

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0096
----------------------------	-------------

Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 4 DP 14048, 26 Ralston Road PALM BEACH NSW 2108 Lot 5 DP 14048, 26 Ralston Road PALM BEACH NSW 2108
Proposed Development:	Demolition of a dwelling house and construction of two dwelling houses
Zoning:	E4 Environmental Living E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Tony Nassif
Applicant:	Stephen Michael Lesiuk

Application Lodged:	06/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	30/06/2020 to 14/07/2020
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 4,355,000.00
---------------------------------	-----------------

EXECUTIVE SUMMARY

The proposed development is for the demolition of the existing dwelling and construction of two new dwellings on the existing Lots 4 and 5.

The proposed cost of works is \$4,355,000 and the development received three objections. As such, the application is referred to the Development Determination Panel for determination

The proposed dwellings comply with the height of buildings development standard and comply with all relevant built form controls, with the exception of the western elevation building envelope.

Three submissions were received by way of objection in response to the notification/advertising of the application, generally relating to the landscaping, amenity and visual impacts of the development.

The application was significantly amended in order to address concerns raised by Council and the adjoining properties following the notification and preliminary assessment of the development. The amended proposed was re-notified in accordance with the Northern Beaches Community Participation Plan. The amendments in brief are as follows:

- Deletion of the proposed roof top lantern structures
- Reconfiguration of proposed roof terraces
- Increased setbacks to upper floor levels
- Deletion of the proposed Lot 4 Basement area
- Relocation of the Lot 4 & 5 swimming pools and terraces
- Reconfigured driveway access and garages to Lots 4 & 5
- Amended Landscape Plan, including the retention of all significant vegetation on the subject site and adjoining road reserve
- Reduced eave bulk

Several non-standard conditions are included in relation to the built form, finishes and privacy screening/treatments.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies, including the applicable planning controls.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the demolition of the existing dwelling and construction of two new dwellings on the existing Lots 4 and 5 as follows:

Lots 4 & 5

Lower ground floor

- Double garage

Ground floor

- Family room
- Two Bedrooms with ensuites
- Bunk room with ensuite
- Terrace
- Swimming pool and terrace/lawn

First floor

- Kitchen, dining & living room
- Two Bedrooms with ensuites & robes
- Terrace

Roof

- Roof terrace

External

- New driveway and entry court
- New landscaping/planting

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 - 5.9 Preservation of trees or vegetation

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater 21 Development Control Plan - B1.4 Aboriginal Heritage Significance

Pittwater 21 Development Control Plan - B3.2 Bushfire Hazard

Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

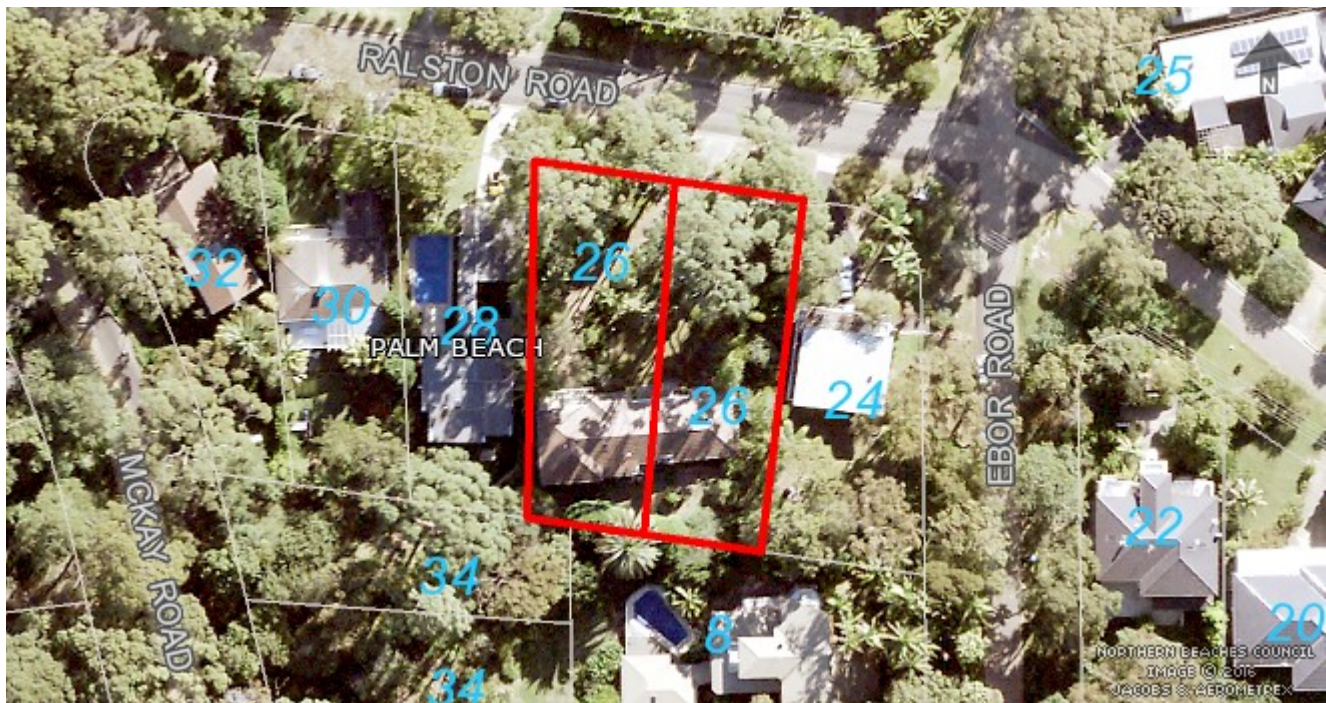
Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy

Pittwater 21 Development Control Plan - D12.1 Character as viewed from a public place
Pittwater 21 Development Control Plan - D12.3 Building colours and materials
Pittwater 21 Development Control Plan - D12.8 Building envelope
Pittwater 21 Development Control Plan - D12.11 Fences - General
Pittwater 21 Development Control Plan - D12.14 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	<p>Lot 4 DP 14048 , 26 Ralston Road PALM BEACH NSW 2108</p> <p>Lot 5 DP 14048 , 26 Ralston Road PALM BEACH NSW 2108</p>
Detailed Site Description:	<p>The subject site consists of two allotments located on the southern side of Ralston Road.</p> <p>The site is regular in shape with a frontage of 35.06m along Ralston Road and a depth of 46.06m. The site has a surveyed area of 1492.3m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing dwelling house.</p> <p>The site has a crossfall of 4m from east to west.</p> <p>The site is heavily vegetated, including three significant trees and further native and non-native vegetation. The adjoining properties and road reserve also contain a number of significant trees in close proximity to the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwellings. The rear boundary partially adjoins McKay Reserve, which is located to the south and west of the site.</p>

Map:



SITE HISTORY

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

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any	See discussion on “Notification & Submissions Received” in this

Section 4.15 Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	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 application was referred to the NSW RFS, who provided a number of recommendations in relation to the development.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/06/2020 to 14/07/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Rob Bertuzzi	33 Ralston Road PALM BEACH NSW 2108
Mr David Roderick Plank	8 Ebor Road PALM BEACH NSW 2108
Mrs Danielle Leigh Wallis	28 Ralston Road PALM BEACH NSW 2108

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

- Removal of canopy trees from the site
- View loss impacts from No. 8 Ebor Road, height, bulk
- Visual privacy impacts
- Acoustic privacy impacts
- Visual impact/bulk and sunlight access to No. 28 Ralston Road
- Landscaping design

The matters raised within the submissions are addressed as follows:

- Removal of canopy trees from the site
Comment:
The amended proposal includes the retention of all significant trees on the site and adjoining road reserve.
- View loss impacts from No. 8 Ebor Road
Comment:
The proposed view loss impacts are assessed in detail under C1.3 View Sharing, and are considered to be acceptable. It is acknowledged that the existing views from the first floor living

area balconies will be lost, but those from the upper level balconies will likely be retained. As discussed under C1.3, the views from No. 8 Ebor Road are partial views due to their extent and the existing developments and canopy vegetation that obscure the views. Further, the view corridor is vulnerable to development as it is obtained across the side boundary of No. 8 and through the centre of the subject site. Given the above factors and the general compliance of the development with the built form controls, the resulting view loss is not unreasonable as assessed in accordance with the NSW LEC view loss planning principle.

- Visual privacy impacts

Comment:

The proposal is generally acceptable in relation to visual privacy. The proposed dwellings and private open space areas are designed and sited to provide sufficient physical separation and screening from the adjoining properties. Conditions are included in relation to the screening of the western elevation of the Lot 4 pool terrace and the rear first floor glazing of Lot 5. A detailed assessment of visual privacy is completed under C1.5 Visual Privacy.

- Acoustic privacy impacts

Comment:

The proposed development is not considered likely to result in unreasonable acoustic impacts to surrounding properties. The noise generated by the development is anticipated to be consistent with that of dwelling houses, and the outdoor entertaining areas are appropriately located and orientated in this regard. As discussed under C1.6 Acoustic Privacy, the proposed roof terraces are not primary private open space areas within the developments, and as such have reduced usability and potential impact.

- Visual impact/bulk and sunlight access to No. 28 Ralston Road

Comment:

The proposed 450mm parapet is conditioned to be deleted from the western elevation of the Lot 4 dwelling, reducing the non-compliance with the envelope control to a maximum of 500mm at the rear of the dwelling. This amendment will result in a reduction to the visual bulk and overshadowing impacts of the development. The proposal is acceptable in relation to overshadowing, with minimal impact from 11am onward due to the north-south orientation of the sites. It should be noted that the rear yard area of No. 28 is vulnerable to overshadowing and visual impact as it is significantly lower than the adjoining site due to previous excavation and retaining walls constructed. Regardless, the change in levels between the subject site and No. 28 Ralston Road was taken into account in this assessment, particularly with regard to the deletion of the western roof parapet.

- Landscaping design

Comment:

A comprehensive suite of consent conditions is included in relation to landscaping, including the preparation of an amended Landscape Plan by a landscape architect/designer, and the appointment of a Project Arborist to oversee the root mapping/investigation and landscape works.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The development application is for the construction of a new dwelling, garage with above terrace and pool, and external landscape works to each of Lot 4 and Lot 5. A revised development application

Internal Referral Body	Comments
	<p>including revised site planning, architectural plans, landscape plans, and arboricultural assessment has been issued.</p> <p>The following design amendments have now been included in this revised development application:</p> <ul style="list-style-type: none"> • driveway access for both Lot 4 and Lot 5 are shared, utilising the existing crossover and portion of the existing driveway extending into the site as shown on the plans, • retention of street trees and existing trees within the front setback due to the retention of the existing driveway, that were previously impacted by the development proposal, • minimisation of impacts to existing trees within Lot 4 and Lot 5, subject to the engagement of a Project Arborist and provision of tree protection measures, • revised landscape plan. <p>Council's Landscape Referral section has assessed the proposal against the Pittwater Local Environment Plan clause E4 Environmental Living zone, and the following Pittwater 21 DCP Controls:</p> <p>B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D12 Palm Beach Locality, including D12.10 Landscaped Area - Environmentally Sensitive Land</p> <p>The site is located in the E4 Environmental Living Zone, requiring development to achieve a scale integrated with the landform and landscape, including the retention of existing trees.</p> <p>The revised Landscape Plan, whilst providing an intent, does not satisfy Council's DA Lodgement requirements. A list of species, quantities and container pot size are provided, however the location of such species is not presented on the plans. Several locations include proposed trees in inappropriate areas that can't support large tree planting. It appears that large trees are represented graphically and listed along the rear and side boundaries occupied by the proposed buildings without sufficient space between boundaries and building to realistically allow for the establishment of such trees, including the Cheese Tree nominated on the landscape plan. Additionally, the landscape design and location of planting shall be considered to minimise significant impacts on neighbours in terms of blocking winter sunlight to either living rooms, private open space or solar collectors; or where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views.</p> <p>Amended Landscape Plans will be required at Construction Certificate, prepared by a qualified Landscape Architect or Landscape Designer as required in Council's DA Lodgement requirements. Conditions shall be imposed providing the guidelines to be achieved</p>

Internal Referral Body	Comments
	<p>by the Amended Landscape Plan.</p> <p>The revised Arboricultural Impact Assessment considers 24 trees, 16 trees within the site, 5 trees on a neighbouring property and 3 trees on the adjacent road reserve and recommends retention and protection of all these trees.</p> <p>Existing trees 1, 4, 5, 8, 9, 10, 11, 12, 14x4, 15, 16x2, 17, 18 & 19 the alignment of the development is sufficiently setback to not affect these specimens. In regards to existing trees 2, 3 & 6, the existing driveway is a major encroachment to these specimens and the existing driveway is to be retained in situ to the length shown on the plans. There will be no additional impact to these specimens by the proposed development.</p> <p>In regards to existing trees 7, 13 and 20, the alignment of the development will be a major encroachment. A root mapping investigation is to be undertaken to determine below surface existence of tree roots along the driveway near tree 7, and the building alignment near tree 13 to ascertain excavation limits and locations of pier footing as required. A minor encroachment is calculated for existing tree 20 within adjoining property No. 24. No detrimental impact is permitted to existing trees within adjoining properties and as such a root mapping investigation is to be undertaken to determine below surface existence of tree roots along the building alignment near tree 20 to ascertain excavation limits and locations of pier footing as required</p> <p>The landscape outcome of the revised development application is acceptable subject to the protection of existing trees and vegetation, the engagement of a Project Arborist to conduct root investigation works, and the completion of landscape works as per the conditions of consent.</p>
NECC (Bushland and Biodiversity)	<p><u>Revised Comments</u></p> <p>The amended design retains the trees on the site and therefore satisfies the biodiversity planning controls. Impact mitigation measures contained within the Flora and Fauna Report have been included within the recommended consent conditions. Tree protection and landscaping has been addressed in Council's Landscape referral. The proposed development is unlikely to result in a significant impact to native vegetation, fauna and their habitats, and a Biodiversity Development Assessment Report is not required.</p> <p><u>Original Comments</u></p> <p>The application has been assessed against Pittwater LEP 2014 Clause 7.6 Biodiversity and P21 DCP B4.6 Wildlife corridors.</p> <p>The proposed dwellings are located generally within the area currently occupied by the existing structure, which is supported by biodiversity. However, the removal of the five high retention trees as detailed within the Arborist Report is not supported, and does not demonstrate</p>

Internal Referral Body	Comments
	<p>compliance with natural environment controls. The extent of tree removals is inconsistent between the Plans and supporting information submitted, and the full impact of the development has not been assessed as part of the Flora and Fauna Report.</p> <p>The proposed driveways, garages and pools cannot be supported as they have not been designed, sited and managed to avoid or minimise any adverse environmental impact.</p>
NECC (Development Engineering)	No Engineering comment/objection, subject to recommended conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.
NSW Rural Fire Service – local branch (s4.14 EPAA)	The NSW RFS recommendations are included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate Nos. 1065040S dated 23 December 2019 (Lot 4) and 1065036S dated 23 December 2019 (Lot 5)).

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid with suitable conditions included.

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

Lot 4 (West)

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.7m	N/A	Yes

Lot 5 (East)

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

5.9 Preservation of trees or vegetation

Council's Landscape Officer raised no objection to the amended proposal, "subject to the protection of existing trees and vegetation, the engagement of a Project Arborist to conduct root investigation works, and the completion of landscape works as per the conditions of consent".

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.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

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 excavation works are not considered likely to significantly impact the watertable.

7.2 Earthworks

Compliance with control

The proposed earthworks are generally limited to the development footprint including the dwellings, swimming pools and garages/vehicle access. The earthworks are not considered excessive and the natural surface level of the site is retained across the remainder of the site, including in the vicinity of the site boundaries.

7.6 Biodiversity protection

Council's Biodiversity Officer concluded that the amended development satisfies the biodiversity planning controls, subject to the Flora and Fauna Report recommendations and conditions of consent included in the Landscape and Biodiversity referrals.

Pittwater 21 Development Control Plan

Built Form Controls

Lot 4 (West)

--	--	--	--	--

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	14.3m	N/A	Yes
Rear building line	6.5m	6.7m-7.2m	N/A	Yes
Side building line	West: 2.5m	2.9m-3.9m	N/A	Yes
	East: 1m	Garage: 1.1m Dwelling: 2.5m	N/A	Yes
Building envelope	3.5m	West: Outside envelope	15.6%	No
		East: Within envelope	N/A	Yes
Landscaped area	60% 459.78m ²	61.1% 468.2m ²	N/A	Yes

Lot 5 (East)

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	14.5m	N/A	Yes
Rear building line	6.5m	7.5m-8m	N/A	Yes
Side building line	East: 2.5m	2.8m-3.3m	N/A	Yes
	West: 1m	Garage: 1.1m Dwelling: 2.5m	N/A	Yes
Building envelope	3.5m	West: Outside envelope	9.5%	No
		East: Within envelope	N/A	Yes
Landscaped area	60% 438.96m ²	64.6% 472.7m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	Yes	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.11 Fences - General	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B1.4 Aboriginal Heritage Significance

The site is not mapped as high potential for Aboriginal Sites so referral to the Aboriginal Heritage Office was not considered necessary. A condition of consent is included requiring that works cease and the OEH be notified in the event that any sites are found on the development site.

B3.2 Bushfire Hazard

A Bushfire Report was prepared for the development and the application referred to the NSW RFS, with suitable recommendations included.

B4.22 Preservation of Trees and Bushland Vegetation

The amended proposal retains the existing significant vegetation on the site and suitable conditions are included in relation to tree/vegetation protection.

C1.1 Landscaping

Council's Landscape Officer raised no objection to the development, subject to the recommended conditions of consent.

C1.3 View Sharing

Merit consideration

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

- *A reasonable sharing of views amongst dwellings.*

Comment:

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

1. Nature of the views affected

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

Comment to Principle 1:

The available views from No. 8 Ebor Road are water views of Broken Bay, including land-water interface at Pearl Beach/Umina. The existing view corridor is obscured by existing developments and canopy vegetation between the receiving property and the subject view. The value of the view is also affected by the distance between the view and the receiver. Given these factors the views are considered to be partial views.

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

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

Comment to Principle 2:

The views are obtained from the first floor living area deck and upper floor bedroom decks from a sitting and standing position. The views are obtained over the northern side boundary of No. 8 Ebor Road, which forms the rear boundary of the subject site. The view corridor is generally

over the eastern part of the site - Lot 5. As such, the impact to views will largely result from the proposed dwelling on Lot 5, rather than Lot 4.



Photo 1. View from No. 8 Ebor Road first floor northern balcony.



Photo 2. View from No. 8 Ebor Road upper floor northern balcony (eastern).



Photo 3. View from No. 8 Ebor Road upper floor northern balcony (western).

3. Extent of impact

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

Comment to Principle 3:

Given the location and extent of available views and the relationship of the proposed development to the existing dwelling, the likely impact to views is evident from the above photographs and erection of height poles was not considered necessary in this case.

The roof ridge of the existing dwelling within the view corridor from No. 8 Ebor Road is RL106.63. The parapet height of the proposed dwelling on Lot 5 within the view corridor is

approximately RL108.3, an increase of 1.67m above the existing ridge. The maximum height of the resulting dwelling on Lot 5 is 6.6m, which is significantly lower than the 8.5m control.

The proposed height increase of the new dwellings is anticipated to block the entirety of available views from the first floor balcony due to the shallow view angle (Photo 1). However, the existing views from the upper level bedroom balconies will likely remain unaffected due to the increased elevation (Photos 2 & 3).

As discussed above, the views are considered to be partial due to their extent and the distance from the receiver. Further, the vulnerability of the view corridor is greater as it is achieved across the side boundary of No. 8 Ebor Road and through the centre of the development site.

Given the nature and extent of the affected views, and the compliance of the development with the height of buildings control, the impact to views is considered to be minor-moderate.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The proposal is non-compliant in relation to the building envelope control at the western elevation of Lots 4 and 5. The non-complying building element of the Lot 5 dwelling is located approximately in line with the existing chimney shown in Photo 3. The breach is not of particular relevance to view loss in this case as the view corridor is located further to the east through the centre of Lot 5. The remainder of the proposal complies with the built form controls and is consistent with the scale and density of surrounding development. The maximum height of the dwelling on Lot 5 is 6.6m, which is not excessive for a two-storey development. Any further reduction to the proposed dwelling height would result in either reduced development potential by removing the first floor, or reduced amenity by locating the lower level partially below ground level. Given the compliance of the development with the relevant controls and the nature of the views to be impacted, the proposal is reasonable in relation to views and is supported.

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

Comment:

The proposal will not impact views from any roads or public places.

- *Canopy trees take priority over views.*

Comment:

No trees are proposed to be removed or impacted and canopy vegetation is prioritised over available views.

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

C1.4 Solar Access

Compliance with control

The proposal maintains a compliant level of sunlight access to the subject sites and adjoining properties in accordance with this control. The lots are orientated north-south and will continue to receive adequate northerly sun throughout the day.

At 9am there is significant overshadowing of the rear yards of the development site and No. 28 Ralston Road to the west. By 10am the impact to No. 28 is limited to a 5m wide strip along the eastern boundary, and by 11am the overshadowing of No. 28 is negligible. The development will not result in any overshadowing of living room windows at No. 28.

The proposed dwelling on Lot 5 is significantly below the building height control at the eastern elevation and complies with the building envelope control. The new development at No. 24 Ralston Road to the east of the site is higher than the subject development and will not be unreasonably overshadowed.

C1.5 Visual Privacy

Compliance with control

The proposed development is considered to suitably maintain privacy to the subject dwellings and adjoining properties. The proposed windows are generally located and/or screened to minimise privacy impacts and the proposed private open spaces are located centrally and orientated towards the front boundary. Despite the compliance of Lot 5 with the rear building line control, the rear elevation of the dwelling is aligned with the swimming pool and several large balconies and glazed areas at the northern elevation of No. 8 Ebor Road. In order to maintain privacy to both Lot 5 and No. 8 Ebor Road, a condition is included requiring screening to the first floor rear-facing glazing.

The development is considered further against the relevant controls as follows:

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).

Comment:

The adjoining property No. 28 Ralston Road contains a private open space area and swimming pool to the front of the dwelling, and a further private open space area within the rear yard off the kitchen/living rooms. The adjoining property No. 8 Ebor Road contains several balconies and a swimming pool at the northern elevation/building line, adjoining the rear boundary of the subject site.

The proposed swimming pool terrace located above the garage at Lot 4 is set back a minimum of 9.5m from the western boundary. Notwithstanding the physical separation and existing/proposed landscape screening provided, a condition is included requiring that the proposed front planter box also extend along the western side of the terrace to provide supplementary screening.

The proposed roof terraces are located centrally within the sites, with minimum physical separation to adjoining private open spaces of 15m to the south (No. 8 Ebor), 11m to the west (No. 28 Ralston) and 7m to the east (No. 24 Ralston). Further, the dwelling/roof structures at the lower levels will prevent downward overlooking to adjoining sites from the roof terraces. It is also noted that the roof terraces are not the primary outdoor living areas associated with the dwellings as they are not directly accessed from the living areas.

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.

Comment:

The proposed elevated structures are located at the front of the dwellings and orientated towards the north, away from adjoining properties. The proposed pool terrace on Lot 4 is conditioned to provide planter screening to the western side, in addition to the existing and proposed screening along the western boundary. The proposed roof terraces are sufficiently set back from the rear boundaries and the planter boxes provided will screen viewing to the rear. As discussed, downward overlooking is screened by the built form below.

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

Comment:

The proposal does not allow overlooking of 50% of any adjoining dwellings/properties.

C1.6 Acoustic Privacy

Merit consideration

The development is considered against the underlying objectives of the control as follows:

Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited.

Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas.

Comment:

The proposed private open space areas are appropriately located and orientated on the sites. The ground level swimming pool/terraces and first floor terraces are the primary private open space areas as they are access directly from the internal living areas of the dwellings. In this regard, the proposed roof terrace areas are considered as secondary open space areas with reduced access and usability. As such, the use and acoustic impacts of these areas are not anticipated to be unreasonable.

D12.1 Character as viewed from a public place

Compliance with control

The proposed dwellings are sufficiently set back from the front boundary and the existing significant trees and vegetation are retained within the front setback areas and road reserve. Extensive planting is

also incorporated in to the development to further reduce the visual impact.

The built form of the proposed dwelling facades are appropriately articulated to maintain a reasonable bulk and scale.

The retention of the existing driveway location and the proposed entry court design and garage locations are acceptable in the context. The physical separation and existing/proposed landscaping forward of building line ensures that the car parking structures are not visually dominant within the streetscape.

D12.3 Building colours and materials

A condition of consent is included to ensure compliance with the permitted dark and earthy colours.

D12.8 Building envelope

Description of non-compliance

The proposed parapet to the Lot 4 dwelling exceeds the building envelope control by up to 1m along the length of the western elevation.

The proposed parapet to the Lot 5 dwelling exceeds the building envelope control by 0.57m along the length of the western elevation

Merit Assessment

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

To achieve the desired future character of the Locality.

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

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

The bulk and scale of the built form is minimised.

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

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

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

Comment - Lot 4:

The topography at the western boundary of Lot 4 and the adjoining property, No 28 Ralston Road exacerbates the visual impact of the envelope breach. The rear yard of No. 28 is located at the bottom of a 1.5m retaining wall in close proximity to the common boundary, with the existing ground level of No. 28 being up to 3.5m lower than the adjoining rear yard of the subject site.

The proposed first floor western building line is increased by 1.75m at the front of the dwelling and 700mm at the rear, with the resulting setback of 2.9m-4m considered to provide sufficient separation. Notwithstanding the increased side setbacks, the extent of the envelope breach is increased by the 450mm roof parapet.

Due to the extent of the non-compliance and the change in levels between the properties, it is

considered necessary to delete the western parapet to Lot 4 to minimise the overall height and associated visual/amenity impacts to No. 28. As conditioned, the built form will comply with the envelope control at the front of the dwelling, and will result in a maximum envelope breach of 0.5m at the rear.

Comment - Lot 5:

The proposed envelope breach at the western elevation of Lot 5 is not considered to result in any unreasonable visual or amenity impacts to Lot 4. The proposal provides adequate physical separation and the resulting bulk is acceptable.

D12.11 Fences - General

Compliance with control

The proposed side and rear boundary fencing is a maximum of 1.8m high and incorporates suitable gaps for wildlife passage.

D12.14 Scenic Protection Category One Areas

Compliance with control

The existing and proposed vegetation will provide suitable screening of the development from the streetscape and adjoining properties. No trees are to be removed and the building height is maintained below the tree canopy.

The dwellings are appropriately designed, sited and orientated, and a condition of consent is included in relation to colours and materials.

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 2019

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

A monetary contribution of \$43,550 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,355,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;

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

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

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

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

The proposed development is for the construction of two new dwellings over the two existing lots. The proposal is considered to be a suitable and appropriate development within the context of the site.

The key planning issues considered within the assessment are the numerical compliance of the development, and amenity impacts relating to views, privacy, sunlight access, visual bulk and vegetation.

The three submissions received have been considered and are addressed within this report, with suitable conditions applied where necessary to address those concerns, specifically visual privacy and bulk impacts.

The view impacts to No. 8 Ebor Road resulting from the proposed are considered to be appropriate given the nature of the available views and the performance of the development against the applicable built form controls.

A number of amendments were made to the development due to concerns raised by Council and the adjoining properties. The amendments generally result in a reduction to the bulk of the dwellings, relocation of garages, vehicle access, swimming pools and terraces, and landscaping.

Assessment of the amended application against the Pittwater LEP and DCP finds that the development suitably addresses the concerns raised and is acceptable in regard to the relevant numerical controls and amenity considerations.

Based on the assessment undertaken within this report, the application is recommended for approval.

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0096 for Demolition of a

dwelling house and construction of two dwelling houses on land at Lot 4 DP 14048, 26 Ralston Road, PALM BEACH, Lot 5 DP 14048, 26 Ralston Road, PALM BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
001 Garage Floor Plan	Revised 29 May 2020	Stephen Lesiuk Architect
002 Ground Floor Plan	Revised 29 May 2020	Stephen Lesiuk Architect
003 Main Floor Plan	Revised 29 May 2020	Stephen Lesiuk Architect
004 Roof Plan	Revised 29 May 2020	Stephen Lesiuk Architect
005 Site Plan	Revised 29 May 2020	Stephen Lesiuk Architect
010 Section 1-1 Lot 5	Revised 29 May 2020	Stephen Lesiuk Architect
011 West Elevation Lot 5	Revised 29 May 2020	Stephen Lesiuk Architect
012 East Elevation Lot 5	Revised 29 May 2020	Stephen Lesiuk Architect
015 Section 2-2 Lot 4	Revised 29 May 2020	Stephen Lesiuk Architect
016 West Elevation Lot 4	Revised 29 May 2020	Stephen Lesiuk Architect
017 East Elevation Lot 4	Revised 29 May 2020	Stephen Lesiuk Architect
020 Section B-B Lots 4 & 5	Revised 29 May 2020	Stephen Lesiuk Architect
021 Section A-A 4 & 5	Revised 29 May 2020	Stephen Lesiuk Architect
022 Street Elevation 4 & 5	Revised 29 May 2020	Stephen Lesiuk Architect
023 South Elevation 4 & 5	Revised 29 May 2020	Stephen Lesiuk Architect

Reports / Documentation – All recommendations and requirements contained

within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bush Fire Assessment Report	26 September 2019	Bushfire Consulting Services
NSW Rural Fire Service Letter	30 March 2020	NSW RFS
Arboricultural Impact Assessment	12 June 2020	Redgum Horticultural
Flora and Fauna Assessment	20 December 2019	GIS Environmental Consultant

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
025 Landscape Plan	Revised 29 May 2020	Stephen Lesiuk Architect

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

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

2. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

3. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

4. **Ausgrid**

The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Reason: To maintain safety on site.

5. **NSW RFS**

The recommendations contained within the NSW Rural Fire Service letter dated 30 March 2020 must be complied with at all times.

Reason: To ensure compliance with the NSW RFS assessment.

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$43,550.00 is payable to Northern Beaches Council for the provision

of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$4,355,000.00.

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

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

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

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

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

7. Security Bond

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

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

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

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

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

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

8. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

9. 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 PITTWATER DCP21, and generally in accordance with the concept drainage plans prepared by cec capital engineering consultants, drawing number SWDP01 to SWDP05, dated 03/02/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering. The submitted drainage plans must be amended to address the following requirements:-

- The proposed detention tanks are located below the garage. As result this requires adequate ventilation to be provided for free air circulation from outside the footprint of the proposed dwellings.
- The tank must be amended to provide for two pits outside of the proposed garages. The pits are to be for access to the tank and a discharge control pit. The pits must permit free air circulation to the below ground tank.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority 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.

10. Vehicle Crossings Application

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

11. Soil and Water Management Program

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

12. Amended Landscape Plan

An Amended Landscape Plan, prepared by a qualified Landscape Architect or Landscape Designer shall be prepared to satisfy the landscape controls of the Pittwater DCP controls C1.1 Landscaping and D12.10 Landscaped Area - Environmentally Sensitive Land.

The Amended Landscape Plan shall be submitted to the Certifying Authority for approval and certification that the following landscape elements, based on the design intent of the revised landscape plan DA Revised 025 are provided on the Amended Landscape Plan, suited to the available deep soil area to achieve maturity:

a) Lot 4

- i) identification of existing trees and vegetation as nominated in the revised Arboricultural Impact Assessment,
- ii) identification and location of any small trees or native palms that can suitably be located along the rear boundary, at least 1.5m from the common boundary, and at least 3m from any existing or proposed building,
- iii) shrub screen planting along the rear boundary consisting of planting capable of attaining a mature height of 3 metres, located no more than 1 metre apart, nominated at minimum 300mm pot size,
- iv) shade tolerant palm or fern species that can suitably be located along the side boundary adjacent to the dwelling, consisting of the nominated *Livistona australis* (Cabbage Tree Palm) or *Cyathea australis* (Tree Fern), at least 1.5m from the common boundary, and at least 3m from any existing or proposed building, and understorey shade tolerant ferns and groundcovers,
- v) shrub screen planting along the side boundary consisting of planting capable of attaining a mature height of 3 metres, located no more than 1 metre apart, and nominated at minimum 300mm pot size,
- vi) one (1) indigenous canopy tree as selected from Council's Tree Guide located within the front setback, located at least 2 metres from common boundaries, at least 5 metres from dwellings, and nominated at 75 litre pot container size.

b) Lot 5

- vii) identification of existing trees and vegetation as nominated in the revised Arboricultural Impact Assessment,
- viii) identification and location of any small trees or native palms that can suitably be located along the rear boundary, at least 1.5m from the common boundary, and at least 3m from any existing or proposed building,
- ix) shrub screen planting along the rear boundary consisting of planting capable of attaining a mature height of 3 metres, located no more than 1 metre apart, nominated at minimum 300mm pot size,
- x) identification and location of any small trees or native palms that can suitably be located along the side boundary, at least 1.5m from the common boundary, and at least 3m from any existing or proposed building,
- xi) shrub screen planting along the side boundary consisting of planting capable of attaining a mature height of 3 metres, located no more than 1 metre apart, and nominated at minimum 300mm pot size,
- xii) one (1) indigenous canopy tree as selected from Council's Tree Guide located within the front setback, located at least 2 metres from common boundaries, at least 5 metres from dwellings, and nominated at 75 litre pot container size.

- c) All proposed trees shall be positioned in locations that minimise significant impacts on

neighbours in terms of blocking winter sunlight to either living rooms, private open space or solar collectors; or where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views.

Reason: to provide a suitable landscape treatment to reduce the built form and provide privacy to private open space.

13. **Tree Root Investigation**

A non-destructive root investigation shall be conducted complying with clause 3.3.4 (TPZ encroachment considerations) of AS 4970-2009 Protection of Trees on Development Sites to all construction areas within the tree protection zone of existing trees numbered as follows:

- 7 Sydney Red Gum, within the site in Lot 5,
- 13 Weeping Myrtle, within the site in Lot 4,
- 20 Spotted Gum, within adjoining property No. 24.

A tree root investigation to locate major roots is required to be documented to assist with structural engineering and construction design. This shall be conducted prior to the issue of a Construction Certificate to provide definitive recommendations to assist with the structural engineering design for slab and/or pier footings to the proposed building works near existing trees 13 and 20, and the proposed driveway works near existing tree 7. No detrimental impact is permitted to existing trees within adjoining properties.

The root investigation shall be undertaken by a qualified AQF Level 5 Arborist to locate existing tree roots to be protected during excavation works and shall recommend tree protection measures within the tree protection zones.

Reason: to investigate the location of existing tree roots as a basis for building and driveway slab and/or pier footing location.

14. **Root Mapping Plan**

The findings of the root investigation shall be documented in a Root Mapping Plan that identifies 'No Go' areas that can't be excavated without supervision and guidance of a qualified AQF Level 5 Arborist, and shall be the basis for determining the location of all slab and pier footings for proposed building and driveway works within the tree protection zone of the existing trees identified by numbers 7, 13 and 20 in the Arboricultural Impact Statement.

The Root Mapping Plan shall be issued to the Certifying Authority and to the Structural Engineer as the basis for preparation of Construction Certificate structural design. The Root Mapping Plan shall provide any pier footing layout recommendations or advice on excavation works near existing trees.

The Arborist shall provide certification to the Certifying Authority that the Root Mapping Plan and clear distances recommended will ensure the long term survival of the existing trees. The Certifying Authority shall approve Construction Certificate design that satisfies the recommendations of the Root Mapping Plan.

All structural design for slab and/or pier footings shall be developed in co-ordination with a qualified AQF minimum Level 5 Arborist and a qualified Structural Engineer, and shall be issued to the Certifying Authority identifying suitable locations for all slab and pier footing locations within the tree protection zone.

The Pier Footing Plan shall be issued to the Certifying Authority identifying a suitable locations for each pier footing. The Certifying Authority shall approve Construction Certificate design that

satisfies the recommendations of the Pier Footing Plan.

Reason: to ensure protection of the existing trees identified for management and retention.

15. **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in the approved Flora and Fauna Assessment Report (GIS Environmental Consultants 20th December 2019), and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

16. **External Finishes to Roof**

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

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

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

17. **Colours and Materials**

The building colours and finishes are to be dark and earthy tones in accordance with Pittwater 21 DCP D12.3 Building colours and materials.

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

Reason: To harmonise with the natural environment and minimise the visual prominence of the structure.

18. **Roof Parapet - Lot 4**

The proposed roof at the western elevation of Lot 4 is to be deleted. The maximum height of the western wall/elevation is to be RL106.25.

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

Reason: To reduce the bulk and visual impact of the dwelling at the western elevation.

19. **Rear Glazing**

The proposed first floor rear-facing glazing to Lot 5 is to incorporate screening/louvers to direct views away from the adjoining dwelling and private open space to the south at No. 8 Ebor Road.

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

Reason: To maintain privacy between the subject site and adjoining property.

20. **Pool Terrace Planter**

The planter box to the Lot 4 Pool Terrace is to extend along the western elevation of the terrace. The selected planter vegetation is to be an appropriate species to provide continuous screening along the length of the terrace.

Details including species, mature height, planting, pot size and spacing to provide continuous screening are to be submitted to Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain visual privacy between the subject site and No. 28 Ralston Road.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **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.

22. **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.

23. **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.

24. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing in accordance with the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

25. Tree protection measures

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for existing trees to be retained and protected, requiring site attendance during excavation and construction works, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the recommendations of the Arboricultural Impact Assessment prepared by RedGum Horticultural.

This shall include all tree sensitive works in the vicinity of the existing trees that have been identified for retention in the Arboricultural Impact Assessment, as identified in the following sections:

- Table 1.0,
- Section 5.0 Observations/Discussions, identifying specific tasks to be undertaken,
- Section 7.0 Recommendations, and
- Appendix F Site Plan - Survey of Subject Trees to be Retained & Tree Protection Zones, including tree protection fencing.

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

The tree protection measures specified in this clause must:

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

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

- vii) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and
- 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 on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

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

Reason: to ensure tree protection is provided and maintained.

26. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected as recommended in the Arboricultural Impact Assessment prepared by RedGum Horticultural, including:

- i) all trees and vegetation within the site, excluding exempt vegetation under the relevant planning instruments of legislation (#) (*),
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation not approved for removal.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on

Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF minimum Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF minimum Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF minimum Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF minimum Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF minimum Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF minimum Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF minimum Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

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

(#) The Arboricultural Impact Assessment recommends the retention of existing trees categorised under Northern Beaches Council's Exempt Species list which do not require Council approval for removal. Under this development application the nominated species shall be retained as recommended in the Arboricultural Impact Assessment, including the following trees: 10 (Arizona Cypress), 11 (Kentia Palm), 12 (Jacaranda), and 14x2 (Golden Cane Palm). This allows for the existing landscape amenity and provision of privacy to adjoining lots to be maintained.

(*) Under Pittwater DCP clause C1.1 Landscaping, advisory notes require that any existing variety of Leighton's Green on a site are to be removed and replaced with suitable replacement planting. It is advised that the existing trees identified in the Arboricultural Impact Assessment as Leighton Green's (16x2 and 18) should progressively be removed, with consideration of privacy for the adjoining lot, and replaced with planting of similar size,

Advice: Any request for tree removal of an existing tree required to be retained under approval for this development application is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

27. Compliance with Ecologist's Recommendations – During Construction

All biodiversity-related measures are to be implemented during construction in accordance with the approved Flora and Fauna Assessment Report (GIS Environmental Consultants 20th December 2019), and these conditions of consent. Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

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

28. Landscape works completion

Landscape works are to be implemented in accordance with the approved Amended Landscape Plan.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and with any conditions of consent, including the following items:

a) Lot 4

- i) identification of existing trees and vegetation as nominated in the revised Arboricultural Impact Assessment,
- ii) identification and location of any small trees or native palms that can suitably be located along the rear boundary, at least 1.5m from the common boundary, and at least 3m from any existing or proposed building,
- iii) shrub screen planting along the rear boundary consisting of planting capable of attaining a mature height of 3 metres, located no more than 1 metre apart, nominated at minimum 300mm pot size,
- iv) shade tolerant palm or fern species that can suitably be located along the side boundary adjacent to the dwelling, consisting of the nominated *Livistona australis* (Cabbage Tree Palm) or *Cyathea australis* (Tree Fern), at least 1.5m from the common boundary, and at least 3m from any existing or proposed building, and understorey shade tolerant ferns and groundcovers,
- v) shrub screen planting along the side boundary consisting of planting capable of attaining a mature height of 3 metres, located no more than 1 metre apart, and nominated at minimum 300mm pot size,
- vi) one (1) indigenous canopy tree as selected from Council's Tree Guide located within the front setback, located at least 2 metres from common boundaries, at least 5 metres from dwellings, and nominated at 75 litre pot container size.

b) Lot 5

- vii) identification of existing trees and vegetation as nominated in the revised Arboricultural Impact Assessment,
- viii) identification and location of any small trees or native palms that can suitably be located along the rear boundary, at least 1.5m from the common boundary, and at least 3m from any existing or proposed building,
- ix) shrub screen planting along the rear boundary consisting of planting capable of attaining a mature height of 3 metres, located no more than 1 metre apart, nominated at minimum 300mm pot size,
- x) identification and location of any small trees or native palms that can suitably be located along the side boundary, at least 1.5m from the common boundary, and at least 3m from any

existing or proposed building,

xi) shrub screen planting along the side boundary consisting of planting capable of attaining a mature height of 3 metres, located no more than 1 metre apart, and nominated at minimum 300mm pot size,

xii) one (1) indigenous canopy tree as selected from Council's Tree Guide located within the front setback, located at least 2 metres from common boundaries, at least 5 metres from dwellings, and nominated at 75 litre pot container size.

c) All proposed trees shall be positioned in locations that minimise significant impacts on neighbours in terms of blocking winter sunlight to either living rooms, private open space or solar collectors; or where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

29. **Condition of retained vegetation**

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

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

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

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. Adequate ventilation for the OSD tank must be certified by the civil engineer as required by the consent conditions.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with 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 for on-site storm water detention as to user is to be obtained.

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

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

31. **Stormwater Drainage Easement**

The inter-allotment drainage for the disposal of stormwater drainage burdening lot 4 DP 14048 must be created in favour of Lot 5 DP 14048 in accordance with the drainage plan submitted by

cec capital engineering consultants. The easement is to be created under requirements of the Conveyancing Act 1919.

Detail proof of registration of drainage easement from NSW Land Registry Services are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

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

32. **Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

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

33. **Compliance with Ecologist's Recommendations – Ongoing**

All ongoing biodiversity-related measures are to be implemented in accordance with the approved Flora and Fauna Assessment Report (GIS Environmental Consultants 20th December 2019) and these conditions of consent.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls

34. **No Planting Environmental Weeds**

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

Reason: Weed management.

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

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

Reason: To protect Aboriginal Heritage.

36. **Dead or Injured Wildlife**

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

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

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

Signed

Anna Williams, Manager Development Assessments

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

Anna Williams, Manager Development Assessments