

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2015
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 100 DP 1250837, 163 Riverview Road AVALON BEACH NSW 2107
Proposed Development:	Alterations and Additions to a dwelling house and construction of a swimming pool
Zoning:	E4 Environmental Living W1 Natural Waterways
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Geoffrey Howard Lee Yin Lee
Applicant:	Turnbull Planning International Pty Ltd

Application lodged:	19/12/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	31/12/2018 to 29/01/2019
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 997,702.00
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Executive Summary

This report is submitted to the Local Planning Panel for the consideration of Development Application DA2018/2015 for alterations and additions to the existing dwelling at 163 Riverview Road, Avalon Beach.

In the case of this application, the four levels of the existing dwelling house are to remain but reconfigured with internal changes, new access and balcony elements and a new roof form. The existing carport will be modernised to a garage. External works include an inclinor, a new swimming pool and associated decking and landscaping.

The site is known as 163 Riverview Road and has a total area of 1010m². The site is located on the eastern side of Riverview Road. The site experiences significant fall from the top of the site to the rear high water mark of Pittwater waterways.

The proposed alterations and additions are to be made to a "dwelling house" as defined under the Pittwater Local Environmental Plan (PLEP) 2014 and is permissible with consent in the E4 Environmental Living Zone. The proposed development has been assessed against the applicable planning controls for the site including the relevant provisions of Pittwater LEP 2014. The application does not comply with the building height development standard of 8.5m. Therefore, the applicant has lodged a request under Clause 4.6 for variation to the development standard.

In the circumstances of the very steep site conditions, the breach is largely unavoidable due to the slope of the land. Therefore, the variation to the development standard of 8.5m, while continuing to allow for a consistent architectural style throughout the entire building, is not considered unreasonable and essentially the encroachment does not result in any unreasonable impacts to any surrounding properties.

The application has also been assessed against the planning controls of the Pittwater 21 Development Control Plan, and whilst there are some minor variations to the built form as a result of the proposal, they are found to be generally consistent with the relevant requirements. In this regard, the built form will integrate into the landscape and continue to sit comfortably with adjoining and surrounding residential dwelling houses.

The proposed development was notified for a period of 14 days. During this period, one (1) submission was received, which has been addressed in detail in the notification section of this report.

The assessment report concludes that the proposed design is a visually modernised improvement of the existing dwelling house, with an improved integration with the landform and landscape and provides continued consistency with surrounding developments. This report recommends that consent be granted to this application in accordance with recommended conditions.

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 - Zone E4 Environmental Living
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 5.7 Development below mean high water mark
Pittwater Local Environmental Plan 2014 - 5.9 Preservation of trees or vegetation
Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality
Pittwater 21 Development Control Plan - B3.1 Landslip Hazard
Pittwater 21 Development Control Plan - B5.10 Stormwater Discharge into Public Drainage System
Pittwater 21 Development Control Plan - B5.11 Stormwater Discharge into Waterways and Coastal Areas
Pittwater 21 Development Control Plan - B5.12 Stormwater Drainage Systems and Natural Watercourses
Pittwater 21 Development Control Plan - B5.13 Development on Waterfront Land
Pittwater 21 Development Control Plan - C1.1 Landscaping
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.4 Solar Access
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways
Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run
Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place
Pittwater 21 Development Control Plan - D1.8 Front building line
Pittwater 21 Development Control Plan - D1.9 Side and rear building line
Pittwater 21 Development Control Plan - D1.11 Building envelope
Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land
Pittwater 21 Development Control Plan - D1.17 Construction, Retaining walls, terracing and undercroft areas

SITE DESCRIPTION

Property Description:	Lot 100 DP 1250837 , 163 Riverview Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site is a single residential allotment located on the eastern side of Riverview Road, Avalon Beach.</p> <p>The property is located within land zoned for E4 Environmental Living pursuant to the Pittwater Local Environmental Plan 2014. The site is also located within the Coastal Zone and is subject to estuarine and geotechnical hazards.</p> <p>The site is regular in shape and has a total area of 1010m². The property has a street frontage of 14.885m and depths of 62.66m and 59.13m respectively, measured from the front boundary to the Mean High Water Mark (M.H.W.M). The site fronts onto the Pittwater Waterway. At present, the site</p>

accommodates a detached double carport on the front boundary, a four (4) storey dwelling house, and a detached jetty/pontoon structures on the waterway.

The site has numerous trees throughout that were established prior to the construction of the dwelling house, or have been planted and established since its construction.

Surrounding developments consist of other similar detached dwelling houses, of varying ages, within a landscaped and bushland setting.

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant development applications:

- Development application N0251/98 for additions to the dwelling house was approved by Council on the 08/12/1998.
- Application JC2/0079/98 for the extension to the existing jetty of 5 metres was approved on the 16/06/1998.

A Pre-lodgement Meeting PLM2018/0210

A prelodgement meeting was held on 25 September 2018 between Council staff, the owner/applicant and Town Planning consultant to discuss the alterations and additions to the existing dwelling house, the construction of a swimming pool and inclinor, and associated landscaping.

It was concluded that the proposal could be supported if the issues in relation to landscaping and tree removal were addressed appropriately. It was advised that any future application must address any variation to the Building Height standard pursuant to Clause 4.6 of the Pittwater LEP 2014 for the

variation to Part 4.3 Height of Buildings of the Pittwater LEP 2014.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for alterations and additions to the existing dwelling, including the construction of an inclinor and swimming pool.

Specifically, the application seeks consent for:

- Demolition of the existing roof and construction of a new "butterfly" roof;
- New external balconies;
- Installation of two internal lifts and an external inclinor;
- Internal reconfiguration;
- Swimming pool and associated decking; and
- Concrete slab for improved external access from the driveway, external stairs and associated landscaping.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) 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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Nik Samodol	165 Riverview Road AVALON BEACH NSW 2107

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

- Privacy
- Inclinator
- Noise

The matters raised within the submissions are addressed as follows:

- ***Concern was raised that the additional balcony areas and enlarged terraces will create additional overlooking and privacy impacts into the northern neighbour property.***

Comment:

In summary, the proposal has provided design solutions to minimise privacy impacts on the adjoining property.

This includes removal of windows along the northern elevation, privacy screens, and sunscreens. However, there could be additional overlooking and privacy impacts to the northern neighbouring site from the additional balcony and terrace areas. Areas which have been identified as creating overlooking have been appropriately addressed by conditions which require the installation of privacy screens to certain terraces and balconies on Level 0 and Level 2/3.

It is therefore considered that this issue does not warrant refusal or further amendments to the application.

- ***Concern was raised that the proposed inclinator landing adjoining the balcony on Level 0 will have privacy impacts to the northern neighbouring property.***

Comment:

There are concerns that the proposal would result in unreasonable privacy impacts to the northern neighbouring site No.165 Riverview Road. It is recognised that the inclinator is closer to the northern side setback, and there could be additional privacy and overlooking issues due to the line of travel proposed by the inclinator.

Conditions are to be imposed to ensure that the inclinator will contain a non-transparent (solid) screen on the northern elevation of the carriage, and a privacy screen adjacent to the landing area on the northern elevation of the Level 0 terrace area to mitigate further privacy impacts from the inclinator.

It is considered that this issue does not warrant refusal or further amendments to the application.

- ***Concern is raised that the pool pump and the inclinator will create additional acoustic***

impacts for the Northern neighbouring property.

Comment:

The development is not expected to produce an unreasonable noise level above the level of normal residential use that is produced on all other similar sites that include inclinators.

The noise from the inclinator has been assessed by Councils Environmental Health (Industrial) officers, and a condition regarding the level of noise generated by the inclinator has been imposed. The condition requires that the noise from the mechanical motor for the inclinator is not to exceed 5dB (A) over the ambient background noise level when measured at the nearest property boundary. This is to ensure reasonable levels of acoustic amenity is maintained.

The swimming pool pump is also conditioned to be located away from the northern side boundary, and enclosed in a sound proof enclosure.

Therefore, the proposal is not likely to result in unreasonable noise issues. However, if noise levels are created that intrude on the amenity of the neighbours, Councils Environmental Compliance Business Unit can be contacted, as the Protection of the Environment Operations Act 1997 enables Council to take action.

It is considered that this issue does not warrant refusal or further amendments to the application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	There are no objections or conditions to be imposed that relate to the property being within the mapped area for Class 5 Acid Sulfate Soil.
Environmental Health (Industrial)	There is no objection to the proposed development, specifically the lift and inclinator, subject to conditions.
Landscape Officer	<p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of existing trees and vegetation, and completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls:</p> <ul style="list-style-type: none">• B4.22 Preservation of Trees or Bushland Vegetation• C1.1 Landscaping
NECC (Bushland and Biodiversity)	Revised plans were provided on the 25/03/2019 (Landscape Plan L-01 Rev I, prepared by Space Landscape Designs dated 30/04/2018, Architectural Plans Sheets A101 through to A114, Review 3 prepared by Blue Sky dated 21/03/2019). The plans show retention of T16 and the existing pedestrian pathway adjacent T16, and removal of T1, T7, T8 and T11. The applicant proposes to replace T7 with a <i>Ceratopetalum Gummiferum</i> , however this is not identified on the revised Landscape Plan.

Internal Referral Body	Comments
	<p>The retention of T16 and the existing pathway is considered to meet the requirement of <i>designed and sited to avoid and minimise impact to native vegetation (including significant canopy trees)</i>.</p> <p>The revised Landscape Plan has not been amended to include replacement planting for the trees proposed for removal and 80% species from the Pittwater Spotted Gum EEC, as per Biodiversity's initial assessment.</p> <p>A condition will be imposed as follows:</p> <p>A revised Landscape Plan is to be provided prior to CC that shows:</p> <ul style="list-style-type: none"> • A minimum of 4 replacement canopy trees (minimum mature height of 8.5m) of species from the Pittwater Spotted Gum EEC; • Plantings (including understorey shrubs and grasses) that include a minimum 80% species from the Pittwater Spotted Gum EEC.
NECC (Coast and Catchments)	<p>Estuarine Risk Management</p> <p>The property at 163 Riverview Road, Avalon Beach has been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>Based upon the survey lodged in support of the DA, the foreshore edge treatment type for the subject site appears to be a vertical seawall with a variable crest height around RL 2.0m AHD. As such, in accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.72m AHD has been adopted by Council for this property.</p> <p>New development the subject of this DA is shown as occurring above a minimum level of RL 4.5m AHD (inclinator landing) i.e. above the base EPL. The proposed development is therefore able to satisfy the relevant requirements of the Estuarine Risk Management Policy and associated B3.7 Estuarine Hazard controls subject to conditions.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 12 Development on land within the coastal vulnerability area</p> <p><i>Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p>

Internal Referral Body	Comments
	<p>(a) <i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i></p> <p>(b) <i>the proposed development:</i></p> <p>(i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i></p> <p>(ii) <i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i></p> <p>(iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i></p> <p>(c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i></p> <p><u>Comment:</u> The subject land has not been included on the Coastal Vulnerability Area Map under <i>State Environmental Planning Policy (Coastal Management) 2018</i> (CM SEPP) and in regard to clause 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.</p> <p>As such, it is considered that the application complies with the requirements of <i>State Environmental Planning Policy (Coastal Management) 2018</i> as they relate to development on land identified as a coastal vulnerability area or land that may be affected by coastal hazards.</p>
NECC (Development Engineering)	<p>The site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achievable in accordance with the Geotechnical Report provided by White Geotechnical Group. The existing vehicular crossing is satisfactory. There is no Development Engineering objection subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>This application is recommended for approval with conditions.</p> <p>There is some disagreement in the application about work required on the stormwater discharge point to Pittwater. The SEE says: "the current stormwater collection system and dispersal into Pittwater will be maintained as part of the development."</p> <p>If this is so, the condition relating to the stormwater discharge point into Pittwater will not apply.</p> <p>The stormwater plan provides detail relating to a "SN150 pipe to penetrate seawall and discharge directly into Pittwater Waterway" (DR-001 provided by Stellen Consulting with detail on DR-</p>

Internal Referral Body	Comments
	<p>004). These drawings suggest that this will be new work. Council no longer accepts stormwater disposal via pipes that penetrate a seawall. This does not meet the requirements of Pittwater 21 DCP B5.11 Stormwater Discharge into Waterways and Coastal Areas - the discharge system will minimise the visual/environmental impact of any drainage discharge structure along the foreshore.</p> <p>It also doesn't meet the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Under Part 2, Division 4: Coastal Use Area 14) (1) Development must not be granted to development on land that is within the coastal use area unless the consent authority: (a) has considered whether the proposed development is likely to cause an adverse impact on the following: (iii) the visual amenity and scenic qualities of the coast.</p> <p>Typically a keyhole design is required where the outlet is recessed into the seawall with rip rap below the outlet to prevent scour. Nothing should protrude beyond the sea wall.</p> <p>The design incorporates a trash screen, which is acceptable.</p> <p>Sediment and erosion controls must be installed prior to any work on site and maintained until work is complete and groundcover has been re-established.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A334532 and 07 December 2018). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A334532 and 07 December 2018).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

The subject site is identified as being located within the Coastal Use Area under the provisions of SEPP (Coastal Management) 2018. Upon review of the application, Council can be satisfied of the matters prescribed by clauses 13, 14 and 15 of this policy.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	15.1m	77%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone E4 Environmental Living

The development proposed is found to be consistent with the following Outcomes of the E4 Environmental Living zone:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- To ensure that residential development does not have an adverse effect on those values.*
- To provide for residential development of a low density and scale integrated with the landform and landscape.*

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

The proposed development is found to have a acceptable impact on significant vegetation on the site, as detailed in the Landscape Officer and Biodiversity comments elsewhere in this report.

The documentation accompanying the proposed structure contains sufficient information for Council to be satisfied that the development will integrate with the landform and landscape and be consistent with surrounding developments.

4.3 Height of buildings

The dwelling has a maximum height of 15.1m, measured from interpolated natural ground levels, which exceeds the maximum 8.5m building height standard under PLEP 2014.

However, PLEP 2014 cl. 4.3 Height of buildings subclause (2D) provides that development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

Thus, provided all of the requirements of clause 4.3(2D) are satisfied—in that regard, see below—the development may exceed a height of 8.5m, but not be more than 10.0m.

Thus, as the majority of the news works are above the 8.5m building height and the 10m building height, not all of the requirements of clause 4.3(2D) are satisfied. Therefore, the relevantly applicable maximum height development standard is 8.5m, subject to the application and operation of clause 4.6 of PLEP.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	15.1m
Percentage variation to requirement:	77%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings, has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

Comment:

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

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

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

cl 4.6(3)(a).

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

Comment:

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

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part:

*"We respectfully submit that the written request justifies the contravention of the height of build
(a) compliance with the development standard is unreasonable or unnecessary in the circumst
(b) there are sufficient environmental planning grounds to justify contravening the developmen*

Further, the written request shows that the proposed development will be in the public interest

Accordingly, we respectfully submit that the written request is well founded as the variation so

Therefore applicants written request argues, in part:

- The proposed breach relates to the steep topography of the site;

- The proposed breach does not result in any unreasonable overshadowing of adjoining properties;
- The proposed breach does not result in any view loss impacts from the public domain;
- The proposed breach does not result in any loss of privacy for neighbouring properties;
- The proposed breach does not result in any adverse visual impact given the overall improved articulated nature of the dwelling, and due to the dense vegetation surrounding the site;
- The proposed breach does not detract from compliance with the E4 Environmental Zone objectives.

In the circumstances of the very steep site conditions, variation with the development standard of 8.5m while continuing to allow for a consistent architectural style throughout the entire building, is not considered unreasonable.

It is agreed that the breach is largely unavoidable due to the considerable slope of the land and essentially the encroachment does not result in any unreasonable impacts to any surrounding properties.

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

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

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

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

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

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

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

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

character of the locality,

Comment:

The development is for the alterations and additions to the existing four (4) storey dwelling house. The proposal reflects the established built form character of the immediate Riverview Road area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access.

In this case, the four levels are to remain but reconfigured with internal changes, new access and balcony elements and a new roof form. It is the new roof form and the balcony additions that contributes to the noncompliance.

Although the design of the alterations is more contemporary and architecturally unique when compared to the more traditional style of surrounding development, the residential nature of the development and the non-compliance, is considered to be consistent with the objectives of the zone and the urban context of the local area.

The development satisfies this objective.

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

Comment:

The development is located on the downward slope of the Riverview Road escarpment which is characterised by undulating topography to the Pittwater water high water mark. This results in variable built forms along the road, such that there is an eclectic mix of height and scale in which to be compatible with.

Notwithstanding, the overall height of the development is below the existing RL38.45 at RL37.09 (reduced by 1.36m as shown in Figure 1 below) due to the change in the roof design, and continues to be representative of a four (4) storey development when viewed from properties to the north and west and a two (2) storey development when viewed from the upslope of Riverview Road.

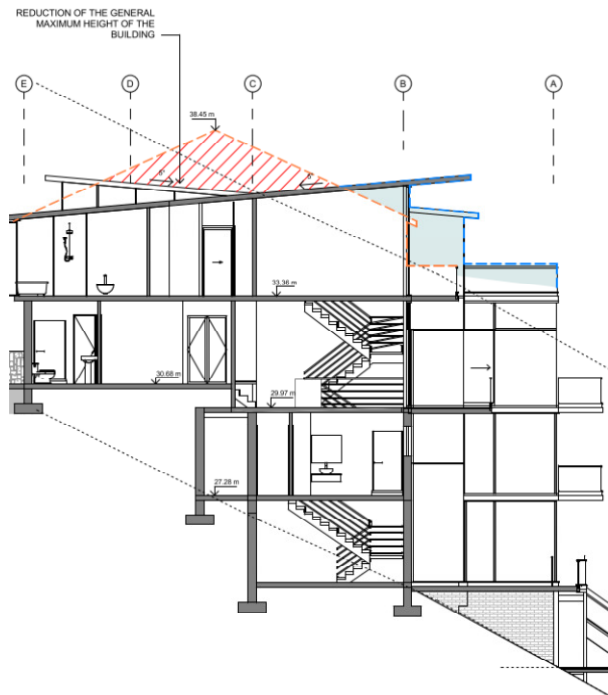


Figure 1: Existing and proposed roof height

The non-compliance is located at the western edge of the roofline and of the balcony of Level 4 and the additional balconies of Level 2/3. It is noted that a reduction to the height would not achieve compliance and will not reduce the scale of the building to any significant extent such that it would appear as smaller than the existing.

Because of the topographical nature of the site and the local area, the resulting variety of built forms along Riverview Road and the overall compliance of the development to the standard, the noncompliance is considered to be relatively minor and does not unreasonably conflict with the height and scale of surrounding and nearby development. In this context, the proposed height is considered to be compatible.

The development satisfies this objective.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The development application includes shadow diagrams which are certified by the architect (see Plan No. A114 dated 21 March 2019 as prepared by Blue Sky Designs). The diagrams indicate that the development will cast shadow over the neighbouring property to the south (No. 165 Riverview Road) between 9.00am and 12.30pm on 21 June.

However, it should be noted here that overshadowing is controlled by Clause C1.4 Solar Access in the Pittwater DCP 2014 which requires that at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of three hours of sunlight between 9.00am and 3.00pm on June 21. In this regard, the diagrams indicate that the development will overshadow the rear private open space of the neighbouring property. However this private open space will receive a minimum of 3 hours of sunlight. The development therefore complies with the requirements of that particular control.

Notwithstanding, it is estimated that modifying the height of the development to comply would

not result in any notable improvement such that it would reduce the above degrees of overshadowing. Given the finding in this clause, the development satisfies this objective.

d) to allow for the reasonable sharing of views,

Comment:

It is acknowledged that the non-compliance along the western edge of the proposed roof, the additional increase in the level four southern wall plane, and the proposed balconies do not impact the viewing angle from the properties to the north No.165 Riverview Road or south No.161 Riverview Road. The sweeping range of views available from the internal areas and balconies of both properties which remain intact.

The height non-compliance does not have an unreasonable impact upon the existing views from the opposite side of Riverview Road of Pittwater water views due to the higher placement/vantage point of these properties. The views from these dwelling houses are likely to be improved and enhanced as a result of the proposal, as the height and bulk and scale of the roofline is less than what is currently on the site.

The development satisfies this objective.

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

Comment:

The proposal is designed to respond the topographical constraints of the site. The proposals design with the open style rear balcony areas, provides a more "stepped" look when viewed from the rear and the neighbouring properties. The proposal reflects the established built form character of the immediate Riverview Road area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access.

The development satisfies this objective.

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

Comment:

Despite the topographical constraints of the site, the developments design creates additional articulation, and visual interest and is sufficiently setback from the boundaries such that the visual impact of the building will be appropriately managed.

Active living spaces are located towards the rear of the dwelling house and away from the street, thus maintaining acoustic and visual privacy for occupants.

Existing landscaping has been retained wherever possible and will soften and filter the built form. Therefore, the proposal will be sufficiently integrated into the existing landscaped setting.

The development satisfies this objective.

Zone objectives

The underlying objectives of the zone are:

The underlying objectives of the E4 Environmental Living zone

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

Comment:

The proposed alterations and additions will be low-impact and have been designed to respond sensitively to the steep topography. The dwelling house will provide the occupants an increased level of amenity without causing unreasonable impacts to adjoining neighbours or to the site itself. The development does not result in any adverse impact to the native natural environment as significant trees are maintained, additional landscaping will be incorporated, in addition to the proposal requiring minimal excavation for the supporting posts and foundations.

As such, the development is consistent with this stated objective.

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

Comment:

The landscaping of the site will preserve many of the existing trees on the site and include additional plantings to compensate for the trees that are to be removed as part of the proposal.

Landscaping will be integrated into the building design. The landscaping softens and screens the built form when viewed from the Riverview Road streetview and the Pittwater water foreshore. The natural landscaped bushland to be brought into the subject property will ensure that the proposed dwelling house sits within a natural setting and below the existing tree canopy.

As such, the development is consistent with this stated objective.

- *To provide for the continuance of a limited range of existing small-scale water-related business and leisure uses.*

Comment:

This is not applicable for this application.

- *To ensure that development, by way of its character, design, location and materials of construction, is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.*

Comment:

The development will be of a minor scale, that will be integrated with the existing dwelling and the very steep landform. Landscaping has been designed to respond to difficult constraints, and will screen and soften the proposed built form. The design is open and responding to the natural vegetated context in which the site is located.

The development will not dominate the existing bushland environment. The bulk and scale is consistent with the surrounding area and the existing landscaping has been retained and will allow for and accommodate an integrated landscaped setting.

Privacy, amenity and solar access are provided for within the proposed development. Therefore, the proposed development will have a negligible impact on surrounding residences.

As such, the development is consistent with this stated objective.

- *To protect and enhance the natural landscape by conserving remnant bushland and rock outcrops and by encouraging the spread of an indigenous tree canopy.*

Comment:

The development will retain the existing riparian and foreshore vegetation and continue to maintain the existing trees for the wildlife corridors. The proposal seeks to minimise the removal of the listed endangered ecological community and replanting of the removed native vegetation is proposed as part of the application. Significant rock outcrops on the site are to be retained as part of this proposal.

As such, the development is consistent with this stated objective.

Conclusion:

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

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel, for which Council has an exemption for dwelling houses that can be determined by the Development Determination Panel. However, this exemption has expired and renewal has been sought, thus requiring the matter to be determined by the Local Planning Panel.

5.7 Development below mean high water mark

The application does not include any works below the mean high water mark.

5.9 Preservation of trees or vegetation

A landscaping plan has been submitted with the application (Landscape Plan L-01 dated 30/4/2018) as well as an Aborisit Report (Urban Forest Australia dated December 2018). Councils Landscaping and Biodiversity officers have assessed the proposal and consider the impact of the development on the existing trees and vegetation to be reasonable, subject to the imposed conditions.

7.1 Acid sulfate soils

The site is identified as being partly within 'Class 1' and partly within 'Class 5' on the Acid Sulfate Soils Map.

The proposed development involves minor earthworks in relation to the construction of the proposed swimming pool and inclinator. Due to the sloping nature of the site, there is minimal excavation as part of the proposal. The proposed earthworks do not involve the disturbance of more than one tonne of soil, which is the trigger for an Asset Sulfate Soil Management Plan (ASSMP). Therefore, a ASSMP is not required.

In addition, the water table will also not be affected by the proposed works.

Councils Environmental Health Officers have reviewed the application and have no comments and/or conditions in regards to Acid Sulfate Soil.

7.2 Earthworks

A Geotechnical Assessment has been prepared by White Geotechnical Group, Reference No. J1707, dated 22 November 2018. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposals required excavation.

Accordingly, Councils Landscape and Biodiversity officers have concluded that the impact of the earthworks will not unreasonably impact or disrupt vegetation on the property.

7.6 Biodiversity protection

A landscaping plan has been submitted with the application (Landscape Plan L-01 dated 30/4/2018) as well as an Aborisit Report (Urban Forest Australia dated December 2018). Councils Landscaping and Biodiversity officers have assessed the proposal and consider the impact of the development on the existing biodiversity to be reasonable, subject to the imposed conditions.

7.7 Geotechnical hazards

A Geotechnical Assessment has been prepared by White Geotechnical Group, Reference No. J1707, dated 22 November 2018. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposal on sloping land.

7.8 Limited development on foreshore area

The application proposes minor works within the foreshore area, including:

- The construction of a inclinator track
- The construction of an inclinator landing and access ramp to the existing pathway

The applicant has not provided a statement to confirm that all proposed works are permissible within the foreshore area and consistent with the provisions clause 7.8 of PLEP 2018, however the minor works proposed are permissible within the foreshore area.

It is concluded that the the proposed inclinator track, landing and access ramp will be consistent with the provisions of the control. The proposed new access ramp is supported as the footprint of the development remains consistent with that currently on site, the proposed works are not visually dominant, and consistent with the design criteria of the control.

Overall, the proposed development will achieve consistency with the provisions of this control.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	0.0m Garage 8.2m Inclinator 14.6m Dwelling	100% - -	No Yes Yes
Rear building line	6.5m	29.4m New decking 23.9m Rear lift 22.7m Swimming pool 1.1m Inclinator landing	- - - 83%	Yes Yes Yes No
Side building line	1m Northern	1.08m - 1.9m Swimming pool 1.3m - 1.5m Coping 1.2m Pool decking 1.8m Floor Decking 2/3 level 0.5m - 0.7m Inclinator track 1.4m - 2.3m Dwelling wall 4 level 1.0m - 1.7m Privacy screen	- - - - 45% - -	Yes Yes Yes Yes No Yes Yes
	2.5m Southern	1.6m Dwelling (existing) 1.6m Rear deck	- 36%	Yes No
Building envelope	3.5m	Outside envelope	-	No
	3.5m	Outside envelope	-	No
Landscaped area	60%	60% (565sqm)	-	Yes

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
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.8 Estuarine Hazard - Medium Density Residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	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	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	No	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The development is consistent with the Desired Character statement of the Avalon Beach Locality with exception of the third and fourth storey element of the dwelling.

Specifically, the locality statement provides that the *"locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape"*.

However, the third and fourth storey elements are existing, and the proposal is for alterations to the dwelling house including the existing third and fourth floor with no significant excavation.

In this regard, the built form will continue to sit comfortably with adjoining and surrounding two, three and four storey residential development. Also, consistent with adjoining development, the built form is located downslope in steep topography and therefore proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the locality.

B3.1 Landslip Hazard

A Geotechnical Assessment has been prepared by White Geotechnical Group, Reference No. J1707, dated 22 November 2018. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposal on sloping land.

B5.10 Stormwater Discharge into Public Drainage System

Subject to compliance with applied conditions, the proposal is considered to meet the requirements of this clause.

B5.11 Stormwater Discharge into Waterways and Coastal Areas

Subject to compliance with applied conditions, the proposal is considered to meet the requirements of this clause.

B5.12 Stormwater Drainage Systems and Natural Watercourses

Subject to compliance with applied conditions, the proposal is considered to meet the requirements of this clause.

B5.13 Development on Waterfront Land

Subject to compliance with applied conditions, the proposal is considered to meet the requirements of this clause

C1.1 Landscaping

The submitted Landscape Plan (Landscape Plan L-01 dated 30/4/2018) shows that there are trees to be removed as part of the application. However, additional trees and vegetation will be incorporated on the property. Therefore, the proposal is not to the detriment of any existing flora and fauna in the local area and is consistent with the provisions of the Plan.

C1.3 View Sharing

The views from the subject site and adjoining properties are mainly to the west and include Pittwater water views. The proposed works to the existing dwelling have been sited generally within the footprint of the existing dwelling, to minimise any impacts on views enjoyed by the neighbours to either side. Areas protruding the current footprint are open style balconies, with glass balustrades to ensure there is no unreasonable obstruction into any view lines of the northern and southern adjoining neighbours.

Dwellings on the opposite side of Riverview Road and upslope from the site obtain views of Pittwater over the roof of the existing dwelling. These views are likely to be enhanced as a result of the proposal, as the overall height of the roofline is less than what currently exists on the site.

C1.4 Solar Access

The application was supported by shadow diagrams by Blue Sky Designs, dated 21 March 2019.

Overall, the proposal is considered to be designed and sited to maximise solar access to adjoining dwellings during mid-winter, with a reasonable level of solar access maintained by adjoining properties.

Furthermore, the proposed development, with additional windows to the north and west have been sited to maximise solar access in midwinter, reducing the need and dependence on artificial lighting. As such, despite the additional overshadowing resulting from the proposal, the development is consistent with the outcomes of this control.

C1.5 Visual Privacy

Having regard to this localised situation, the assessment of privacy is to be based on the principle of not creating additional unreasonable impacts on the existing level of privacy between neighbours.

Due to the sloping topography, the proposed works are elevated above ground such that additional overlooking could occur. However, the development has been generally designed to satisfactorily address overlooking by undertaking the following privacy mitigation measures:

- The use of metal privacy screens, sunscreens and timber screening for Level 4 of the northern elevation
- The use of timber privacy screens on the northern elevation adjoining the pool area
- An existing door adjacent to the Level 0 games room on the northern elevation replaced with a window
- Part of the deck on Level 0 adjoining the northern side boundary is to be removed
- No additional windows for the southern elevation.

A submission has been received from the owners of the northern adjoining dwelling at 165 Riverview Road raising concerns with regard to potential overlooking associated with balcony and inclinator landing areas.

To prevent overlooking within 9m and to achieve consistency with this development control, conditions of consent are recommended to require:

- A fixed privacy screen is to be erected along the northern edge of Level 0 terrace area due to the intensified usage and potential additional overlooking created by the new inclinator landing area

- A fixed privacy screen is to be erected along the northern edge of Level 2/3 terrace due to the increase in size of the private open space area directly adjoining the kitchen area of the dwelling

Privacy screens have not been imposed on the balconies of Level 1 as there is no change to the existing balconies adjoining the bedrooms, nor the balconies of Level 4 as these balconies also adjoining bedrooms and are in a very elevated position. It is considered that overlooking from a living area is more objectionable than overlooking from a bedroom where people spend less waking time. Due to this feature being directly associated to bedrooms, it is not considered that privacy treatments are required and privacy levels are considered to be reasonable within the residential context of the site.

A privacy screen has not been proposed for the additional balcony area on Level 2/3 adjoining the lounge room 1 as this balcony is an extension of the existing balcony, there is sufficient spatial separation and no unreasonable additional direct overlooking into the southern neighbouring site.

Therefore, subject to conditions of consent, the proposal is considered to optimise privacy through good design and provide a sense of territory and safety for residents, consistent with the outcomes of this development control.

C1.6 Acoustic Privacy

The acoustic levels would be consistent with current residential living. However, the new pool filter and the inclinator motor are to be conditioned so as not to cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Industrial Noise Policy. The condition will ensure compliance with an acceptable noise level as established under best practice guidelines.

C1.19 Incline Passenger Lifts and Stairways

The proposed inclinator has a side boundary setback of 0.5m to 0.7m which is less than the minimum 2.0m requirement of the control. The inclinator location has been designed to work with the constraints of the site (namely the steep topography, rock outcrops and existing canopy trees). Therefore, full compliance with the 2.0m requirement is not able to be achieved.

Notwithstanding, the non-compliance is supported as being reasonable for the following reasons;

- There is no excessive excavation, or the removal of natural rock or trees,
- It is to be erected as near as possible to the ground level (existing) of the site, and
- Is located alongside the northern adjoining properties existing inclinator.

The noise of the inclinator will be conditioned so not to demonstrate a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Industrial Noise Policy.

A condition will also require that the carriage of the inclinator is also to be fitted with a solid screen on the northern elevation to ensure that privacy levels to the neighbouring site is maintained. A condition will also be imposed to ensure there are no lights fitted to the carriage of the inclinator, and that the carriage is to be a dark colour so that the inclinator blends in with the surrounding vegetation.

C1.25 Plant, Equipment Boxes and Lift Over-Run

To ensure that the swimming pool pump does not give rise to any adverse acoustic impacts a condition will be imposed to ensure the swimming pool pump is contained within a sound proof enclosure.

The placement of the proposed lift within the existing dwelling house footprint will ensure there is no adverse amenity impacts to the surrounding sites.

D1.1 Character as viewed from a public place

The existing dwelling house is orientated towards the Pittwater Waterway. The dwelling whilst large, has a proposed design that is well articulated and will have a lesser visual impact than the dwelling that is currently situated on the site. The visual impact of the proposed works will be lessened over time with the growth of the proposed landscaping, and ultimately, there will be a significant improvement in the presentation to Pittwater.

D1.8 Front building line

The proposed alterations and additions to the dwelling house comply with the required front setback.

However, the proposed garage continues the existing non-compliance with the front setback at 0.0m.

It is noted that the proposed stair access concrete slab platform encroaches within Council's Road Reserve. No Owner's Consent has been issued by Council to allow for this encroachment and accordingly, a condition will be imposed to require an Encroachment Application to be submitted to Council to obtain owners consent prior to the issue of the Construction Certificate.

The garage development as proposed is found to be consistent with the following Outcomes of D1.8 Front building line:

- *To achieve the desired future character of the Locality.*
- *The amenity of residential development adjoining a main road is maintained.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Vehicle manoeuvring in a forward direction is facilitated.*
- *To encourage attractive street frontages and improve pedestrian amenity.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment

The inclusion of a garage along the front boundary of the property is consistent with the character of the Locality. The use of glazing on the eastern and western elevations will ensure the existing view lines to the street are maintained and thus the garage does not dominating the street frontage. The garage will be located adjoining the existing garage of No. 161 Riverview Road. The retention of the trees and landscaping at the front boundary will soften the built form and is consistent with the bushland character of Riverview Road and the Locality.

D1.9 Side and rear building line

The application includes some minor non-compliances with the side building line requirement of 2.5m (southern) and 1.0m (northern) as detailed within the built form controls table and summarised below:

- 0.5m - 0.7m inclinator track (north)
- 1.0m - 1.7m privacy screening (north)
- 0.1m Garage (south)

The existing carport is located on the front boundary to Riverview Road with an existing 0.1m southern side setback. The proposed carport will retain this existing 0.1m southern side setback which does not comply with the 1.0m minimum setback prescribed.

The proposed rear deck area also does not comply with the 2.5m side setback prescribed by this development control. However, this proposed side boundary distance follows the existing dwelling house setback and has been designed to work with the constraints of the site (namely the steep topography rock outcrops and existing canopy trees).

The proposed inclinator track does not comply with the 1.0m setback, being 0.5m - 0.7m and the required 2.0m setback (C1.19 Incline Passenger Lifts and Stairways). The inclinator is a relatively minimal structure with the largest element being the carriage to carry people up and down the site. The rail will be located as close as possible to ground level depending on the topography. The inclinator is located directly adjacent to the existing inclinator on No.165 Riverview Road, and is consistent with numerous inclinator tracks that are located on neighbouring sites.

The proposed swimming pool and associated decking, are consistent with the 1.0m minimum side setback.

As such, despite the non-compliances, the proposal is considered to achieve consistency with the outcomes of this control and is supportable on merit, as follows:

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

Comment:

The proposed alterations and additions are considered to satisfactorily achieve the desired future character of the Avalon Beach locality.

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

Comment:

Given the site constraints in relation to the topography, foreshore building line and the sensitive nature of the location, the non-compliance's identified are not considered to result in unreasonable or adverse bulk and scale.

The proposed balcony areas are open style, with glass balustrades to minimise the bulk and scale.

The proposed garage is located over the existing hardstand/carport area, and is consistent with adjoining properties that also have garages, such as these at No.s 157, 159, 159a, and 161 Riverview Road. The garage is relatively small in size and continues to allow the ability to site the water views to Pittwater through the existing views corridors from the street. The garage is also surrounded by large existing trees that assist in softening the built form.

The inclinator is a relatively minimal caged structure, with the largest element being the carriage to carry people up and down the site. The rail will be located as close as possible to ground level depending on the topography. The carriage that carries the people will predominately be at a resting location beside a built form structure, i.e. located next to the dwelling house. This minimises any additional visual dominance on the site.

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

Comment:

The proposed works, including the garage have been sited generally within the footprint of the existing dwelling, to minimise any impacts on views enjoyed by the neighbours.

The proposed garage will continue to allow view sharing to Pittwater water views through established view corridors.

Dwellings on the opposite side of Riverview Road and up slope from the site obtain views of Pittwater over the roof of the existing dwelling. These views are likely to be enhanced as a result of the proposal, as the overall height and bulk of the proposal is less than what currently exists on the site.

The inclinator and rear balcony are sited well below street level, therefore providing no additional impact to the public view line.

Views from the neighbouring sites are predominately towards the rear western boundary of their sites, therefore the built form proposed will not unreasonable effect the views lines from the directly adjoining properties.

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

Comment:

The lowering of the existing roofline will create new sight lines across the site toward the Pittwater water way. The location of the dwelling house below street level and the reduction in the overall height of the dwelling has provided a more discreet scale toward Riverview Parade.

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

Comment:

The dwelling has been situated such that privacy between the subject site and the neighbouring properties is adequately maintained. It is considered that the subject development does not result in any unreasonable overshadowing of adjacent properties (as assessed under Cl. 1.4 Solar Access) and provides sufficient privacy measures on windows such as screens to ensure that no unreasonable overlooking occurs. The use of design features such as these privacy screens, and conditioned changes to the inclinator landing and the cage itself by incorporating a solid wall, will ensure that privacy is maintained to the neighbouring site.

Existing significant trees and additional landscaping will assist in providing increased privacy and amenity.

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

Comment:

The development maintains a substantial portion of the property as natural landscaped area. Significant trees are to be maintained in the front and rear setback areas, with additional planting to compensate for the trees to be removed. These existing trees to be retained provide a mature tree canopy. The proposal's presentation within the streetscape is considered significantly improved through replacing the existing old carport with a modern garage, and improving the

landscaping and access within the front setback, which is consistent with the streetscape.

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

Comment:

Given the constraints on the development by virtue of the escarpment location and the siting of the existing structures on the site, some flexibility in applying the required setbacks is considered appropriate in this instance and provides for a development that will preserve the natural environment of the property while providing new recreational areas suited to modern living expectations. The proposal will result in minor non-compliance with the side building lines which have individually been assessed as acceptable.

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

Comment:

As indicated, the site retains the significant trees located with the the front and rear setback area of the site. In conjunction with the new planting proposed under this application throughout the site, the visual presence of the built form will be adequately filtered by vegetation.

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

Comment:

The site does not adjoin a commercial zone, this outcome does not apply to this site.

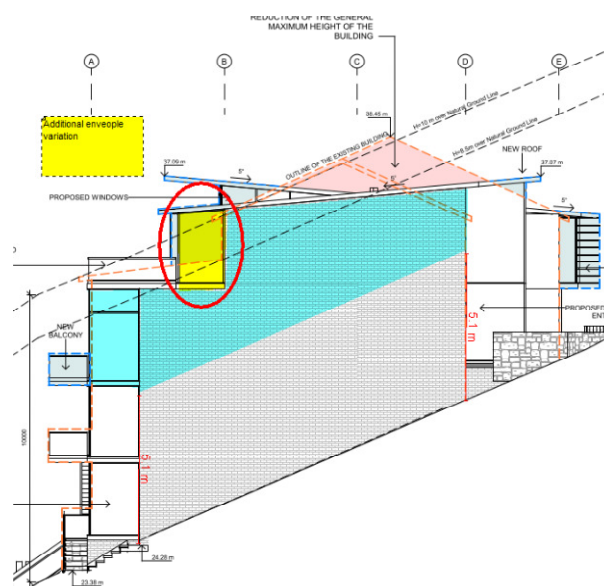
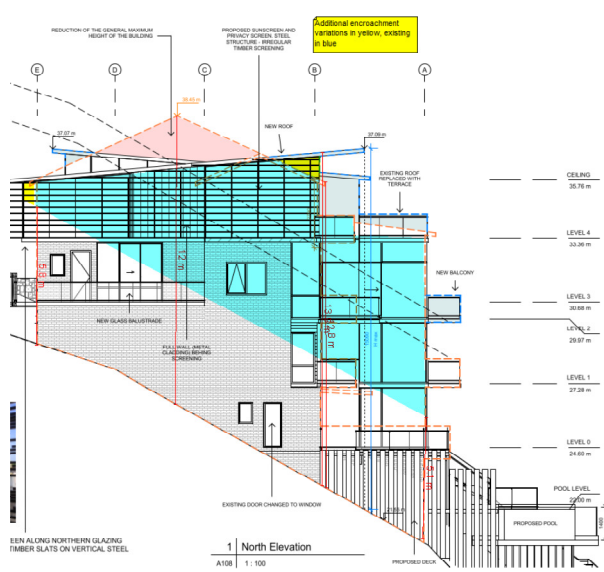
D1.11 Building envelope

The existing dwelling exhibits significant non-compliance with the side building envelope requirements. The proposed development involves additional areas that protrude beyond the existing envelope breach.

These additional non-compliances are minor and include the following:

- Northern Elevation: two additional areas measuring: 1.0m (height) and 0.6m (width) and a triangle 1.0m (height) and 1.8m (width)
- Southern Elevation: one additional areas measuring: 2.7m (height) and 1.5m (width)

In both instances, the non-compliances reflect the transitions within the existing ground line. The resulting built form is not considered unreasonably bulky or dominant and will be suitably in scale with the large trees that dominate the site as shown by Figure 2 and Figure 3 below.



The proposed works are considered to be reasonable solution in light of the constraints of the site and is consistent with the outcomes of the building envelope control, as follows:

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

Comment:

The proposed development is consistent with the desired future character of the Avalon Beach locality.

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

Comment:

The proposed development presents a more modern and improved design, with the new additions being consistent with or below the height of the existing roof line at RL37.09 from RL38.45. Furthermore, the resultant built form will be maintained below the existing tree canopy.

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

Comment:

The proposed new development is considered to be a sensitive design response in consideration of the natural characteristics of the site, with the retention of significant existing canopy trees and the enhancement of landscaping within the front setback and foreshore area.

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

Comment:

The proposed additions are relatively minor in size. The northern elevation variations will be shielded by the proposed privacy screening and landscaping when viewed from the front setback and foreshore area. There is currently existing vegetation along the side boundaries on the subject site and neighbouring sites, which will assist in softening the additional built form. The additional encroachment area directly adjoin the significant wall planes of the adjoining dwelling houses, demonstrating consistency with adjoining development.

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

Comment:

As discussed previously due to the downslope siting of the existing dwelling, the proposed additions will not result in any unreasonable impacts upon views.

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

Comment:

The design of the proposed additions, combined with imposed conditions, will not result in any unreasonable impacts upon the amenity of adjoining properties.

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

Comment:

Vegetation is retained and enhanced within the front setback and foreshore area to reduce the visual impact of the development.

D1.14 Landscaped Area - Environmentally Sensitive Land

The proposed landscaped area does not meet the 60% landscaped area requirement under this control.

The proposed development results in a landscaped area of 515m² or 55% of the site area, which is a minor variation of the 60% minimum requirement of this control. However, the control provides for variations to include pathways and certain hard surfaces (up to 6% of the site associated with recreation areas), if the proposal is consistent with the outcomes of the control. Therefore, when taking into account the variations for outdoor recreational area and pathways to be included as impervious landscape treatments, the revised landscape area is 60% or 565m².

The following is noted:

- The proposed development is consistent with the desired future character of the Avalon Beach Locality of low density houses in a landscaped setting.
- The bulk and scale of the proposal is minimised, and the proposed development maintains a reasonable level of amenity and solar access to both neighbouring properties and the occupants of the subject site.
- The retention of significant trees and existing vegetation will reduce the visual impact of the built form as well as conserve the biodiversity on site.
- No additional on-site stormwater detention would be required to capture additional stormwater run off. The additional hard surface area is predominantly a result of proposed open timber decks.

Due to the inclusion of the pathways and certain hard surfaces, a merit assessment has been undertaken to ensure the proposal is consistent with the outcomes of the control.

The application of the variation is considered to be warranted, as the outcomes of the control are achieved as follows:

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

Comment:

The proposed development is consistent with the desired character of the Avalon Beach Locality.

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

Comment:

A considerable portion of the proposed hard surfaces is comprised of access stairs and uncovered decking, and as such, the resultant built form is not considered to be excessive with regard to bulk and scale.

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

Comment:

The proposed development maintains adequate amenity to adjoining dwellings and significantly improves amenity for occupants of the subject site.

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

Comment:

The proposed development retains significant vegetation on the site, with appropriate enhancement demonstrated in the landscape plans provided.

- *Conservation of natural vegetation and biodiversity.*

Comment:

The proposed development, which is primarily constructed on piers, is a sensitive solution for the constrained site that preserves the natural features and biodiversity.

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

Comment:

Subject to conditions recommended by Council's Development Engineers, stormwater will be appropriately managed on the site.

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

Comment:

The proposed development will preserve and enhance landscaping on the site, to emphasise the natural setting.

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

Comment:

A considerable proportion of the hard surface areas proposed are elevated above ground and permeable, maximising water infiltration. Furthermore, subject to conditions of consent, Council is

satisfied that stormwater will be appropriately managed on the site.

Based on the above, the proposed landscape area in this instance is supported on merit and considered to satisfy the outcomes of the control.

D1.17 Construction, Retaining walls, terracing and undercroft areas

The undercroft area has a maximum height of 3.2m which exceeds the maximum 3.0m requirement of the control. Notwithstanding, the non-compliance is supported AS being reasonable for the following reasons;

- Excavation works and site disturbance are minor and limited to fixing pier and beam steel posts;
- The height of the undercroft area falls with the slope of the landform from a maximum height of 3.2m to 1.5m;
- The use of natural timber paneling combined with landscaping to screen and soften the undercroft;
- The localised steepness at the rear of the site; and
- The height of the undercroft level is consistent with that of adjoining and surrounding residential development.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects,

all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

This report provides a detailed assessment of the Development Application for the alterations and additions to 163 Riverview Parade, Avalon Beach.

Public Exhibition

The public exhibition of the application resulted in one (1) response from neighbouring residents. Those objecting to the proposal raised concerns in relation to the additional privacy impacts and acoustic impacts that would be generated by the development.

The issues raised in the submissions have been addressed in the “Public Exhibition & Submissions Received’ section” in this report.

Conditions have been included that address the privacy and acoustic impacts.

Referrals

The application was referred to seven (7) internal departments and external authorities.

External: No response was received from Ausgrid within the 21 day statutory period, therefore it is assumed that no objections are raised and no conditions are recommended.

Internal: Council’s Bushland and Biodiversity, Riparian, Coast and Catchment and Landscape Officers indicated that the proposal is acceptable subject to specific conditions. Councils Environmental Health Officers and Development Engineers also advised that the proposal is acceptable subject to specific conditions.

Assessment of the Development Application

The works sought as a part of this application include additions to the existing dwelling-house and detached garage and the inclusion of a new swimming pool and associated landscaping.

The assessment of the proposed development against the provisions of PLEP 2014 found that the proposal does not comply with the ‘Height of Buildings’ Development Standard under the PLEP 2014 which permits a maximum building height of 8.5m within the E4 Environmental Living zone.

In this case, the four levels are to remain but reconfigured with internal changes, new access and balcony elements and a new roof form. It is the new roof form and the balcony additions that contributes to the building height noncompliance. Whilst the building height variation is significant the overall height of the development is below the existing RL38.45 at RL37.09 (reduced by 1.36m), and it is agreed that the breach is largely unavoidable due to the considerable slope of the land and essentially the encroachment does not result in any unreasonable impacts to any surrounding properties. Furthermore, the applicant has provided sufficient justification for the substantial departure from the development

standard.

In addition, the assessment of the proposed development against the provisions Pittwater 21 DCP found that the proposal does not comply with a number of controls, i.e wall height, side boundary envelope and front boundary setback. Given the constraints on the development by virtue of the escarpment location and the siting of the existing structures on the site, some flexibility in applying these controls is required. It is considered that the scale of these non-compliances will not have unreasonable amenity impacts for adjoining properties and are consistent with the bushland character of Riverview Road and the Locality.

Recommendation - Approval

In summary, the proposal should be approved as the design is reasonable for the site by virtue of the level of non-compliance that does not create unreasonable amenity impacts. The proposed alterations and additions will integrate with the landform and landscape and be consistent with surrounding developments.

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development does not constitute the proper and orderly planning for the site or the locality. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/2015 for Alterations and Additions to a dwelling house and construction of a swimming pool on land at Lot 100 DP 1250837, 163 Riverview Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan A101	21/03/2019	Blue Sky Building Designs
Floor Plan Level 0 A102	21/03/2019	Blue Sky Building Designs
Floor Plan Level 1 A103	21/03/2019	Blue Sky Building Designs
Floor Plan Level 2/3 A104	21/03/2019	Blue Sky Building Designs
Floor Plan Level 4 A105	21/03/2019	Blue Sky Building Designs
Garage and Workshop A106	21/03/2019	Blue Sky Building Designs
East Elevation and West Elevation A107	21/03/2019	Blue Sky Building Designs
North Elevation A108	21/03/2019	Blue Sky Building Designs
South Elevation A109	21/03/2019	Blue Sky Building Designs
Section 1 A110	21/03/2019	Blue Sky Building Designs
Section 2 A111	21/03/2019	Blue Sky Building Designs
Section 3 A112	21/03/2019	Blue Sky Building Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment	December 2018	Urban Forestry

Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment	December 2018	Urban Forestry

		Australia
Geotechnical Investigation	22 November 2018	White Geotechnical Group

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
Landscape Plan L01	19/03/2019	Space Landscape Design

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

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

2. **Amendments to the approved plans**

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

a) An opaque privacy screen is to be affixed to the entire northern elevation of the inclinator carriage.

b) No bright lighting is to be installed to the carriage of the inclinator. A modest amount of low level lighting may be used for safety purposes only.

c) The swimming pool filter is not to be located within the northern side setback and is to be enclosed within a sound proof enclosure

d) A 1.65 metre high privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost northern edge of the terrace off the Level 0 Games room, adjacent to the inclinator landing as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

d) A 1.65 metre high privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost northern edge of the terrace off the Level 2/3 kitchen as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

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

3. **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

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and

machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

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

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

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

Reason: To ensure that works do not interfere with reasonable amenity expectations of

residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. **Security Bond**

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

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

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

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

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White geotechnical group (J1707) dated 22 November, 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **No approval is granted for any oil, wood or solid wood heater**

Due to lack of detail submitted, No approval is granted for any oil, wood or solid fuel heater

Reason: To avoid potential nuisance and non compliance. (DACHPCPC5)

8. **Design of Outlet Structure**

If the existing stormwater discharge outlet is not being used:

The replacement outlet structure discharging stormwater into Pittwater must be designed in accordance with *Pittwater 21 DCP* B5.11 Stormwater Discharge into Waterways and Coastal

Areas. The pipe outlet must not protrude beyond the sea wall and a defuser must be incorporated to reduce scour if the outlet discharges onto sand/soil (not required for rock shelf).

This design is to be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To protect the waterway from the effects of localised erosion and visual impacts (DACNECPCC1)

9. **Estuarine Hazard Design Requirements**

The following applies to all development:

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes; they will not reduce public access to or diminish the amenity of adjoining public foreshore land.

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

10. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of RL 2.72m AHD has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below RL 2.72m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above RL 2.72m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below RL 2.72m AHD.

Reason: To ensure aspects of the development that may be affected by estuarine wave action and tidal inundation are built at the appropriate level.

11. **Revised Landscape Plan**

A revised Landscape Plan is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate and is to include:

- Provision of a minimum of 4 replacement canopy trees (minimum mature height of 8.5m) of species from the Pittwater Spotted Gum EEC;
- Plantings (including understorey shrubs and grasses) that include a minimum of 80% species from the Pittwater Spotted Gum EEC.

The revised Landscape Plan is to be certified by a qualified landscape architect, Arborist or Ecologist prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNECPCC2)

12. **Amendments to the approved plans**

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

a) An opaque privacy screen is to be affixed to the entire northern elevation of the inclinator carriage.

b) No bright lighting is to be installed to the carriage of the inclinator. A modest amount of low level lighting may be used for safety purposes only.

c) The swimming pool filter is not to be located within the northern side setback and is to be enclosed within a sound proof enclosure

d) A 1.65 metre high privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost northern edge of the terrace off the Level 0 Games room, adjacent to the inclinator landing as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

d) A 1.65 metre high privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost northern edge of the terrace off the Level 2/3 kitchen as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

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

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

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. 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.

15. **Encroachment Agreement**

An Encroachment Application is to be submitted to Council for approval in relation to the proposed concrete slab access to the property on Council's Road Reserve in accordance with Council's Pittwater 21 DCP 2014 Clause B6.1, prior to issue of the Construction Certificate. All costs associated with these works are to be borne by the applicant.

The applicant is to enter into any appropriate agreements with Council, such as Deeds and Leases and pay any associated fees, in accordance with the above Policy.

A letter from Council indicating this condition has been satisfied is to be submitted to Certifying Authority prior to the issue of the Construction Certificate.

Reason: Ensure compliance with Council Encroachments/ Constructions & Road Reserve Lease Requirements

16. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

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

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

17. **External Finishes to Roof**

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. **Project Arborist**

A Project Arborist with minimum horticulture qualification equivalent to AQF Level 5 is to be appointed prior to commencement of works to supervise and certify works as identified in the Arboricultural Impact Assessment prepared by Urban Forestry Australia with section 5.

Recommendations, including all items listed under 5.1 Minimising Impacts on Trees to be Retained, 5.2 Tree protection, and 5.3 Arboricultural Advice.

The Project Arborist is to provide details to the Certifying Authority that all components of this condition have been satisfied.

In particular, the Project Arborist and Certifying Authority must ensure the following works, as recommended within the Arboricultural Impact Assessment are undertaken near trees:

- i) following demolition of structures and pavements within the TPZ of trees to be retained, the newly exposed ground is to be watered and mulched with coarse mulch to a depth of 100mm,
- ii) all decking, including allowances for bearers, joists and decking timbers must be elevated at least 200mm above existing ground within 6m of Tree 9,
- iii) the existing wall adjacent to adjoining Trees 4 and 5 should be retained within a 2.5m radius of each tree to avoid potential destabilising of the trees,
- iv) the Project Arborist is to be present to supervise all works within: 3 metres of Tree 3; 5 metres from Trees 10, 12 and 13; 6 metres from Tree 9; and 8 metres from Trees 14 and 15,
- v) landscaping other than proposed new paths is to retain the existing ground levels within the 10 metres radius of Trees 14 and 15,
- vi) garden edging must only be installed under the supervision of the Project Arborist,
- vii) the Project Arborist must advise on all aspects of tree protection prior to and during construction. Fencing may be removed for soft landscaping. No skid-steer loaders (e.g. Bobcats) or similar landscaping machinery or equipment are to be used within the TPZ during landscaping.

Reason: to ensure protection of vegetation is provided and maintained.

19. **Tree removal**

The following existing trees within the site are granted approval for removal based on the assessment and recommendations of the Arboricultural Impact Assessment prepared by Urban Forestry Australia: Trees 1, 7, 8, 11, and 16.

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

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

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

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNED06)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **Road Reserve**

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

Reason: Public Safety.

22. **Tree and vegetation protection**

A) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site identified for retention in the Arboricultural Impact Assessment prepared by Urban Forestry Australia: Trees 2, 3, 4, 6, 9, 12, 13 and 14,
 - ii) exempt trees and palms within the site under the relevant planning instruments of legislation are excluded,
 - iii) all other trees and vegetation located on adjoining properties, including Trees 10, 15 and 17,
 - iv) all road reserve trees and vegetation, including Tree 18.
- B) Tree protection shall be generally undertaken as follows:
- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4,
 - ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
 - iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
 - iv) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
 - vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
 - vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
 - viii) should either or all of v), vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - ix) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
 - x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

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

23. **New vegetation planting**

Landscaping is to incorporate a minimum of 4 canopy trees (minimum mature height of 8.5m) and 80% locally native vegetation species (as per species listed in the Pittwater Spotted Gum Endangered Ecological Community)

Reason: To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNEEDW1)

24. **Tree Protection - Arborist Supervision of Works**

All works within 5 metres of the existing trees to be retained including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand under the supervision of an experienced and minimally AQF Level 5 qualified Arborist. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam

method of footing construction is to be adopted so as to bridge/span any identified lateral roots.

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

25. **Protection of Trees During Works - Certified by Project Arborist**

All trees that are specifically nominated to be retained on the Site Plan (prepared by Blue Sky Building Designs, Rev 3 dated 21/03/2019) shall be retained and protected during any vegetation clearing, demolition, excavation and construction on the site. All tree protection measures are to be in accordance with Australian Standards AS 4970—2009 Protection of Trees on Development Sites’.

A certificate demonstrating compliance must be prepared by the project Arborist and submitted to the Principal Certifying Authority prior to commencement of any works on the site.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.(DACNEEDW2)

26. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

27. **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**

28. **Landscape works**

Landscaping is to be implemented in accordance with the landscape plan I-01, issue H, as prepared by Space Landscape Designs.

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

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

29. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist (or equivalent), shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

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

Reason: to ensure compliance with the requirement to retain and protect significant planting on development sites.

30. **Stormwater Disposal**

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

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

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

32. **Landscaping**

Landscaping is to be implemented in accordance with the revised Landscape Plan required under this consent, including:

- o Provision of a minimum of 4 replacement canopy trees (minimum mature height of 8.5m) of species from the Pittwater Spotted Gum EEC;
- o Planting (including understorey shrubs and grasses) that includes a minimum of 80% species from the Pittwater Spotted Gum EEC.

The new landscaping is to be certified as complete and in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of any Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

33. **Protection of Trees To Be Retained**

All existing trees and trees on adjoining lands (except exempt trees) which are not approved for removal are to be retained and protected during any vegetation clearing, demolition, excavation and construction on the site. All tree protection measures are to be in accordance with Australian Standards AS 4970—2009 'Protection of Trees on Development Sites'.

A certificate demonstrating compliance must be prepared by the project arborist and submitted to the Principal Certifying Authority prior to issuing any Occupation Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC2)

34. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

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

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

Reason: To protect human life (DACPLF09)

35. **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.

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

36. **Landscape maintenance**

All landscape components are to be maintained for the life of the development.

A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme of the landscape plan.

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

37. **Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

38. **Noise Impact on the Surrounding Area**

The use of the inclinator, pool pump and lift shall not cause mechanical sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Industrial Noise Policy.

Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines.

39. **Retention of Natural Features**

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

Reason: To ensure the retention of natural features.

40. **Tree Retention**

All existing trees as indicated on the Site Plan (prepared by Blue Sky Building Designs, Rev 3 dated 21/03/2019) shall be retained. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.

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

41. **No Planting Environmental Weeds**

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

Reason: Weed management.

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

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

Reason: To protect Aboriginal Heritage.

43. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016.