

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0143
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Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 2 DP 24536, 22 Bilberry Avenue BILGOLA PLATEAU NSW 2107
Proposed Development:	Alterations and additions to a dwelling house including swimming pool and attached secondary dwelling
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Christopher William Ingram Young Belinda Anne Young
Applicant:	Blue Sky Building Designs Pty Ltd

Application lodged:	19/02/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	22/02/2019 to 12/03/2019
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 459,400.00
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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 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - D3.7 Side and rear building line

Pittwater 21 Development Control Plan - D3.9 Building envelope

Pittwater 21 Development Control Plan - D3.11 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D3.12 Fences - General

SITE DESCRIPTION

Property Description:	Lot 2 DP 24536 , 22 Bilberry Avenue BILGOLA PLATEAU NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the south eastern side of Bilberry Avenue.</p> <p>The site is regular in shape with a frontage of 18.29m along Bilberry Avenue and a depth of 45.62 along the northern boundary and a length of 45.625 along the southern boundary. The site has a surveyed area of 832.4m².</p> <p>The site is located within the E4 Environmental Living zone from PLEP 2014 and accommodates a single storey brick dwelling with an internal double garage located at ground level</p> <p>The site provides a gentle slope from the southern side of the site toward the northern side of the site.</p> <p>The site does not contain any large canopy trees with some low and medium lying trees located within the front setback</p> <p>Adjoining and surrounding development is characterised by low density residential development.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

The development application proposes the following works:

- Attached Double Garage 45m² towards front boundary;
- Modification of the existing garage – 1 car space to be retained with the remaining area being converted into storage and toilet + a shower;
- New entry on the Southern side of the main dwelling;
- Addition of the Parents Retreat over proposed double garage towards the front boundary;
- Proposed new Secondary Dwelling at Ground Floor Level – 58m² adjacent to the new double garage;
- New 48kL fibre glass in-ground pool;
- Change from a hipped roof to a new skillion roof;
- 1.8m high front fence adjacent to private open space used for proposed secondary dwelling; and
- Removal of *Camelia japonica* & *Cyathea cooperi* – Refer to Arborist Report.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, 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 of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This 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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration'	Comments
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:
Mrs Sarah Clare Fiona Wiggins	20 Bilberry Avenue BILGOLA PLATEAU NSW 2107

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

- View loss;
- Overshadowing; and

- Dirt/Dust resulting from the development

The matters raised within the submissions are addressed as follows:

- View loss

Comment:

A submission was received from the adjoining property along the southern boundary at No. 20 Bilberry Avenue. This is discussed further in the view loss assessment section of the assessment report.

- Overshadowing

Comment:

An anonymous submission was received in regards to the potential overshadowing. The shadow diagrams indicate that the worst affect property is 20 Bilberry Avenue at 9am. The shadow falls over the northern side of 20 Bilberry towards a portion of the landscaped open space area. At 12 noon and 3pm, the overshadowing towards 20 Bilberry Avenue has reduced significantly and provides the minimum 3 hours solar access to the main private open space areas of any adjoining dwellings between 9am and 3pm on 21st June. The windows of the principal living area of the proposed and the windows to the principal living areas of adjoining properties will also receive a minimum of 3 hours sunlight between 9am and 3pm on June 21st. The proposal therefore complies with Part C1.4 Solar Access of the Pittwater 21 DCP.

- Dirt / Dust

Comment:

An anonymous submission was received in regards to the potential level of dirt/dust generated from the proposed works. This issue is a matter that must be addressed throughout the construction phase of the development.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The landscape component is assessed and satisfactorily covered within the Natural Environment - Biodiversity referral.</p> <p>The landscape outcomes satisfy the controls of B4.22 Preservation of Trees and Bushland Vegetation and C1.1 Landscaping.</p>

Internal Referral Body	Comments
	No further assessment is provided by Council's Landscape section over and beyond NECC imposed conditions.
NECC (Bushland and Biodiversity)	<p>This application was assessed against the objectives of Pittwater LEP Clause 7.6 Biodiversity, and Pittwater 21 DCP Clause B4.6 Wildlife Corridors.</p> <p>The proposal is for the alterations and additions to the existing dwelling as well as a secondary dwelling and new pool. No native trees or vegetation are proposed to be impacted. The Arborist Report (Tree Survey Pty Ltd, 09/02/2019) details measures to protect all trees to be retained, of particular importance are native canopy trees which are all located outside of the property, T6, T7, T9, T10 and T12.</p> <p>No Landscape Plan was provided for this assessment. To achieve compliance with B4.6 controls, the Landscape Plan must incorporate at least 60% native species and "<i>maximise linkage within the wildlife corridor</i>". As the property does not currently contain any native canopy trees, any trees required to be planted by the C1.1 Landscaping control, must be local native species chosen from the following: <i>Angophora costata</i>, <i>Corymbia gummifera</i>, <i>Eucalyptus sp.</i> or <i>Syncarpia glomulifera</i>.</p> <p>Council's Natural Environment - Biodiversity section, supports the application, subject to conditions.</p>
NECC (Development Engineering)	<p>The development will require provision of On site Detention basin in accordance with Council clause B5.7 Pittwater DCP 2014 and a vehicular crossing. In this regard suitable conditions can be recommended.</p> <p>The proposed swimming pool will require excavation greater than 1.0 meters. In accordance with Clause B3.1 Landslip Hazard of Pittwater DCP 2017 Appendix 5, requires a risk assessment and geotechnical engineering report to be undertaken which has not been submitted with the development application. As a result the DA can not be supported.</p> <p>DATED 13/06/2019</p> <p>An "Acceptable Risk Management" level is achievable for the proposed development in accordance with the geotechnical report provided by White geotechnical group.</p> <p>Recommend approval subject to conditions</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Affordable Rental Housing) 2009

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

Division 2: Secondary dwellings

Clause 19: Definition

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

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

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

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

Comment:

The proposed secondary dwelling is in keeping with the definition of a secondary dwelling as outlined in Pittwater Local Environmental Plan 2014.

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	Consistent. The site is located within the E4 Environmental Living zone and, as such, the proposed use is permissible with consent under PLEP 2014.

Clause 21: Development to which this Division applies

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

Clause 22: Development may be carried out with consent

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

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	There is currently one (1) dwelling on site. The erection of a Secondary Dwelling will result in two (2) dwellings on the site. Therefore, this Division applies and is complied with.
(3) A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	The Secondary Dwelling is 58sqm, therefore it is compliant with the 60sqm maximum size requirement.
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:	The proposed secondary dwelling is attached to the principal dwelling, the site area is greater than 450sqm (832.4sqm) and the site currently has

(a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres. (b) parking if no additional parking is to be provided on the site.	enough space for the parking requirements of the principal dwelling and secondary dwelling.
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Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

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

Conclusion

The proposed Secondary Dwelling is appropriate and consistent with the relevant controls under SEPP (ARH) 2009, PLEP 2014 and P21 DCP and is therefore acceptable.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 992878S, dated 18 February 2019).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. 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.

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	7.265m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
5.9 Preservation of trees or vegetation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.5m	N/A	Yes
Rear building line	6.5m	12.415m	N/A	Yes
Side building line	2.5m	2.5m (northern elevation)	N/A	Yes
	1m	1.28m (southern elevation)	N/A	Yes

Building envelope	3.5m	Within envelope (northern elevation)	N/A	Yes
	3.5m	Outside envelope 0.085m - 1.6m for a length of 27.5m (southern elevation)	2.4% - 45.7%	No
Landscaped area	60%	52.2%	12.9%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
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	No	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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.2 Scenic protection - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	Yes	Yes
D3.7 Side and rear building line	No	Yes
D3.9 Building envelope	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	No	Yes
D3.12 Fences - General	No	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

A submission has been received from the neighbouring property at No. 20 Bilberry Avenue with concerns relating to the potential view loss associated with the proposed works. In regards to C1.3 View Sharing of P21 DCP any concerns relating to view loss will consider the Planning Principle for view sharing *Tenacity Consulting v Warringah Council* [2004] 140. It is a requirement of this Planning Principle that a four-part test be undertaken to consider the extent of views potentially impact by development. An assessment of view loss has also been undertaken with the reference to the Views Principle established by the NSW Land and Environment Court as follows:

Step One

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

Comment:

20 Bilberry Avenue

The site was inspected on 13 June 2019 with both of the owners present.

The occupants of this property currently enjoy partial water views of the Pacific Ocean and district views across a side boundary towards Avalon. These views have been identified in the images below.



Image 1: Standing in sitting/dining room facing north / north east;



Image 2: Standing in sitting/dining room facing north / north east



Image 3: Standing at the entrance to the sitting/dining room facing north / north east.



Image 4: Standing in the sitting/dining area facing north / north west.



Image 5: Standing in bedroom facing north / north east.

Step Two

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

Comment:

20 Bilberry Avenue

The occupants obtain their views from multiple locations within the property, predominantly from a sitting/dining room and two (2) bedrooms located along the northern side of the property across a side boundary.

Step Three

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

Comment:

20 Bilberry Avenue

The proposed construction of a first floor addition towards the front of the property at 20 Bilberry Avenue will result in moderate views being impacted when viewed from this neighbouring property. The views being impacted by the development are located across the side boundary along the northern elevation of No. 20 Bilberry Avenue. Following a site visit at 20 Bilberry Avenue it is determined the proposed addition will likely obstruct a portion of the view of the Pacific Ocean and a headland when sitting and standing in the sitting/dining room and the two (2) bedrooms. The district views towards the north and north east will be impacted on and is considered a severe view loss. Partial water views

obtained from these rooms will be retained.

Considering the nature of the view impacted, the extent of view loss best described in this instance is considered moderate.

Step Four

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

Comment:

20 Bilberry Avenue

The proposed development is recognised as resulting in a minor non compliance with the side boundary envelope control. The proposed development will extend 8.4 metres towards the front of the site and will incorporate a skillion roof along the entire roof which will slope away from 20 Bilberry Avenue. The highest point of the skillion roof will measure 600mm below the existing ridgeline of the subject dwelling. The highest point of the skillion roof will measure 10.1m from the southern side boundary shared with 20 Bilberry Avenue and a further 16m - 18m from the sitting/living room and bedrooms located along the northern elevation of 20 Bilberry Avenue. However, it is considered that the proposed design of the first floor addition (incorporating the skillion roof) has allowed for a less obtrusive built form which will be compatible with the existing dwelling. The compliant height, front setback, wall height and southern side boundary setback has resulted in a development which is consistently designed with the height of adjoining properties and the dwelling house.

The development has been considered against the underlying outcomes and controls within C1.3 View Sharing of P21 DCP as outlined below:

Outcomes

1. A reasonable sharing of views amongst dwellings.

The proposed development will maintain a reasonable sharing of views amongst dwellings. The development application has provided adequate information to undertake a full and proper assessment of any view loss. The proposal will result in a moderate loss of view from 20 Bilberry Avenue towards the Pacific Ocean. This loss of view is not unreasonable and will maintain adequate view sharing through properties.

Council received one (1) submission from residents at an immediate neighbouring property in relation to view loss from the plans submitted. The P21 DCP refers to the planning principal within Tenacity Consulting v Warringah [2004] NSWLEC 140 when considering the impacts on the views of the adjoining property. The development has been assessed above with regard to the planning principals established by the Land and Environment Court and is considered to be acceptable.

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

The proposed development will not impact upon views and vistas from roads and public places. The subject site is situated above Bilberry Avenue and the proposed development is located at within the

allowable setbacks of the dwelling house, therefore, all views and vistas impacted on are from within private space.

3. Canopy trees take priority over views.

The proposed development does not include the removal of canopy trees, or other vegetation, on the site and will take priority over any views obtained by the subject site and adjoining properties.

The information provided with the development application has allowed Council to accurately establish the level of view loss from the adjoining property at 20 Bilberry Avenue, and is therefore satisfied that the proposed development achieves consistency with the outcomes of Clause C1.3 View Sharing of P21 DCp and with the Land and Environment Court's planning principle for view sharing *Tenacity Consulting v Warringah Council* [2004] 140. The application is therefore recommended for approval.

D3.7 Side and rear building line

The proposed dwelling along the southern elevation proposes a 1.28m setback with the secondary dwelling along the northern elevation proposing a 2.5 setback. Whilst both these setbacks comply with the DCP side setback controls of 2.5m to at least one side and 1.0m for the other side, the proposed in-ground swimming pool along the northern elevation is proposed at 1.2m - 1.48m from the northern boundary.

The DCP states that for pools and spas a 1m minimum setback from the boundary to the pool coping may be permitted subject to the following:

- satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and
- Council is satisfied that the adjoining properties will not be adversely affected, and
- the pool or spa is not more than 1 metre above ground level (existing), and
- that the outcomes of this clause are achieved without strict adherence to the standards, and
- where the site constraints make strict adherence to the setback impractical, and
- where strict compliance with these requirements will adversely impact on the views of adjoining residential properties.

The proposed swimming pool is proposed in a location which will have a minimal impact on the amenity of the neighbouring properties in regards to privacy and views. The development proposes screen planting along the northern side of the pool which will provide additional screening between the subject site and 24 Bilberry Avenue.

The minor breach of the rear setback (swimming pool) is consistent with the objectives for the side and rear building line control and is therefore supported in this instance

D3.9 Building envelope

The proposed development includes a breach to the building envelope along the southern elevation. The building envelope breach to the southern elevation is existing. The development proposes to extend the dwelling towards Bilberry Avenue along the southern elevation for a length of 8.4m. The proposed non-compliance is confined to the proposed skillion roof and creates non-compliant building envelope of 0.085m - 1.6m for a length of 27.5m which equates to a variation of 2.4% - 45.7%. The proposed alterations are comparable to existing developments in the locality, and do not offend the outcomes of Clause D3.9 Building Envelope. The proposed non-compliance with the building envelope

at the southern elevation is acceptable in relation to the relevant outcomes of this clause, as follows:

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

The proposed development is consistent with the streetscape, in that a number of existing nearby developments are of similar bulk and scale. Further, the proposed development complies with the requirements of Clause A4.3 Bilgola Locality of the P21 DCP, so is consistent with the desired future character of the 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.

The existing dwelling, proposed to be altered and extended, is set down the slope from the street, minimising its visual impact. Additionally, the proposed development is of a scale that is below the height of trees in the locality.

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

The proposed alterations to the dwelling (resulting in the building envelope breach) are compliant with the side setbacks required by the P21 DCP and with the maximum height of building required by the PLEP 2014. Further, the proposal requires minimal and compliant excavation for the purpose of the swimming pool in the rear yard. As such, the proposed development is adequately designed and sited to respond to the spatial characteristics of the subject site and the surrounding area.

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

The proposed alterations to the dwelling (resulting in the building envelope breach) are compliant with the side setbacks and wall height required by the P21 DCP and with the maximum height of building required by the PLEP 2014. This demonstrates that the proposed development does not result in unreasonable bulk on the subject site. Further, the visual impact of the proposed bulk and scale is minimised through the modulation and articulation of the built form.

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

The proposed development does impact on a distant water view of the Pacific Ocean across a side boundary. The extent of view loss is assessed under the view loss section in the assessment report.

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

The proposed development is adequately designed in order to retain a reasonable level of privacy, amenity and solar access to the subject site and adjacent sites.

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

The proposed landscape plan demonstrates that the subject site will be adequately landscaped in order to reduce the visual impact of the proposed built form.

D3.11 Landscaped Area - Environmentally Sensitive Land

Proposed

435.1m² or 52.2% (excluding variation)

463m² or 55.6% (including variation)

Required

499.44m² or 60%

There is a shortfall in landscaped area of 64.34m² (without variation). Clause D3.11 of P21 DCP permits a variation up to 6% of the total site area that is provided as impervious landscape treatment for

the purpose of outdoor recreation. The variation also includes impervious areas less than 1m in width. Council may consider these variations where it can be demonstrated that the outcomes of the Clause can be achieved. The outcomes are achieved in the following ways:

- The desired future character of the Bilgola locality is maintained.
- The bulk and scale of the proposal is minimised through compliance with the height and building envelope controls.
- A reasonable level of privacy, amenity and solar access is maintained by the residents of the subject site and the adjoining dwellings.
- Two trees are proposed for removal as part of the application. A condition of consent will be imposed to ensure vegetation is enhanced on the site.
- The stormwater runoff is to be connected to the existing stormwater drainage as per the relevant BCA requirements.
- Soft surfaces and porous materials have been utilised where possible to minimise run-off and assist with stormwater management

With consideration of the above the the variation to the landscaped area requirement is considered reasonable and satisfactorily address this control

D3.12 Fences - General

The development application proposes a 1.8m high timber front fence in front of the private open space within the frontyard dedicated to the proposed secondary dwelling. The front is not located on the boundary and provides a 1.8 - 2.3m from the front boundary. The application proposes to retain the small palm trees in front of the fence to reduce the impact of the fence and to provide additional privacy for the occupants of the secondary dwelling.

Whilst the front fence is non-compliant with the maximum height control of 1.0m prescribed in D3.12 Fences - General of the Pittwater 21 DCP, a variation to the controls can be achieved by the following:

- the fence does act as additional privacy to the private open space of the secondary dwelling which is located primarily within the front yard of the site;
- the fence does not restrict casual surveillance of Bilberry Avenue; and
- the fence is set back more than one (1) metre from the front boundary.

In this instance, the proposed fence is deemed acceptable and will have a minimal impact on the visual quality of the property when viewed from Bilberry Avenue and will improve the amenity of the occupants of the proposed secondary dwelling.

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

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 DA2019/0143 for Alterations and additions to a dwelling house including swimming pool and attached secondary dwelling on land at Lot 2 DP 24536, 22 Bilberry Avenue, BILGOLA PLATEAU, 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

A101	13 February 2019	Blue Sky Building Designs
A102	13 February 2019	Blue Sky Building Designs
A103	13 February 2019	Blue Sky Building Designs
A104	13 February 2019	Blue Sky Building Designs
A105	13 February 2019	Blue Sky Building Designs
A106	13 February 2019	Blue Sky Building Designs
A107	13 February 2019	Blue Sky Building Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 992878S	18 February 2019	Blue Sky Building Designs
BASIX Certificate No. A339672	18 February 2019	Blue Sky Building Designs

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

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

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

2. **Prescribed Conditions**

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

demolition work is being carried out, but must be removed when the work has been completed.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

4. 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

5. **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 by White geotechnical group dated 4th April, 2019 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.

6. **On-site Stormwater Detention Compliance**

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's PITTWATER DCP21 Clause B5.7. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

7. **Structural Adequacy and Excavation Work**

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

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

8. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

9. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

10. **Preparation of Landscape Plans**

Detailed Landscape Plans are to be prepared and certified by a qualified landscape architect, arborist or ecologist and are to include the following:

- the location of existing trees and vegetation to be retained, removed and/or planted. The structural root zone (SRZ) and tree protection zone (TPZ) of all existing trees should be indicated in accordance with the approved Arborist Report.
- A planting schedule comprising at least 60% local native species, and at least three native canopy trees. The planting schedule is to specify details including stratum, species/common names, quantities, pot sizes and staking details.
- The proposed finished treatment of garden areas, including soil depth and the location of retaining walls and underground services.

The Landscape Plan is to be certified by the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNECPCC1)

11. **Engage a Project Arborist**

A Project Arborist with a minimum of AQF Level 5 is to be appointed for the duration of the works. The Project Arborist is to implement pre-construction tree protection measures and supervise all works within 5m of significant trees.

Evidence demonstrating Project Arborist engagement is to be provided to the Principal Certifying Authority prior to the issue of Construction Certificate.

Reason: Tree protection in accordance with relevant Natural Environment LEP/DCP controls (DACNECPCC2)

12. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

13. **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)

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 TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **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.

16. **Vehicle Crossings**

The provision of Normal standard vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

17. **Implement Arborist recommendations**

All tree protection measures as specified in the Arborist report (Tree Survey Pty Ltd Feb 2019) are to be implemented at the appropriate stage of development.

Compliance is to be certified by the project arborist in writing prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP

18. **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

19. **An application for Authorisation of Legal Documentation Required for Onsite Detention**
An application for Authorisation of Legal Documentation Required for Onsite Detention with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council for approval, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

20. **Registration of Encumbrances for On-site Stormwater Detention**
A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

21. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**
A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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 the on-site detention and/or pump system is maintained to an appropriate operational standard.

22. **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.

23. **Planting of Canopy Trees**

At least three locally native canopy trees are to be planted on site to replace trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with these conditions of consent. Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Suitable species include: *Angophora costata*, *Corymbia gummifera*, *Eucalyptus* sp. or *Syncarpia glomulifera*.

All plantings are to be certified as complete and in accordance with these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of any Occupation Certificate.

Reason: To establish appropriate landscaping in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC2)

24. **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)

25. **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

26. **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.

27. **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.

28. **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.

29. **Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

Reason: Management of wildlife corridors

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

Signed

A handwritten signature in black ink, appearing to read 'P. Wood'.

Penny Wood, Planner

The application is determined on 18/06/2019, under the delegated authority of:

A handwritten signature in black ink, appearing to read 'Matthew Edmonds'.

Matthew Edmonds, Manager Development Assessments