanied by compliant shadow diagrams. Privacy has been addressed elsewhere in this report refer to *Clause C1.5 Visual Privacy* for further detail.

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

Comment

The existing vegetation located both within the front setback and the proposed screen planting located along the northern side setback should enhance the visual aesthetic of the area and will visually reduce built form. The dimensions of the landscaped open space area is sufficient in providing future opportunities for vegetation planting.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control

have been achieved. Therefore, the application is supported on merit.

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of Non-Compliance

Clause D1.14 requires a site located within Area 1 of the Landscaped Area Map to provide a minimum of 60% landscaped open space, equating to 440m².

The subject site provides a landscaped area of 54% which equates to 396m², representing a variation of 10% or 44m² to the requirements of the clause.

Provided that the outcomes of the clause have been achieved, impervious areas up to 6% of the site area can be included in the landscaped area calculation. These include impervious areas less than 1.0m in width and areas used for outdoor recreational purposes. The inclusion of this variation increases the landscaped area to 440m² or 60%, presenting a compliant landscaped area.

Merit Consideration

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

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

Comment

The proposed dwelling house consists of a low density residential development sited below tree canopy height. Majority of vegetation will remain, which will retain the existing landscape setting within the immediate vicinity. The proposal is considered to be consistent with the desired future character of the Avalon Beach Locality.

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

Comment

The development includes landscaped areas which consists of dimensions capable for accommodating existing vegetation including the large canopy trees that line the front boundary of the site. In addition it has been proposed to plant two extra native canopy trees within the rear yard. The submitted landscape plan ensures that the bulk and scale of the built form will be mitigated by appropriate vegetation, softening the visual appearance when viewed from the public domain and adjoining properties.

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

Comment

The development is not considered likely to cause any unreasonable impact on the level of solar access to adjoining properties and/or the residents of the subject property. Privacy and amenity is considered to be maintained by existing vegetation and compliant side setbacks, providing future opportunities for further planting.

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

Comment

As previously mentioned, the existing canopy trees and significant vegetation are to be retained to continue the aesthetic of the area and provide visual relief to the bulk and scale of the development.

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

Comment

Natural vegetation and biodiversity will remain unaffected, providing adequate space for future planting and the retention of large native vegetation.

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

Comment

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for Stormwater management and has raised no objections subject to conditions included in the recommendation of this report. Stormwater runoff is not expected result in any unreasonable impacts to soil erosion and siltation of natural drainage channels.

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

Comment

The subject site is located within, and is surrounded by, residential zones, however the proposal has addressed the incorporation of appropriate landscaping and retention of well established trees. Furthermore, preserving the bushland character that may be present in the Avalon Beach Locality.

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

Comment

Notwithstanding the shortfall in landscaped area, the site still maintains an adequate area of soft surface to provide the infiltration of stormwater.

Having regard to the above assessment, it is concluded that the outcomes of the clause have been achieved. Therefore, the application is supported on merit 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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$10,740 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,074,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/1779 for Demolition works and construction of a dwelling house including an attached secondary dwelling and swimming pool on land at Lot B DP 396339, 11 Hilltop Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A01 - Site Plan and Notes Rev. C	22 May 2021	P. A. Byrne Constructions
A02 - Ground Floor Plan Rev. C	22 May 2021	P. A. Byrne Constructions
A03 - Level 1 Floor Plan Rev. C	22 May 2021	P. A. Byrne Constructions

A04 - Level 2 Floor Plan Rev. C	22 May 2021	P. A. Byrne Constructions
A05 - Elevations Sheet 1 Rev. C	22 May 2021	P. A. Byrne Constructions
A06 - Elevations Sheet 2 Rev. C	22 May 2021	P. A. Byrne Constructions
A07 - Sections Sheet 1 Rev. C	22 May 2021	P. A. Byrne Constructions
A08 - Sections Sheet 2 Rev. C	22 May 2021	P. A. Byrne Constructions
A13 - Excavation & Fill Plan Rev. A	22 May 2021	P. A. Byrne Constructions
A14 - Demolition Plan Rev. A	22 May 2021	P. A. Byrne Constructions
A20 - Pool Plan and Section Rev. C	22 May 2021	P. A. Byrne Constructions

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Management Design	7 June 2021	Water Design Civil Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation Report (#J3055A)	2 June 2021	White Geotechnical Group
BASIX Certificate (#1158389M_02)	5 July 2021	BASIX Certificate Centre

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
A10 - Landscaping Plan Rev. C	22 May 2021	P. A. Byrne Constructions

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	18 January 2021	Phillip Byrne

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 2021

A monetary contribution of \$10,740.00 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 2021. The monetary contribution is based on a development cost of \$1,074,000.00.

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 2021 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

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

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

5. **Security Bond**

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

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

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

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

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

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

6. **Stormwater Disposal**

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

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **No Clearing of Vegetation**

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

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

Reason: To protect native vegetation.

9. **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.

10. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The proposed canopy tree located at the rear of the property to the north is to be located further south with consideration to No. 2A Chisholm Crescent view corridor to the west.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

11. Building Code of Australia Report (Class 2-9)

The proposed works will create a three storey Class 2 building required to be of Type A Construction.

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Registered Certifier* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

**To be regarded as an "appropriately qualified registered certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.*

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for the building occupant's health and safety.

12. Structural Adequacy and Excavation Work

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

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

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

Reason: To provide public and private safety.

13. 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.

14. External Colours and Finishes

The external colours and finishes to the external walls and roof shall have a medium to dark range (BCA classification M and D). Light colours such as off white, cream, silver or light grey colours are not permitted. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure building colours and materials compliment and enhance the natural landscapes and to ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

15. Sydney Water "Tap In"

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

Please refer to the website www.sydneywater.com.au for:

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. Pre-Construction Dilapidation Report

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

Property / Properties:

- 9 Hilltop Road, Avalon Beach
- 13 Hilltop Road, Avalon Beach

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

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**17. Tree and Vegetation Protection**

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

- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) 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.

The Certifying Authority must ensure that:

c) 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. **Removing, Handling and Disposing of Asbestos**

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

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

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

20. **Survey Certificate**

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

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

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

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

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

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

approved plans.

21. Traffic Control During 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.

22. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

23. Landscape Completion

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

- i) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 5.0 metres from buildings, 2.0 metres from structures including driveways, kerbs, walling and paths, and at least 2.0 metres from common boundaries,
- iii) continuous shrub planting capable of achieving 3.0 metres in height at maturity shall be planted along the side boundary to the full extent of the swimming pool and paved surrounds, and shall be planted at minimum 1 metre intervals,
- iv) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space or solar collectors, and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

Prior to the issue of an Occupation Certificate, details 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.

Note: Please consider registering your new tree through the link below to be counted as part of

the NSW State Governments 5 Million trees initiative.
<https://5milliontrees.nsw.gov.au/>

24. Stormwater Disposal

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

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

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

25. Certification of Landscape Plan

Landscaping is to be implemented in accordance with the approved Landscape Plans (P.A Byrne Constructions 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.

26. No Weeds Imported On To The Site

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

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

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

27. Post-Construction Dilapidation Report

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

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

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

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

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

28. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted

to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

29. **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.

30. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

31. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

32. **Removal of All Temporary Structures, Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

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

33. **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.

34. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

35. Swimming Pool/Spa Motor Noise

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

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

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

Signed



Brittany Harrison, Planner

The application is determined on 23/02/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments