

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0277
Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 32 DP 8013, 37 Sturdee Lane ELVINA BAY NSW 2105
Proposed Development:	Alterations and additions to a dwelling house including inclinator
Zoning:	E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Warren Lee Walker Ellen Rae Walker
Applicant:	Warren Lee Walker
Application Lodged:	19/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	01/04/2020 to 15/04/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 332,690.00

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes alterations and additions to the existing dwelling house, and a new inclinator/inclined passenger lift mechanically linking the Elvina Bay waterway access and the dwelling house.

The proposed works include the following:

- Demolition of existing bedroom and studio;
- New bedroom detached from the existing dwelling house;
- New studio with bedroom;
- New roofing over existing decking; and
- Inclinator from the south-east existing deck to the waterway of Elvina Bay.

The Applicant discussed the proposal with the neighbouring sites. As a result, the Applicant submitted amended plans with additional privacy mitigation measures (privacy screen and window screening) for the western elevation to mitigate privacy impacts, as per the neighbours request. These amended plans have be utilised for the assessment.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.1 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 - A4.8 Lower Western Foreshores and Scotland Island Locality
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - D8.3 Building colours and materials
Pittwater 21 Development Control Plan - D8.5 Front building line
Pittwater 21 Development Control Plan - D15.11 Waterfront lighting

SITE DESCRIPTION

Property Description:	Lot 32 DP 8013 , 37 Sturdee Lane ELVINA BAY NSW 2105
Detailed Site Description:	<p>The site is legally identified as Lot 32 within DP 8013, and known as No.37 Sturdee Lane, Elvina Bay. The site is located with the E3 Environmental Management zone as per the Pittwater Local Environment Plan 2014.</p> <p>The site is 910sqm in size and is a regular rectangle shape. The site is located on the land rise between the two waterways of Elvina Bay and Lovett Bay. The site is</p>

accessed from the water front of Elvina Bay south of the existing residence. The site has an eastern side boundary of 59.13m, and a western side boundary of 60.35m.

The site also has a steep slope of approximately 30 degrees from the water edge of Elvina bay to the the existing dwelling house. The slope from the dwelling house to the north (Lovett Bay) is approximately 5 to 10 degrees in slope.

The site contains a water storage tank near the western boundary at the northern end of the site, and the wastewater system is located to the north of the dwelling.

The site currently contains a one storey dwelling house, within a landscaped setting.

Surrounding developments consist of one storey dwelling houses of varying ages, also with landscaped settings.

Map:



SITE HISTORY

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

- Development Application **0448/89** for a jetty ramp and deck was refused by Council on the 13 October 1989.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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 allow Council to request additional information. Additional information was requested in relation to waste water system.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Ronald Coffey, dated 5 September 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (unsewered lands)	The DA indicates upgrading of two bedrooms and a studio, a report from "Blue Mountains Geological and Environmental Services" Ref No. 200602 indicate that the system would not have an increase in loading from the prepossessed development. It is critical that no additional plumbing be installed in the premises without further applications and reports on the waste water system submitted to Council. It is also critical that the studio not be used as a bed room at any point as this would also increase loading on the waste water

Internal Referral Body	Comments
	system at this address.
Landscape Officer	<p>The development application is for alterations and additions to the existing dwelling and installation of an incline lift, and removal of one tree within the alignment of the incline track and in close proximity to excavation to accommodate pier footings.</p> <p>Council's Landscape Referral staff have assessed the proposal against the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D8 Lower Western Foreshores and Scotland Island Locality, and specifically D8.1 Character As Viewed From A Public Place and D8.2 Scenic Protection. <p>The removal of the one existing White Mahogany tree identified as T4 within the Tree Assessment report prepared by Syncarpia Vegetation Management, assessed in poor to fair health & condition, is accepted subject to tree replacement.</p> <p>A Project Arborist shall be engaged to ensure construction activities do not impact upon existing trees T1, T2 and T3, including the provision tree protection measures, supervision and certification of works undertaken near T1, T2 and T3.</p>
NECC (Bushland and Biodiversity)	<p>The development has been assessed against Pittwater LEP 2014 cl 7.6 Biodiversity, P21 DCP B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community, and cl. 13 Development on land within the coastal environment area of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>The development will require the removal of one tree characteristic of the endangered ecological community, with replacement planting conditioned as part of landscape referral. All other trees are to be retained. In summary the development is designed, sited and will be managed to minimise the impact, and is proposed in the area of least impact on PSGF and or core bushland and there will be no significant net loss of PSGF vegetation.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management)</p>

Internal Referral Body	Comments
	<p>2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development. The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p><u>Comment:</u> As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Stephan Crosby & Associates Pty.Ltd.dated 18 March 2020 and Council accepts the assessment the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, 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>Estuarine Risk Management In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.67m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.06m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>On internal assessment, the ground floor level for the proposed additions and alterations is at [above the applicable EPL for the site.</p> <p>The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</p>
NECC (Development Engineering)	The submitted Geotechnical report addresses the relevant DCP controls. No objection to approval, subject to conditions.
NECC (Riparian Lands and Creeks)	No objection to the proposal subject to conditions related to sediment and erosion control during the demolition and constructions phases through to completion of any landscaping. As overland flow during rain events will discharge on to the foreshore both to the north and south of the site, sediment and erosion control measures are to be maintained to minimize the impact of sediment on seagrass.

Internal Referral Body	Comments
Parks, reserves, beaches, foreshore	<p>The subject property lies to the south of Floods Peninsula Reserve. The topography of the northern part of the site where development is occurring falls towards the reserve. Sedimentation control has been recommended to ensure continued reserve amenity.</p> <p>No other issues with the proposal.</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. A372433 and dated 10 March 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A372433 and dated 10 March 2020).

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

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	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 site are located within the Coastal Use Area and Coastal Environment Area as identified by State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP), and the provisions of this policy are applicable in relation to the proposal.

Following detailed assessment of the proposed development, the consent authority can be satisfied of the following:

- The proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP,
- The proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP,
- The proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1) of the CM SEPP,
- The proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1) of the CM SEPP,
- The proposal is not likely to cause increased risk of coastal hazards on the site or other land.

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including 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	5.2m Studio/bedroom	-	Yes
		4.6m Bedroom	-	Yes
		3.7m Roofing over existing decking	-	Yes
		3.4m retaining wall inclinor	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	Yes
5.9 Preservation of trees or vegetation	Yes
5.10 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	No
7.10 Essential services	Yes

Detailed Assessment

7.1 Acid sulfate soils

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

The proposed development involves minor earthworks in relation to the construction of the proposed dwelling house, inclinor and external elevated pathways. 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).

As a result, a ASSMP is not required.

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

7.2 Earthworks

A Geotechnical Assessment has been prepared by Hodgson Consulting Engineers, Reference No. QY 00089, dated 11 March 2020. 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 Tree Assessment report prepared by Syncarpia Vegetation Management, dated arch 2020. was submitted with the application for the removal of one tree. 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 Hodgson Consulting Engineers, Reference No. QY 00089, dated 11 March 2020. 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, retaining wall and new pathway that connects with the deck of the boatshed.

These works will be located in the area between the established Foreshore Building Line and the Mean High Water Mark.

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 2014. However, it is considered that the proposed works are ancillary to the dwelling house, and boatshed and deck area, which are located below the high water mark. Additionally, the inclinator is considered equivalent to waterway access stairs. Therefore, the works are appropriately covered by those items outlined in Part 2(a) of this clause, and are permitted within the foreshore area.

The proposed inclined passenger lift will is also supported by Council's Landscaping, Biodiversity, Riparian and Coastal Officers, as there is minimal impact on the landform and vegetation in the foreshore zone and no impact on natural foreshore processes or public access along the water front.

The lift will provide improved access for the residents to and from the waterfront. It is considered works are reasonable and necessary in this case, particularly given the slope of the site. The works also satisfy the objectives of the clause as follows:

- The proposed works are located entirely on private land and will not negatively impact the natural foreshore processes or amenity of the foreshore area and public access along the waterfront will remain.
- The proposed development is consistent with the surrounding built form of the locality, as the terrain causes difficult accessing the property from the waterfront.
- There is no existing continuous public access along the foreshore, subsequently this clause does not apply.
- The proposed new landing area, and pathway that joins to the existing pathway, is supported as the footprint of the development remains consistent with that currently on site, the proposed

works are not visually dominant, and are consistent with the design criteria of the control.

Overall, it is concluded that the landing area, rails of the proposed new inclined passenger lift, retaining walls and a proposed new pathway will be consistent with the provisions of the control.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.5m Sturdee Lane 23.5m Elvina Bay 0.0m - 0.2m Inclinator	- - -	Yes Yes No
Side building line	2.5m East	8.9m - 10.7m New Bedroom/Studio 12.2m Inclinator	- -	Yes Yes
	1m West	1m New bedrooms/Studio 1.7m Retaining Wall (Inclinator) 2.7m Inclinator	- - -	Yes Yes Yes
Building envelope	3.5m	No encroachment	-	Yes
	3.5m	No encroachment	-	Yes
Landscaped area	25% (Maximum area for hard surfaces)	25.4% (230.8sqm)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.2 Scenic protection - General	Yes	Yes
D8.3 Building colours and materials	No	Yes
D8.5 Front building line	No	Yes
D8.6 Side and rear building line	Yes	Yes
D8.8 Building envelope	Yes	Yes
D8.9 Landscaped Area	Yes	Yes
D8.11 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D8.13 Stormwater overflow	Yes	Yes
D8.15 Site disturbance	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes

Detailed Assessment

A4.8 Lower Western Foreshores and Scotland Island Locality

The development is consistent with the Desired Character statement of the Lower Western Foreshores and Scotland Island Locality.

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. Development will be limited primarily due to the locality's remoteness and lack of vehicular access, but also due to the steepness of slope, proximity to the waterway, species and habitat diversity, and visual prominence. Community and recreational facilities will serve the community".

In this regard, the one storey built form will continue to sit comfortably with adjoining and surrounding residential development. Also, consistent with adjoining development, the is the siting of the built form towards the high point of the escarpment, with the position of the inclinator located downslope in steep topography. The 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 Lower Western Foreshores and Scotland Island Locality.

C1.5 Visual Privacy

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

Clause C1.5 requires neighbouring private open space areas to be protected from direct overlooking within 9m by the building layout.

Whilst the proposed development includes windows and a balcony well over 17m from the western dwelling house, and over 10m to the eastern boundary privacy mitigation measures have been incorporated within the design.

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

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

Comment:

The proposed dwelling is adequately designed in relation to privacy. On its western elevation the proposal incorporates privacy and solar screening over the proposed windows. The windows and privacy screens are of a suitable dimensions that will allow adequate access to light and air for residents, while retaining privacy to the adjoining western neighbours.

The western elevation also includes a 1.8m louvered privacy screen along the existing balcony area.

The new additions are well over 10m from the eastern side boundary and are sited so that no direct overlooking occurs.

As a result, the proposed dwelling provides suitable separation from nearby existing and approved dwellings, adequate privacy mitigation measures and is supported by significant vegetation that provides additional screening.

The proposal satisfies this objective.

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

Comment:

Given the above, the proposed development retains a sense of territory and safety for the residents of the subject site, and does not result in unreasonable privacy impacts to the adjacent property.

The proposal satisfies this objective.

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

D8.3 Building colours and materials

The proposed dwelling house additions incorporates appropriate materials and colour palette.

The proposal incorporates darker shade elements for cladding and roofing which will assist in visually breaking the two areas of built form in order to reduce the overall bulk and scale of the proposal.

Whilst the schedule of materials includes white window frames, given that the proposal incorporates darker colours (roofing, cladding) and natural materials (wooden decking and landscaping) the overall visual impact is acceptable.

The proposed colours and materials of the development harmonies with the natural environment and the visual prominence of the development is minimised.

The proposal therefore satisfies the objectives for development control.

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

D8.5 Front building line

The application includes a minor non-compliance with the front building line requirement due to the proposed passenger inclinator.

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 on the subject site, which minimises any amenity impacts to neighboring sites.

As such, despite the non-compliance, 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 inclinator is considered to satisfactorily achieve the desired future character of the Palm Beach locality.

The proposal satisfies this objective.

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

Comment:

The inclinor is sufficiently located on the subject site, and positioned well below any existing view line. Therefore, there is no unreasonable impacts on established views.

The proposal satisfies this objective.

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

Comment:

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

The proposal satisfies this objective.

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

Comment:

The development maintains a substantial portion of the property as natural landscaped area.

Canopy trees are to be maintained in the front, and side setback areas, with additional conditioned planting to be incorporated.

The proposals presentation to the waterway is considered significantly improved through a modernised built form and improved landscaping which is consistent with the Pittwater waterway character.

The proposal satisfies this objective.

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

Comment:

Given the constraints on the development by virtue of the water bound location and the siting of the existing structures on the site, some flexibility in applying the required setback for the inclinor is considered appropriate in this instance. The inclinor will provide for a development that will preserve the natural environment of the property while providing improved access to existing recreational, more suited to modern living expectations.

The proposal satisfies this objective.

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

Comment:

The inclinor has been situated such that privacy between the subject site and the neighbouring properties is adequately maintained. It is considered that the inclinor does not result in any unreasonable overshadowing, with existing and additional landscaping providing appropriate softening and screening the structure.

The proposal satisfies this objective.

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

the proposal is supported, in this particular circumstance.

D15.11 Waterfront lighting

There is no waterfront lighting proposed as part of the 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

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$3,327 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$332,690.

CONCLUSION

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

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

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

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

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

It is considered that the proposed development satisfies the appropriate controls and that all processes

and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0277 for Alterations and additions to a dwelling house including inclinator on land at Lot 32 DP 8013, 37 Sturdee Lane, ELVINA BAY, 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 DA-01	September 2019	Stephen Crosby & Associates Pty Ltd
Floor Plan DA-02	September 2019	Stephen Crosby & Associates Pty Ltd
Sections and Elevations DA-03	September 2019	Stephen Crosby & Associates Pty Ltd
Incline Lift DA-04	February 2020	Stephen Crosby & Associates Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Tree Assessment	March 2020	Julia Stanton
Bushfire Risk Assessment Report	5 September 2019	Ronald Coffey
Risk Analysis and Management	11 March 2020	Hodgson Consulting Engineers

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

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

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

2. **Approved Land Use**

Nothing in this consent shall authorise the use of the studio as detailed on the approved plans for any land use of the site beyond the definition of a detached studio.

A detached studio is defined as:

"A habitable building that is used for purposes ancillary to a dwelling house such as a home office, entertainment area, art studio or guest room and:

- a) is established in conjunction with a dwelling house, and
- b) is on the same lot of land as the dwelling house, and
- c) is separate from the dwelling house, and
- d) is not used as a separate dwelling house, and
- e) does not contain any cooking facilities."

(development as defined by the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (as amended) Interpretation - General).

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer

management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008

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

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,326.90 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$332,690.00.

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

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

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

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

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

6. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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

7. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Pittwater 21 DCP 2014 Clause B5.10 and B5.11. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

8. **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 Hodgson Consulting Engineers dated 11 March 2020 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.

9. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the

requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:-

- Site Boundaries and contours;
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

Reason: To mitigate environmental impact resulting from site disturbance.

10. **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.

11. **External Finishes to Roof**

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

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

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

12. **External Colours and Materials - Incline Passenger Lift**

The carriage and track of the incline passenger lift shall have an external finish colour consisting of dark and earthy tones, no lighter than mid-grey.

Details of this shall be provided to the Principle Certifying Authority prior to the issue of a construction certificate.

Reason: To ensure development blends into the landscape.

13. **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.

14. 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Tree removal within the property

The following tree located on the property and assessed as impacted by development, and without an alternative design layout to retain the tree, is granted approval for removal based on the recommendations of the Tree Assessment prepared by Syncarpia Vegetation Management:

- Tree 4 Eucalyptus umbra (White Mahogany)

No other existing trees may be removed. Any subsequent request for tree removal is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

16. Installation and Maintenance of Sediment and Erosion Control

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

17. Removing, Handling and Disposing of Asbestos

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

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002

- (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

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

18. **Survey Certificate**

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

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

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

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

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

19. **Project Arborist**

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for the existing Spotted Gum trees identified as T1, T2 and T3 to be retained and protected, requiring site attendance during excavation for pier footings and construction works, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4.

This shall include supervision and on-site advice, followed by acceptance and certification of the works, including:

- i) protection of existing ground levels,
- ii) trunk protection,
- iii) tree protection fencing as required,
- iv) selection of pier footing locations, and
- v) adopting & implementation of sensitive construction techniques specifically undertaking all excavation within 5m of existing trees by hand;

The Arborist shall submit certification that the works described in the above sections have been correctly installed and adhered to during the construction period.

The tree protection measures specified in this clause must:

- vi) be in place before work commences on the site, and
- vii) be maintained in good condition during the construction period, and
- viii) remain in place for the duration of the construction works.

The Certifying Authority or a Project Arborist AQF Level 5 must ensure that:

- ix) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and
- x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: to ensure tree protection is provided and maintained.

20. **Tree and vegetation protection**

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

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

21. **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

22. **Condition of retained vegetation**

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

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

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

23. **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.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

25. **Required Planting**

1 x *Corymbia maculata* (Spotted Gum) shall be planted within the site at 75 litre container size, located within natural ground areas of substantial area (minimum 12m²) for each tree, located away from common boundaries, planted at least 4 metres from buildings, and at least 4 metres from all other trees, and shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views.

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

Reason: to maintain environmental amenity.

26. **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

27. **Onsite waste water system**

No additional plumbing in the form of sinks, toilets, showers is to be installed within the premises including the studio without further assessment of the capacity of the on site waste water system to manage the increased load on the system.

The Studio is not to be used as a habitable room (bedroom) as it could increase the load on onsite waste water system pass the capacity of the system.

Reason: To ensure the loading on the onsite waste water system is not increased potentially compromising the effectiveness of the system to manage waste water at this address.

28. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

29. **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.

30. **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.

31. **Dead or Injured Wildlife**

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

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

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

The use of the inclinor 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.

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

Signed



Catriona Shirley, Planner

The application is determined on 10/07/2020, under the delegated authority of:



Claire Ryan, Acting Development Assessment Manager