

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2022/1454
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<b>Responsible Officer:</b>	Thomas Burns
<b>Land to be developed (Address):</b>	Lot 10 DP 28920, 8 Surf Side Avenue AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Demolition works and construction of a dwelling house including swimming pool
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Richard Lindsay Seeto Louise Jennifer Seeto
<b>Applicant:</b>	Richard Lindsay Seeto

<b>Application Lodged:</b>	26/09/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	04/10/2022 to 18/10/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 2,185,178.00
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## PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for demolition of existing on-site structures and the construction of a two storey dwelling house with a rooftop terrace. In addition, a new hardstand car parking platform and swimming pool are proposed, along with new landscape works. Four (4) prescribed trees are proposed for removal.

Key components of the proposed dwelling house are as follows:

## Ground Floor

- Proposed new ground floor level to provide for new single garage and mudroom/storeroom, laundry/utility area, cool room, formal entry and foyer, media room, three bedrooms, two bathrooms,

covered terrace, internal stair access and lift shaft to proposed first floor.

## **First Floor**

- Proposed new first floor to provide for a study/guest room, bedroom with walk-in robe and ensuite, open plan kitchen, living and dining room, Pilates room, W.C, decking and lift access.

## **Roof Level**

- New lift access to roof and roof terrace.

## **External Ancillary Works**

- Proposed new single car hardstand.
- New swimming pool.

## **ASSESSMENT INTRODUCTION**

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

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

## **SUMMARY OF ASSESSMENT ISSUES**

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy

Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run

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

Pittwater 21 Development Control Plan - D1.8 Front building line  
 Pittwater 21 Development Control Plan - D1.9 Side and rear building line  
 Pittwater 21 Development Control Plan - D1.11 Building envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 10 DP 28920 , 8 Surf Side Avenue AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the western side of Surf Side Avenue, Avalon Beach.</p> <p>The site is irregular in shape with a frontage of 18.315m and respective depths of 40.48m and 35.405m along the northern and southern side boundaries. The site has a surveyed area of 752.7sqm.</p> <p>The site is located within the C4 Environmental Living zone pursuant to Pittwater LEP 2014 and accommodates a two storey dwelling house that is orientated towards the north-east to enjoy ocean views of Avalon Beach.</p> <p>The front portion of the site is relatively level, with the site then sloping away towards the north-west. The site has an overall cross-fall of 3.85m that slopes from the south-east towards the north-west.</p> <p>Landscaping on the site consists of lawn areas, shrubbery and native canopy trees. A large extent of the vegetation is located within the rear yard below the existing block retaining wall.</p> <p><b>Description of Surrounding Development</b></p> <p>Development along Surf Side Avenue comprises 1-2 storey dwelling houses within landscaped settings. Located approximately 60m to the north of the subject site along Avalon Parade are a number of 3-4 storey residential flat buildings.</p>

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed no recent or relevant applications.

## APPLICATION HISTORY

A site inspection was carried out on 8 November 2022.

Following the preliminary assessment of the application, which included the aforementioned site inspection, Council wrote to the applicant raising the following concerns with the proposal:

- Non-compliance with Clause 4.3 - Height of Buildings of Pittwater LEP 2014, noting that the lift overrun exceeded the 8.5m statutory height limit.
- Extent of the northern side envelope technical non-compliance, particularly in relation to the roof terrace.
- Acoustical privacy impacts from the large roof terrace.
- Potential visual privacy impacts from the north-facing windows and terraces.
- Front setback non-compliance for the proposed carport.
- Landscaped area non-compliance.

Following discussions with the applicant, amended plans were submitted that can be summarised as follows:

- Reduced height of the lift overrun to ensure compliance with the 8.5m height of buildings development standard.
- Reduced size of the roof terrace trafficable area to 2.4m (depth) x 4.5m (width), in turn preventing the area from being used for large gatherings, thereby resulting in more acceptable acoustical privacy impacts within this low density residential environment. The reduced terrace size also ensured that the terrace now remained within the northern side building envelope requirement.
- Deleted the proposed carport and replace with an open hardstand parking space.
- Provide additional landscaping to ensure compliance with the P21DCP landscaped area provision.

The amended plans constitute a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches CPP.

## 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	There are no current draft environmental planning instruments.
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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 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>Clause 69</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b></p>

Section 4.15 Matters for Consideration	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 04/10/2022 to 18/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Ms Amanda Sue Stabback	9 Surf Side Avenue AVALON BEACH NSW 2107
Fiona Goss	Address Unknown

Two (2) submissions were received following the public exhibition period. The following issues were raised in the submissions:

- Architectural/Heritage Significant of Existing Dwelling House**

The submissions raised concerns that the existing dwelling house on the subject site has architectural significance and that the demolition of the existing dwelling would have an adverse impact upon the locale.

Comment:

It is noted that the existing dwelling house on the subject site is not listed as an item of environmental heritage. Furthermore, the site is not located within a heritage conservation area. Therefore, it is considered that the demolition of the existing dwelling house will not have an adverse impact upon the locale.

- **Privacy Impacts from Rooftop Terrace and North-Facing Windows**

The submissions raised concerns that the proposed rooftop terrace and north-facing windows will provide for overlooking into the northern adjoining dwelling house at 9-10 Surf Side Avenue, which is currently being constructed on the adjoining property.

Comment:

Detailed discussions surrounding the potential acoustical and visual privacy impacts of the proposed development have been provided within the sections of this report relating to Clause C1.5 'Visual Privacy' and Clause C1.6 'Acoustical Privacy' of the P21DCP. In summary, it is considered that the rear elevated deck adjacent to the kitchen on the first floor, in conjunction with windows W5, W7 and W9, will create on-going privacy issues. Accordingly, suitable conditions are recommended to require privacy treatments to be affixed to these elements of the building, thereby resulting in an acceptable long-term privacy outcome.

- **Non-compliances with Built Form Controls**

The submissions raised concerns that the proposed development involves technical non-compliances to numerous built form controls.

Comment:

It is noted that the proposed development involves technical non-compliances to the setback and envelope provisions within the P21DCP. A detailed assessment of these breaches is provided later within this report. Whilst the technical non-compliances are noted, the assessment against the underlying outcomes of the setback and envelope provisions has found that the proposed development achieves the outcomes, notwithstanding the numeric non-compliances. Section 4.15(3A)(b) of the Environmental Planning and Assessment Act 1979 requires Council to be flexible in applying provisions within a Development Control Plan, if it can be demonstrated that the objects of such provisions can be achieved. In this case, the outcomes of the setback and envelope provisions are achieved, notwithstanding the numeric non-compliances. Therefore, flexibility is afforded in this circumstance.

## Conclusion

The issues raised within the submissions have been addressed above. The concerns do not warrant refusal of the application or a further re-design to the proposed development.

## **REFERRALS**

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is supported with regard to landscape issues.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D1 Avalon Beach Locality</li> </ul> <p>The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the</p>

Internal Referral Body	Comments
	<p>landscape objectives of the C4 Environmental Living zone.</p> <p>An Arboricultural Impact Assessment (AIA) and Landscape Plan is included in the application and will be assessed as part of the Landscape Referral. Six trees are proposed for removal of which trees 4 and 16 are exempt by height thus do not require consent for removal. The remaining four trees (trees 7, 19, 20 and 21) are all low significance and a low height (6 metres) due to previously being lopped. The lopping and arrangement of trees 19, 20 and 21 suggest these trees were used for screening which has restricted their ability to mature to their true form and size. Should the development application be approved, Landscape Referral can support the removal of these four trees. The application will retain seven native trees (including the only category 'B' and medium landscape significant tree) within the property boundary. Three significant replacement trees are proposed in more suitable locations which will allow the trees to mature to their full potential and these trees in particular shall never be lopped. All trees shown to be retained shall be protected as per the recommendations in the AIA and the requirements outlined in the conditions of consent. A Project Arborist shall be engaged to supervise all work within the tree protection zone of trees to be retained, as recommended in the AIA and subject to the imposed conditions.</p> <p>The landscape proposal is generally supported and all proposed planting shall be installed as per the requirements outlined in the conditions of consent. The Landscape Plan shows existing vegetation to be retained and should any existing vegetation shown to be retained be damaged or removed during construction, it shall be replaced with a like-for-like substitute to ensure the existing landscape character is maintained. The Landscape Plan shows planting beyond the front boundary which is not permissible and all planting shall be contained wholly within the property boundary.</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against the following provisions:</p> <ul style="list-style-type: none"> <li>• SEPP (Resilience and Hazards) 2021</li> <li>• Pittwater LEP 2014 - cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - cl. B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land</li> </ul> <p>The proposal seeks approval for demolition works and construction of a new dwelling including a swimming pool. The submission includes an arborist report, as well as, a Landscape plan.</p> <p>The arborist report has assessed the state of a total of 19 trees within the lot boundaries, recommending the retention of 13 trees and removal of 6 trees of which two are exempt (tree 4, <i>Banksia integrifolia</i> and tree 16 <i>Agonia flexuosa</i>) under current exemption rules (less than 5 metres). Trees 7, 19, 20 and 21 have been previously lopped and have a low landscape significance. The proposed plans show significant encroachments into the Tree Protection Zones (TPZ) of trees 19, 20 and 21 which are in poor condition due to pruning. There are no objections raised as to the removal of these trees.</p> <p>Even though the site on which development is being proposed is highly</p>



Internal Referral Body	Comments
	disturbed, amendments to the proposed landscaping are required to achieve compliance with the applicable biodiversity controls. The planting key provided with the landscape plan proposes a planting schedule that includes non native species. Therefore a schedule with 60% locally native species (total species and total plants), selected from the "Shale Slopes" section of the Pittwater Native Planting Booklet available on Council's website is required to maintain the landscape and habitat values in the area.
NECC (Development Engineering)	The submitted stormwater management plan including OSD is acceptable. The existing driveway crossing is to remain which is also acceptable. The internal driveway grades are satisfactory. The submitted Geotechnical report addresses the relevant DCP controls.  Development Engineering support the proposal, subject to conditions as recommended.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted with the application (see BASIX Certificate No. 1322912S, dated 19 August 2022).

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

Commitment	Required Target	Proposed
Water	40	43
Thermal Comfort	Pass	Pass
Energy	50	100

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

## SEPP (Transport and Infrastructure) 2021

### Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

## SEPP (Resilience and Hazards) 2021

### Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP as the site is identified within the Coastal Use Area. Accordingly, an assessment under Chapter 2 has been carried out as follows:

#### **Division 4 Coastal use area**

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

- 1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
  - a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
    - ii) *overshadowing, wind funnelling and the loss of views from public places to*
    - iii) *foreshores,*
    - iv) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
    - v) *Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and*
  - b) *is satisfied that:*
    - i) *the development is designed, sited and will be managed to avoid an adverse impact*
    - ii) *referred to in paragraph (a), or*
    - iii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
  - c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment:

The site is located approximately 60m to the west of the Avalon Beach coastal cliff line and visually and physically separated by existing development located on the eastern side of Surf Side Avenue. As such, the development will not have an adverse impact upon the scenic qualities of the coastline. Furthermore, the development will not result in overshadowing, view loss or wind funnelling of the foreshore area.

Noting that the works are confined to the subject site and the sufficient separation from the foreshore area, the proposed development will not preclude access to or along the foreshore area. The site is also not identified within an area known for containing any Aboriginal relics or having potential Aboriginal heritage significance. Hence, the proposal will not adversely impact upon Aboriginal cultural heritage, practices or places. The site is also not located within visual proximity to any heritage items and is not located within a heritage conservation area, thereby ensuring that cultural and built environmental heritage is conserved.

This assessment has taken into consideration the surrounding coastal and built environment, and the bulk, scale and size of the proposed 2 storey dwelling house, and concluded that the proposal will maintain an appropriate visual relationship with the surrounding environment by virtue of its bulk, scale and size being commensurate with nearby dwelling houses.

**Division 5 General****2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

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

Comment:

Given the physical and visual separation from the foreshore area it is not anticipated that the proposal will increase the risk of coastal hazards within the locality.

**2.13 Development in coastal zone generally—coastal management programs to be considered**

*Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.*

Comment:

The development does not contravene any coastal management programs.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

**Pittwater Local Environmental Plan 2014**

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

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.47m	-	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

#### Detailed Assessment

### **Zone C4 Environmental Living**

The application involves the construction of a dwelling house. It is noted that dwelling houses are permissible land uses within the C4 Environmental Living zone.

An assessment against the zone objectives is provided below:

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

#### Comment:

The proposed 2 storey dwelling house is considered to be of a low density and scale that integrates with the landform and landscape, noting the minimal earthworks involved, compliance with the P21DCP landscaped area provision, and that native landscape treatment has been incorporated around the curtilage of the building to mitigate the bulk and scale of the built form on the site. The overall height, bulk and scale of the proposed dwelling house is also commensurate to the existing and desired streetscape character, which comprises 2 storey dwelling houses integrated within landscaped settings. Furthermore, the proposed dwelling house is also sufficiently separated from the foreshore area and will not adversely impact upon riparian and foreshore vegetation, including wildlife corridors. Overall, the proposal satisfies the objectives of the C4 zone.

### **7.1 Acid sulfate soils**

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land is required to be assessed to determine if any impact will occur.

The proposed development involves minor excavation works that are not likely to lower the watertable. Therefore, the proposal satisfies the requirements of Clause 7.1 of the Pittwater LEP 2014.

## 7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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

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

### Comment:

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

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

### Comment:

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

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

### Comment:

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

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

### Comment:

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

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

### Comment:

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

*(f) the likelihood of disturbing relics*

Comment:

The site is not mapped as being a potential location of Aboriginal or other relics.

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

Comment:

The site is not located in the vicinity of any watercourses or drinking water catchments. The site is also physically and visually separated from the coastal cliff line.

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

Comment:

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

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

Comment:

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

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and requirements of Clause 7.2 of the Pittwater LEP 2014.

## 7.10 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

Comment:

The aforementioned essential services are available to the proposed development. Thus, the proposal complies with Clause 7.10 of the Pittwater LEP 2014.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	4.3m (hardstand) - 6.6m (facade)	33.85%	No

Rear building line	6.5m	2.2m (pool)	66.15%	<b>No</b>
Side building line	2.5m (north)	1.04m	58.4%	<b>No</b>
	1m (south)	1.4m	-	Yes
Building envelope	3.5m x 45 degrees (north)	Outside Envelope	22.58%	<b>No</b>
	3.5m x 45 degrees (south)	Outside Envelope	10.8%	<b>No</b>
Landscaped area	60% (451.62sqm)	61.22% (460.79sqm)	-	Yes

**Note:** Landscape area calculations include permitted impervious variations as prescribed within Clause D1.14 of the Pittwater 21 DCP.

### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	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	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	No	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

### Detailed Assessment

## A4.1 Avalon Beach Locality

Clause A4.1 of the Pittwater 21 DCP provides guidance on the form and scale of development anticipated for the Avalon Beach locality. Relevant aspects of the Avalon Beach Desired Future Character Statement are as follows:

*"The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.*

*Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses.*

*Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards".*

### Comment:

The proposed development aligns with the Avalon Beach Desired Future Character Statement, noting that:

- The dwelling house reaches a maximum height of two storeys and sits below the established tree canopy.
- The dwelling house is a highly articulated building that incorporates shade elements.
- The dwelling house sits within a landscaped setting that comprises small to large native vegetation.
- The proposed development involves minimal excavation into the natural topography.

## C1.5 Visual Privacy

The proposed dwelling house includes a number of north-facing terraces and windows that are devoid of any screening devices. It is noted that these areas would provide direct sight lines towards the northern adjacent dwelling house at 9-10 Surf Side Avenue, which is currently being constructed.

It is noted that the southern elevation of the adjacent dwelling house at 9-10 Surf Side Road is devoid of windows and therefore, the first floor north-facing living room windows and rear terrace area will not provide for direct overlooking into habitable rooms on this dwelling. However, whilst there are no immediate privacy impacts, it is considered that the large north-facing windows within the living spaces on the first floor, in conjunction with the rear elevated deck adjacent to the kitchen, would encourage significant levels of overlooking if 9-10 Surf Side Road was redeveloped in the future. The intent of the privacy control is to provide suitable development that encourages high levels of internal and external amenity over long-term periods.

Therefore, in order to maintain suitable privacy the following conditions are recommended:



- There rear deck adjacent to the kitchen on the first floor is to be affixed with a 1.65m high privacy screen on the entire northern elevation.
- Windows W5, W7 and W9 are to incorporate either louvre screening or translucent glazing to a height of 1.5m above the finished floor level.

Subject to compliance with this condition, suitable levels of visual privacy will be sustained over a long-term period, consistent with the outcomes of this control.

### **C1.6 Acoustic Privacy**

The proposed dwelling house includes a roof top terrace with a trafficable area of 2.4m (depth) x 4.5m (width). The narrow width of the proposed terrace, which has been significantly reduced from the superseded plans, does not allow numerous people to gather and create excessive noise. However, the 2.4m minimum dimension is considered to provide adequate internal amenity for the occupants of the proposal, noting that the Apartment Design Guide applies this as a minimum guide for elevated terraces/balconies within residential flat building developments.

In addition, the terrace is setback 4.9m from the nearest side boundary, which provides adequate separation from habitable rooms on adjoining properties. Overall, the proposed roof terrace, as amended throughout the assessment process, will not give rise to adverse acoustical privacy impacts within this low density residential area.

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

The control states that lift over-runs are to be integrated internally within the design fabric of the built form. The proposed dwelling house includes a lift over-run that exceeds the roofline of the dwelling. Whilst this does not satisfy the prerequisite, the lift over-run satisfies the following exemption provision within this control:

*"Subject to achievement of the outcomes of this control, consideration may be given to the location of plant, equipment boxes and lift over-runs on the roof a building where it can be shown that there will not be a non-compliance with Council's built form controls including building height and building envelope".*

It is noted that the lift over-run complies with all applicable built form controls, including the building height and envelope requirement. An assessment against the outcomes of the control is provided below as follows:

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

#### Comment:

As discussed within the section of this report relating to Clause A4.1 of the P21DCP, the proposed development is consistent with the Avalon Beach Desired Future Character Statement.

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

#### Comment:

The lift over-run remains under the 8.5m height plane and within the side building envelope, thereby demonstrating an acceptable level of bulk and scale. The lift over-run is also centralised within the building footprint to ensure that it is not visually prominent when observed from the street or adjacent properties. The dwelling house overall is also a highly articulated design that will not present with excessive bulk or scale.

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

Comment:

An examination of the site and the surrounds has concluded that the proposed development, including the lift over-run, will not give rise to adverse view impacts from the private and public domain.

- *To achieve reduction in visual clutter.*

Comment:

The lift over-run is centralised within the proposed building footprint and will not result in visual clutter.

- *The appropriate location and design of noise generating equipment.*

Comment:

Suitable conditions have been recommended to mitigate the acoustical impacts from the pool filter and lift over-run equipment.

Conclusion

As demonstrated above, the proposal satisfies the outcomes of the control and meets the exemption provision of the control.

## **D1.5 Building colours and materials**

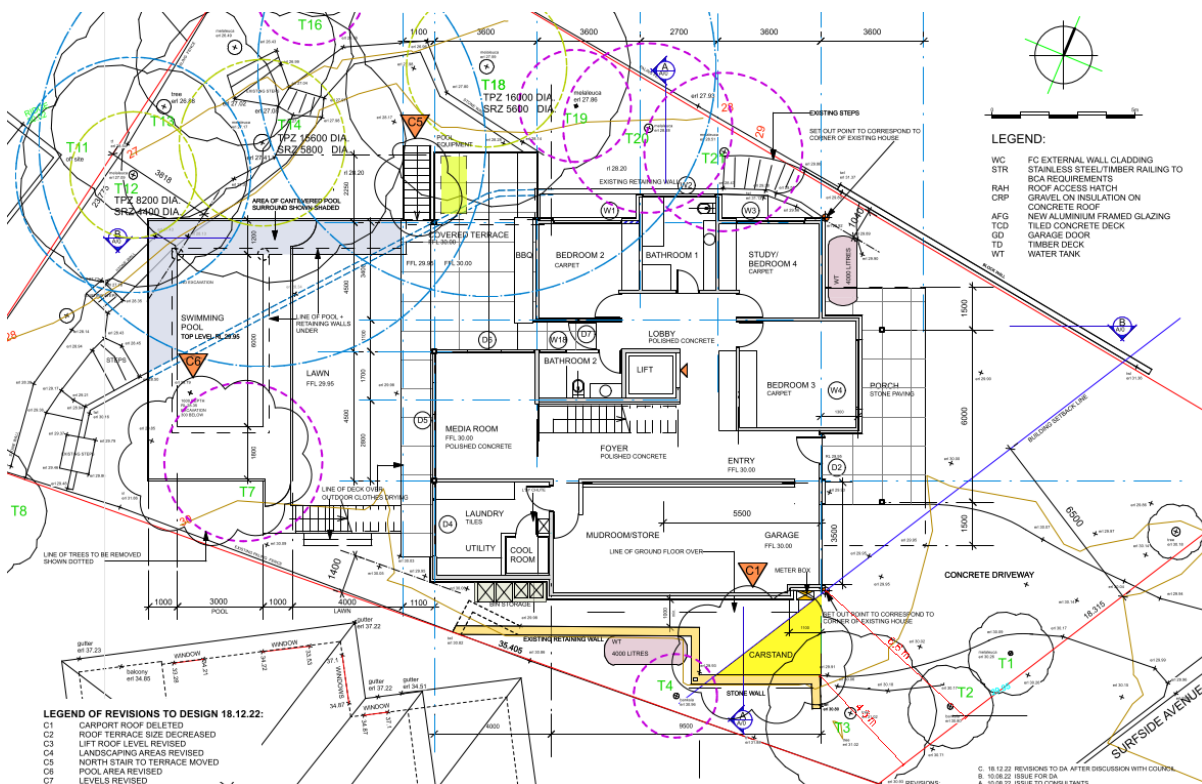
Details of the external colours and finishes have not been submitted with this application. It is noted that the P21DCP requires new dwellings to have dark and earthy tones in order to harmonise with the natural environment. Accordingly, a suitable condition is recommended requiring the external walls and roof of the dwelling house to have medium to dark tones, thereby demonstrating compliance with the P21DCP building colours and materials provision.

## **D1.8 Front building line**

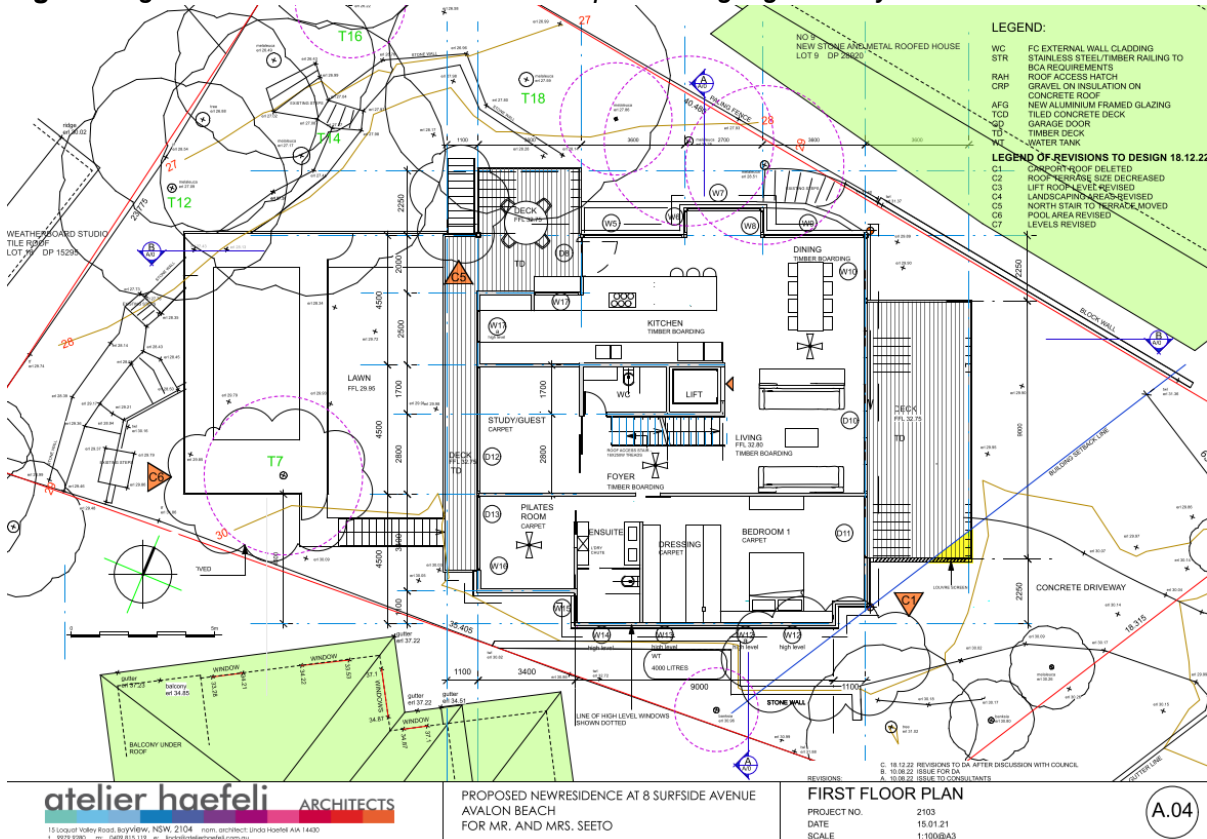
Description of non-compliance

The control requires development to be setback at least 6.5m from the front boundary. The proposed open hardstand parking space and corner of the first floor decking encroaches into the 6.5m front setback area, as depicted in Figures 1 and 2 below.

**Figure 1:** *ground floor front setback non-compliance highlighted in yellow*



**Figure 2: ground floor front setback non-compliance highlighted in yellow**



It is noted that the front building line of the proposed dwelling house is generally consistent with that of the existing dwelling house. Furthermore, it is noted that the facade of the dwelling house complies with the front setback requirement.

### Merit consideration

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

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

Comment:

As discussed within the section of this report relating to Clause A4.1 of the P21DCP, the proposed development is consistent with the Avalon Beach Desired Future Character Statement.

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

Comment:

The site does not adjoin a main road.

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

Comment:

The proposed dwelling house sits within a high quality landscaped scheme that will visually reduce the built form. Furthermore, the non-compliance relates to open structures and the front setback area will remain predominantly landscaped, which will maintain a reasonable sense of openness within the front setback area.

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

Comment:

Council's Development Engineers have reviewed the proposal with respect to vehicular access and raised no objections, subject to conditions.

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

Comment:

The front facade of the dwelling house is highly articulated and will provide for an attractive street frontage. The technical non-compliance to the front setback requirement pertains to a small corner of the front decking and an open hardstand parking space, which will not result in adverse impacts to the streetscape.

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

Comment:

The front building line of the proposed dwelling house is consistent with the positioning of the existing dwelling

house on the site and remains generally consistent with surrounding development. The minor encroachments into the front setback area result in negligible impacts to the existing urban environment.

## Conclusion

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

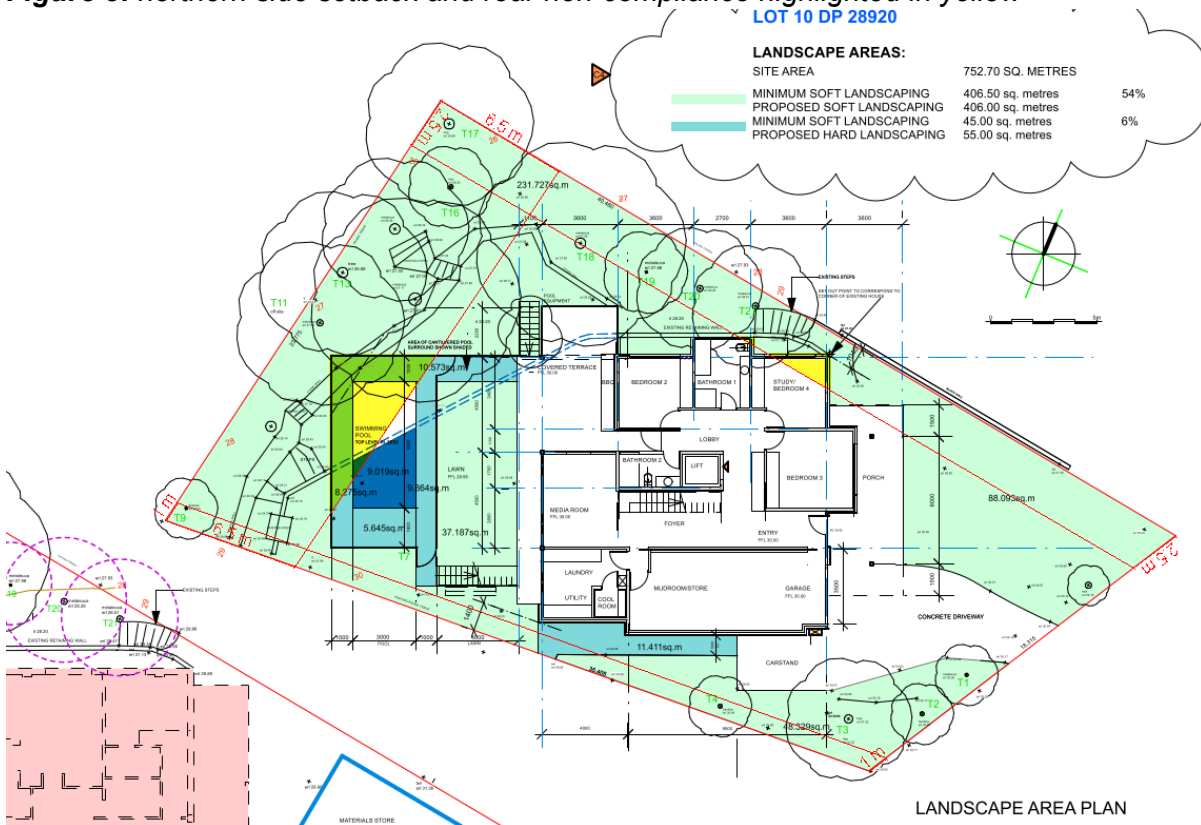
## **D1.9 Side and rear building line**

### Description of non-compliance

The control requires development to be setback 2.5m from one side boundary and 1m from the other side boundary. The proposal complies with the 1m side setback requirement, however a small portion of the northern elevation of the dwelling house encroaches into the 2.5m side setback area. Figure 3 below highlights the area of non-compliance.

Furthermore, the proposed swimming pool area also encroaches into the prescribed 6.5m rear setback area, as demonstrated in Figure 4 below.

**Figure 3: northern side setback and rear non-compliance highlighted in yellow**



## Merit consideration

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

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

Comment:

As discussed within the section of this report relating to Clause A4.1 of the P21DCP, the proposed development is consistent with the Avalon Beach Desired Future Character Statement.

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

Comment:

The technical non-compliance is only confined to a small corner of the building on the northern elevation and does not result in unreasonable building bulk or scale. The overall built form is highly articulated on all elevations, which will mitigate the overall building mass. It is considered that the bulk and scale of the built form is appropriately minimised in this instance.

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

Comment:

An examination of the site and the surrounds has concluded that the proposed development is not likely to obstruct any significant view corridors from surrounding private and public land.

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

Comment:

As noted above, reasonable view sharing is achieved.

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

Comment:

As discussed earlier within this report, adequate solar access and privacy is maintained to the development site and adjacent properties, subject to compliance with recommended conditions of consent.

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

Comment:

The proposal complies with the P21DCP landscaped area provision and includes high quality landscaping scheme on the property to ensure an appropriate landscaping outcome.

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

Comment:

Flexibility is afforded with regards to the side setback technical non-compliance as the non-compliant elements do not give rise to unreasonable amenity impacts to neighbouring properties, or result in an unacceptable built form for the streetscape. Pedestrian and vehicular access to the site will be maintained via Surf Side Avenue.

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

Comment:

The existing and proposed vegetation on the site will visually reduce the built form and maintain the character of the streetscape.

- *A landscaped buffer between commercial and residential zones is achieved.*

Comment:

The site does not adjoin a commercial zone.

Conclusion

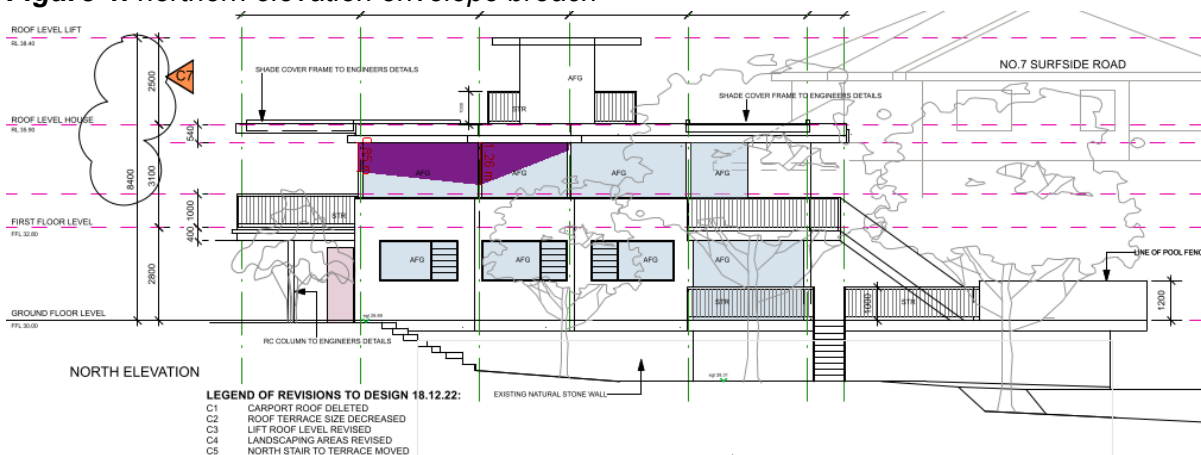
Having regard to the above assessment, it is concluded that the outcomes of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

**D1.11 Building envelope**Description of non-compliance

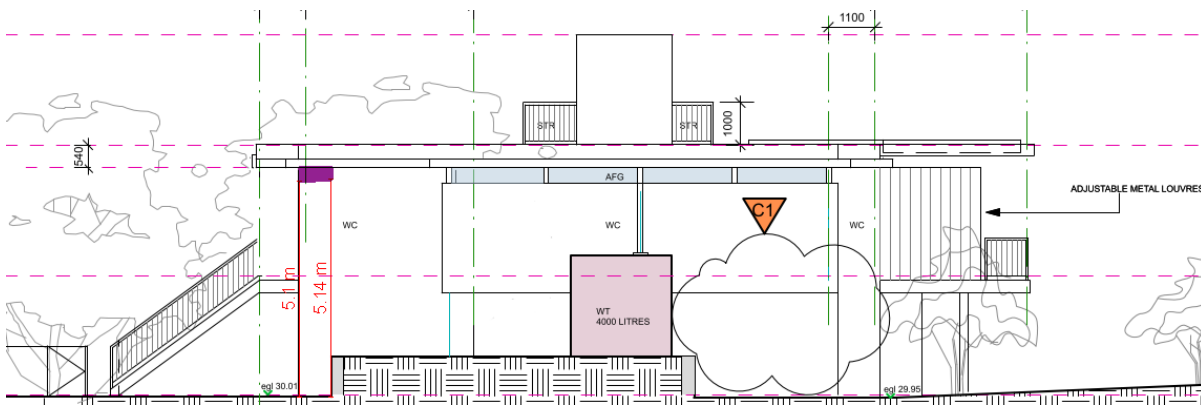
The control requires development to remain within a prescribed side building envelope that is determined by projecting planes at 45 degrees from a height of 3.5m above the existing ground level at side boundaries.

Portions of the northern and southern side elevations protrude outside of the prescribed side envelope requirement on the northern and southern elevations of the dwelling house. Figures 4 and 5 below depict the extent of non-compliance.

**Figure 4: northern elevation envelope breach**



**Figure 5: southern elevation envelope breach**



### Merit consideration

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

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

### Comment:

As discussed within the section of this report relating to Clause A4.1 of the Pittwater 21 DCP, the proposed development is consistent with the Avalon Beach Desired Future Character Statement.

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

### Comment:

The proposed development promotes a building scale and density that is situated significantly below the established tree canopy. Furthermore, the non-compliances occur on small portions of the side elevations that are prompted by articulated elements of the building, which do not create unreasonable building bulk. In this regard, the development will not have an adverse impact upon the streetscape by virtue of an excessive building bulk or scale.

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

### Comment:

The proposal responds to the spatial characteristics of the natural environment through appropriately positioning the built form on the site to ensure the retention of high value canopy vegetation on the site. The trees that are proposed for removal will be offset with additional native planting.

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

### Comment:



The proposed 2 storey dwelling house is considered to be of a low density and scale that integrates with the landform and landscape, noting the minimal earthworks involved, compliance with the P21DCP landscaped area provision, and that native landscape treatment has been incorporated around the curtilage of the building to mitigate the bulk and scale of the built form on the site. The overall height, bulk and scale of the proposed dwelling house is also commensurate to the existing and desired streetscape character, which comprises 2 storey dwelling houses integrated within landscaped settings. Furthermore, the front, side and rear elevations of the dwelling house are highly articulated, which will further mitigate excessive building bulk. Overall, the proposal satisfies this outcome.

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

Comment:

As discussed earlier within this report, the proposal will not result in unreasonable view loss from private and public places.

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

Comment:

As discussed earlier within this report, a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to adjacent dwelling houses, subject to compliance with recommended conditions.

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

Comment:

Sufficient vegetation is retained and incorporated around the curtilage of the dwelling house to visually reduce the built form. Council's Landscape Officer has reviewed the proposal in this regard and raised no objections, subject to conditions.

Conclusion

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

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$21,852 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,185,178.

## 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 2021;
- 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 DA2022/1454 for Demolition works and construction of a dwelling house including swimming pool on land at Lot 10 DP 28920, 8 Surf Side Avenue, AVALON BEACH, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

##### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A.01 (Revision C) - Site Plan	18 December 2022	Atelier Haefeli Architects
A.01.1 (Revision C) - Landscaped Areas + Demolition Plan	18 December 2022	Atelier Haefeli Architects
A.03 (Revision C) - Ground Floor Plan	18 December 2022	Atelier Haefeli Architects
A.04 (Revision C) - First Floor Plan	18 December 2022	Atelier Haefeli Architects
A.05 (Revision C) - Roof Plan	18 December 2022	Atelier Haefeli Architects
A.06 (Revision C) - East Elevations + Section AA	18 December 2022	Atelier Haefeli Architects
A.07 (Revision C) - South + West Elevations	18 December 2022	Atelier Haefeli Architects
A.08 (Revision C) - Norther Elevation + Section BB	18 December 2022	Atelier Haefeli Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
STORM-1/A	26 August 2022	Taylor Consulting
STORM-2/A	26 August 2022	Taylor Consulting

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Arboricultural Impact Assessment	August 2022	Arborsaw
BASIX Certificate No. 1322912S	19 August 2022	Deneb Design
Geotechnical Assessment Ref. 35268Zrpt Rev 1	15 August 2022	JK Geotechnics

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
LP_1 (Issue D) - Landscape Planting Plan	17 August 2022	Wallman Partners Pty Ltd
LS_1 (Issue D) - Landscape Site Plan	17 August 2022	Wallman Partners Pty Ltd
PSD_1 (Issue D) - Planting Schedule, Details	17 August 2022	Wallman Partners Pty Ltd

<b>Waste Management Plan</b>		
<b>Drawing No./Title.</b>	<b>Dated</b>	<b>Prepared By</b>

Waste Management Plan	22 August 2022	Atelier Haefeli Architects
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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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	N/A

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

## 3. Approved Land Use

Nothing in this consent shall authorise the use of site beyond the land use definition of a dwelling house. The Pittwater Local Environmental Plan 2014 defines this land use as follows:

- ***dwelling house means a building containing only one dwelling.***

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.

## 4. Prescribed conditions (Demolition):

(a) 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 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
- (ii) 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.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(c) 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.

Reason: Legislative Requirement.

## 5. 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 Certifier 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 Certifier 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 Certifier 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.

#### 6. **General requirements (Demolition):**

(a) Unless authorised by Council:

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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. 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) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy. )

(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.

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

the community.

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

- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 8. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$21,851.78 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 (as amended).

The monetary contribution is based on a development cost of \$2,185,178.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the



provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

## 9. **Security Bond**

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

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

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

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

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics Pty Ltd Ref: 35268Zpt Rev 1 dated 15 August 2022 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 Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### 11. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Provision of a minimum 60% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the 'Shale Slopes' section of the Native Gardening Booklet available on Council's website. The planting is to be updated accordingly.

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

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

## 12. **Amendments to the approved plans**

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

- The first floor rear elevated deck adjacent to the kitchen is to be affixed with a 1.65 metre high privacy screen (when measured from the finished floor level of the deck) along the entire northern elevation of the decking. The screening is to comprise either fixed panel or louvre style construction that is fixed on a 45 degree angle towards the north-western direction, with maximum openings of 30 millimetres.
- Windows W5, W7 and W9 on the northern elevation of the first floor must be treated with either of the following:
  - Affixed with louvre screening that is 1.5 metres above the finished floor level of the kitchen/dining area on the first floor. The screening is to comprise louvre style construction fixed on a 45 degree angle towards the north-western direction, with maximum openings of 30 millimetres; or
  - Opaque glazing to a height of at least 1.5 metres above the finished floor level of the kitchen/dining area on the first floor.

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

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

## 13. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Taylor Consulting, drawing number Storm-1/A and 2/A, dated 16 September 2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

## 14. **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.

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

Reason: To provide public and private safety.

**15. Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

**16. 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 Certifier prior to the issue of the Construction Certificate.

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

**17. External Finishes**

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

Details demonstrating compliance are to be submitted to the Certifier 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.

**18. 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 Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT****19. Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

a) The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- i) tree protection measures under section 10 Measures to minimise impacts to retained trees,
- ii) works under section 10.3 Proposed Pruning, and 10.11 Compliance Inspections and Reports,
- iii) additionally, the Project Arborist shall be in attendance and supervise any landscaping works within the TPZ of all existing trees to be retained.

b) Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

c) All tree protection measures specified must:

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

The Project Arborist shall provide certification to the Principal Certifier that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

d) Note:

- i) 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.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

## 20. **Tree Removal Within the Property**

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

- i) tree 7 - *Angophora costata*, trees 19-21 *Melaleuca quinquenervia*,
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised building works.

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

## 21. **Tree and Vegetation Protection**

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

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

b) Tree protection shall be undertaken as follows:

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

with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,

viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,

ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Principal Certifier must ensure that:

c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

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

Reason: Tree and vegetation protection.

## 22. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from the Project Arborist during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Project Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

## 23. **Road Reserve**

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

Reason: Public safety.

**24. Wildlife Protection**

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

Reason: To protect native wildlife.

**25. 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.

**26. Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

**27. Survey Certificate**

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

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

**28. Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, 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.

**29. 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 Certifier.

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

### 30. Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan (drawing LP-1, PSD-1 by Wallman Partners dated 17/08/22), and inclusive of the following conditions:

- i) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 1 metre from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) mass planting shall be installed at minimum 1 plant per metre square for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at least 4 plants per metre square for grasses/groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- iv) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.
- v) should any existing vegetation shown to be retained be damaged or removed during construction, it shall be replaced with a like-for-like substitute to ensure the existing landscape character is maintained,
- vi) all proposed planting shall be installed wholly within the property boundary.

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

Reason: Environmental amenity.

### 31. Condition of Retained Vegetation - Project Arborist

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, 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 generally and during 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: Tree protection.

### 32. No Weeds Imported On To The Site

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any

## Occupation Certificate.

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

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

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

### 34. **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 Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### 35. **House / Building Number**

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

### 36. **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 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, 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 Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

#### 37. **Landscape Maintenance**

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

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

All weeds are to be managed in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

#### 38. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

#### 39. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

#### 40. **Noise - Lift and Swimming Pool**

All plant equipment must be installed and operated at times so as not to cause 'offensive noise'. It must be demonstrated that the noise level will not exceed 5dBA above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

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 'T. Burns'.

**Thomas Burns, Planner**

The application is determined on 20/01/2023, under the delegated authority of:

A handwritten signature in blue ink, appearing to read 'Steven Findlay'.

**Steven Findlay, Manager Development Assessments**