

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/1790
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<b>Responsible Officer:</b>	Brittany Harrison
<b>Land to be developed (Address):</b>	Lot 41 DP 13760, 214 Hudson Parade CLAREVILLE NSW 2107 Lot LIC 187249, 214 Hudson Parade CLAREVILLE NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house, including a swimming pool and garage
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Peter Karl Heller Marianne Heller Patrick Alexander Heller Nicole Susanne Heller
<b>Applicant:</b>	Patrick Alexander Heller

<b>Application Lodged:</b>	07/10/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	19/10/2021 to 02/11/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 1,991,886.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application seeks development consent for alterations and additions to an existing dwelling.

Specifically, the works comprise of:

#### Level One

- Reconfiguration and additions to accommodate for a master bedroom, en-suite, storeroom and study area.

#### Level Two

- Internal demolition and reconfiguration to accommodate for new habitable rooms, including two bedrooms, multipurpose room, bathroom and laundry facilities.
- New entry facilities and rainwater storage tanks.
- Alterations to the southern elevation existing windows.

#### Level Three

- Internal demolition and reconfiguration to accommodate a new kitchen, living dining and outdoor dining areas.
- Construction of a hallway through the courtyard area to connect both the southern and northern portions of the dwelling.
- Construction of an additional living room area, bathrooms, wine cellar and pool storage room.

#### Level Four

- Demolition of the existing carport and associated structures to accommodate for a new double garage, habitable rooms and entrance.

#### External

- An addition of a courtyard area consisted of lawn areas and a swimming pool.
- Re-use of existing inclinator with an additional access point.
- Landscaping works.

### **ASSESSMENT INTRODUCTION**

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

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

State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks  
 Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill  
 Pittwater 21 Development Control Plan - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy  
 Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways  
 Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure  
 Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place  
 Pittwater 21 Development Control Plan - D1.5 Building colours and materials  
 Pittwater 21 Development Control Plan - D1.8 Front building line  
 Pittwater 21 Development Control Plan - D1.9 Side and rear building line  
 Pittwater 21 Development Control Plan - D1.11 Building envelope  
 Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot 41 DP 13760 , 214 Hudson Parade CLAREVILLE NSW 2107          Lot LIC 187249 , 214 Hudson Parade CLAREVILLE NSW 2107</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Hudson Parade.</p> <p>The site is irregular in shape with a frontage of 15.24m and an average depth of 49.68m. The site has a surveyed area of 739.8m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living zone under the Pittwater Local Environmental Plan 2014 and accommodates a dwelling house and double carport.</p> <p>The site slopes downwards from north to south by approximately 17.58m, presenting a relatively steep topography.</p> <p>The site incorporates a mix of native and exotic species of vegetation and consists of a well-maintained lawn area to the centre of the site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by single and two-storey dwelling houses with a variation of architectural designs situated within a landscaped setting along the waterfront.</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.

No prelodgement meeting was held in relation to the proposed development.

## 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	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent

Section 4.15 Matters for Consideration	Comments
<p>of the Environmental Planning and Assessment Regulation 2000 (EP&amp;A Regulation 2000)</p>	<p>authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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>
<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>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability</p>	<p>The site is considered suitable for the proposed development.</p>

Section 4.15 Matters for Consideration	Comments
of the site for the development	
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 19/10/2021 to 02/11/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Gm Planning Services	241-245 Pennant Hills Road PENNANT HILLS NSW 2120
Mr John Michael Raymond Mrs Chesne Maree Raymond	211 Hudson Parade CLAREVILLE NSW 2107

The following planning issues were raised in the received submissions and are addressed as follows:

- **Solar Access**

Comment:

Concern is raised in relation to a reduction of solar access to No. 216 Hudson Parade. A merit assessment as been conducted and addressed in detail elsewhere in this report (refer to *Clause C1.4 - Solar Access*).

This issue does not warrant the refusal of the application.

- **Encroachment in Building Envelope**

Comment:

Concerns have been raised in relation to the non-compliance of the side building envelope, specifically along the western façade of the proposed dwelling. It is recommended in the submission that the design should revert to a more traditional design rather than the proposed courtyard format. It is noted that majority of the built form is compliant with the side building envelope requirement. A large section of the non-compliance is a result from the existing bulk of

the dwelling house. The non-compliances to the proposed additions of the design include the upper level balcony, living room extension to the southern portion of the site and bedroom 4 located to the north. This will be discussed in detail elsewhere in this report (refer to Clause *D1.11 Building Envelope*).

This issue does not warrant the refusal of the application.

- **Acoustic Privacy - Inclinor**

Comment:

Concern has been raised in regards to potential increase in noise resulting from the usage of the inclinor. It is noted that the inclinor along the western boundary is an existing structure which is being proposed for its reuse and an additional access point located to the centre of the site.

However, to protect the visual and acoustic privacy of the adjoining property to the west No. 216 Hudson Parade, conditions have been imposed to include a 1.7m privacy screen to the western edge of the inclinor carriage. Additional conditions have been imposed limiting the hours of use and the noise generation of the inclinor.

This issue does not warrant the refusal of the application.

- **Excavation**

Comment:

Concern has been raised from the potential property damage to No. 216 Hudson Parade during excavation phase. The proposed works include a maximum excavation of 3.6m within close proximity to the adjoining (east) property. It is noted that a Geotechnical Assessment was undertaken with the relevant documents received.

Therefore, to address the concerns a Dilapidation Report has been conditioned to be undertaken prior to commencement of works and prior to Occupation Certificate.

This issue does not warrant the refusal of the application.

- **View Loss**

Comment:

Concerns were raised in relation to loss of views to No. 211 Hudson Parade. A view loss analysis has been conducted and has been addressed in detail elsewhere in this report (refer to *Clause C1.3 - View Sharing*).

This issue does not warrant the refusal of the application.

- **Bulk and Scale**

Comment

Concern is raised with the overall bulk and scale of the proposed garage and its impact on the public domain and surrounding properties. It is acknowledged that the garage is located within the front setback area due to the steep topography of the area and limited space for safe vehicle parking. Council permits such a variation as long as majority of the built form is located behind the required front setback of 6.5m, this has been supported based on merit.

The garage structure complies with the requirement of *Clause D1.1 Character as viewed from a public place*, in relation to the garage structure to be no greater in width than 50% of the lot frontage, or 7.5 metres, the proposed garage exhibits a length of 6m and is less than 50% of the lot frontage. In addition the entirety of the front façade is compliant with the side setback requirements set out in *Clause 1.9 Side and Rear Building Line*.

This issue does not warrant the refusal of the application.

- **Landscaped Open Space**

Comment:

Concern is raised in regards to the Landscaped Open Space not achieving the compliant 60% requirement. The proposed alterations and additions present a landscaped area of 53.9%, with a 10.2% variation to the clause. This however, will be assessed on merit in relation to the location of the existing building and steep topography of the subject site. This has been addressed in detail elsewhere in this report (refer to *Clause D1.14 Landscaped Area*).

This issue does not warrant the refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>This application is for the demolition of an existing dwelling, and the construction of a new residential dwelling inclusive of a swimming pool and double garage.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D1.14 Landscaped Area - Environmentally Sensitive Lands</li> </ul> <p>The Statement of Environmental Effects provided with the application notes that no significant vegetation is to be removed as a result of proposed works. This statement is largely supported by the Architectural Plans provided as it is evident that no trees are shown to be removed. It is noted that no Arboricultural Impact Assessment has been provided with the application.</p> <p>It is noted that the subject site is largely clear of existing trees and significant vegetation, however the adjoining properties to the east and west have a number of existing trees within close proximity to boundary lines, hence, close to proposed works. All trees and vegetation within adjoining properties is considered prescribed, irrespective of species and height, and must therefore be protected and retained. Any negative impacts to both the short-term and long-term health of these trees is not likely to be supported.</p>

Internal Referral Body	Comments
	<p>Although total encroachments as result of proposed works appear to be high within the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) on plan, the actual impacts of these works are not anticipated to be major due to the presence of exiting structures. These existing structures include a number of retained walls along boundary lines, as well as portions of concrete slabs and/or buildings. These structures are likely to restrict and prohibit root growth within the site, resulting in a low chance of significant roots being found. As the proposal seeks to largely retain these structures, no major concern is raised. The retention of these trees and vegetation areas is vital to satisfy control B4.22, as key objectives include "to protect and enhance the urban forest of the Northern Beaches", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>A Landscape Plan is also provided with the application, with proposed works inclusive of the in-ground planting of trees, shrubs, grasses and groundcovers. Generally no major concern is raised with the proposed landscape works as it is evident that all new landscaping aims to not only assist in the mitigation of the built form, but also return landscape amenity to the site and increase overall privacy between neighbouring dwellings. Concern however is raised regarding the use of <i>Pennisetum alopecuroides</i> as this has been identified as an environmental weed and is a known garden escape, and for this reason is considered an undesirable species. It is recommended that this be substituted for native alternative. The completion of all other landscape works, inclusive of the required species change, is necessary to satisfy controls C1.1 and D1.4, as key objectives of these controls seek to ensure "vegetation is retained and enhanced to visually reduce the built form", "landscaping reflects the scale and form of development", as well as "landscaping enhances habitat and amenity value".</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plan, inclusive of the required species change.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for alterations and additions to an existing dwelling, including the demolition of existing carport and garage, the underpinning, retaining and alterations and additions of existing brick and concrete dwelling and construction of new 'courtyard' style addition, garage, pool and landscaping on sloping block.</p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p><b>Biodiversity Conservation Act 2016 (BC Act)</b>  <b>State Environmental Planning Policy (Coastal Management) 2018</b></p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Coastal Environment Area</li> </ul> <p><b>Pittwater Local Environmental Plan (PLEP)</b></p> <ul style="list-style-type: none"> <li>• 7.6 Biodiversity Protection</li> </ul> <p><b>Pittwater Development Control Plan (PDCP)</b></p> <ul style="list-style-type: none"> <li>• B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</li> </ul> <p>Native, terrestrial vegetation is wholly absent within the site. An Estuarine Risk Management Report (Total Earth Care 2021) has been submitted with the DA and concludes that the proposal will not have a significant impact on any matter of National Environmental Significance or threatened entity listed under the Biodiversity Conservation Act 2016.</p> <p>The submitted Landscape Plan (Utz Sanby Architects 2021) does not demonstrate compliance with the species selection provisions of PDCP Clause 4.7 which states: Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community). Amendment to the proposed species is required to achieve compliance against the relevant environmental control.</p> <p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Coast and Catchments)	<p>The DA seeks consent for alterations and additions to a dwelling house including a swimming pool and garage.</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Coastal Management) 2018 (clauses 13, 14 &amp; 15); and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p><b>Coastal Management Act 2016</b> The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the DA. The proposed development is considered to be consistent with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p><b>State Environmental Planning Policy (Coastal Management) 2018</b></p>

Internal Referral Body	Comments
	<p>The proposed development site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply to the DA.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Tomasy Planning PTY LTD (Sept 2021) the proposed development is considered to satisfy the relevant provisions under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the DA does comply with the requirements of State Environmental Planning Policy (Coastal Management) 2018.</p> <p>A base Estuarine Planning Level of RL 2.78 m AHD has been adopted by Council for this property. However, the B3.7 Estuarine Hazard Controls are satisfied as all proposed alterations and additions will occur above the foreshore building line (situated along the 9 m contour) as noted in the Statement of Environmental Effects.</p> <p>As no works will be located forward of the foreshore building line, the DA also complies with the provisions of clause 7.8 of Pittwater LEP 2014.</p> <p>The application therefore meets the coastal relevant requirements of the applicable Environmental Planning Instruments and policies.</p> <p>The application is supported subject to conditions:</p> <ul style="list-style-type: none"> <li>• Compliance with Estuarine Risk Management Report (prior to construction certificate)</li> <li>• Stormwater management (prior to construction certificate)</li> <li>• Installation and maintenance of erosion and sediment controls (prior to commencement)</li> </ul>
NECC (Development Engineering)	<p><b>9/11/2021:</b></p> <p>The application seeks consent for alterations and additions to a dwelling house including a swimming pool and garage.</p> <p><b>Access</b></p> <p>The site is currently accessed via a concrete driveway off Hudson Parade. At present there is single garage and double carport. Proposal is to convert existing carport to double garage and convert existing single garage to new main entry (pedestrian) to the site.</p> <p>Applicant to apply for new vehicle crossing application.</p> <p><b>Stormwater</b></p> <p>Proposal is to retain the existing arrangements for stormwater disposal. Roof water from the new roof areas will be connected to the existing stormwater system.</p> <p>Applicant must install a rainwater tank of at least 1137 litres on the site (BASIX Report).</p>

Internal Referral Body	Comments
	<p>Development drain directly to the ocean, hence no On-site Stormwater Detention System (OSD) is required.</p> <p><b>Excavation</b> Site is located within Geotechnical Hazard Zone H1.</p> <p>A pool is proposed along the western boundary between the two wings of proposed dwelling. The plans and section for the proposed development also indicate that excavations below the upper wing will be 2.7 m and between 1.2 m and 3.3 m below the lower wing.</p> <p>Geotech report prepared by Douglas Partners, Ref No-205400, dated 9th July 2021, R.01.Rev1 is provided.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. As this site drains into the Pittwater waterway, the development must not significantly impact on the biophysical, hydrological or ecological integrity of these waters, or on the quantity and quality of surface and ground water flows to the creek or lagoon.</p> <p>Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>This application, subject to conditions, is recommended for approval as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of the Pittwater waterway if conditions are adhered to.</p>
Road Reserve	<p>The pathway from the kerb to the property entry and the pathway shown on the north west corner of the frontage are permissible subject to submitting an Application for Minor Encroachment provided the existing driveway crossing and layback is removed however must be constructed in plain concrete not stepping stones.</p> <p>Stepping stones are not permissible on the public road reserve, as the pathway is to be in accordance with Council's footpath specification which provides for plain concrete pathway only.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p>

External Referral Body	Comments
	<p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage Items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\***

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

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

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

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

#### **SEPP 55 - Remediation of Land**

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

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A427961 dated 24 August 2021).

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

## SEPP (Infrastructure) 2007

### Ausgrid

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

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

### Comment:

The proposal was referred to Ausgrid. A response has been received within the 21 day statutory period, conditions have been recommended.

## SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

### 13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - coastal environmental values and natural coastal processes,*
  - the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - Aboriginal cultural heritage, practices and places,*
  - the use of the surf zone.*

### Comment:

This clause has been assessed against the subject site and the proposed development. No issues were raised in relation to the proposed development.

- (2) *Development consent must not be granted to development on land to which this clause applies*

*unless the consent authority is satisfied that:*

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

This clause has been assessed against the subject site and the proposed development. No issues were raised in relation to the proposed development.

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

(1)

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

Comment:

This clause has been assessed against the subject site and the proposed development. No issues were raised in relation to the proposed development.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

#### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

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

Comment:

This clause has been assessed against the subject site and the proposed development. No issues were raised in relation to the proposed development, and is considered unlikely to increase the risks of

coastal hazards

### Pittwater Local Environmental Plan 2014

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

### Principal Development Standards

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

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### 7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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

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

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

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

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

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

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

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

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

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

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

*(f) the likelihood of disturbing relics*

Comment: The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

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

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

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

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

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

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

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **Pittwater 21 Development Control Plan**

### Built Form Controls

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Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (Northern Boundary)	Nil (Garage) 3.1m - 5.7m (Entry)	100% 43.1% - 12.3%	<b>No</b> <b>No</b>
Rear building line	M.H.W.M (Southern Boundary)	12.5m (Level 2 + 3 Balcony)	-	Yes
Side building line	2.5m (Western Boundary)	2.6m (Dwelling House) 1.0m (Swimming Pool) 0.3m (Side Access Stairway)	- 60% 88%	Yes <b>No</b> <b>No</b>
		1.0m (Eastern Boundary)	1.5m (Dwelling House) 0.3m (Inclinators - Existing)	- 70%
Building envelope	3.5m (Western Elevation)	Outside Envelope	≈ 42.9%	<b>No</b>
	3.5m (Eastern Elevation)	Outside Envelope	22.9% - 80%	<b>No</b>
Landscaped area	60% (443.9m <sup>2</sup> )	53.9% (398.8m <sup>2</sup> )	10.2% (45.1m <sup>2</sup> )	<b>No</b>

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	No	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	Yes
C1.4 Solar Access	No	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	No	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	No	Yes
D1.5 Building colours and materials	No	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.15 Fences - General	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes

### Detailed Assessment

#### **B8.1 Construction and Demolition - Excavation and Landfill**

##### Merit Consideration

Control B8.1 stipulates that any excavation greater than 1.0 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, then the overall depth of the excavation must be accompanied by a Geotechnical Report and certified forms as set out in Council's Geotechnical Risk

Management Policy in relation to potential impact of excavation on land stability.

The proposed dwelling house is situated within 1.5m from the eastern boundary and 2.6m to the western boundary, with a maximum depth of approximately 3.3m for the accommodation of a master bedroom and a varied depth of 1.2m - 2.7m to accommodate for a TV Room, cellar and workshop. Landfill with a depth of 1.8m is also proposed to the centre courtyard to provide a levelled lawn area for the residents.

It is noted that the proposal has been appropriately accompanied by a Geotechnical Report and certified forms, with the subject site being mapped on the Geotechnical Hazard 1 Map under the Pittwater LEP 2014.

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

- **Site disturbance is minimised.**

Comment

The proposal does not rely on any other significant excavation or earthworks on the subject site, with the exception of the excavation for the above proposed rooms and swimming pool. The remainder of the subject site will remain undisturbed.

- **Excavation, landfill and construction not to have an adverse impact.**

Comment

The subject site is located on land classified as a geotechnical hazard and therefore has been accompanied by a Geotechnical Report. Subject to the recommendations noted in the Geotechnical Report it is unlikely for adverse impacts to occur.

- **Excavation and landfill operations not to cause damage on the development or adjoining property.**

Comment

The carrying out of the development in accordance with the recommendations of the Geotechnical Report will ensure the adjoining properties are protected. However, to ensure any future damage to the adjoining properties is appropriately recorded, a Dilapidation Report prepared by a suitably qualified person prior to and post construction period has been included via a condition of consent.

Based on the above and the submitted Geotechnical Report, the proposal is considered to therefore meet the outcomes of the control and is supported on merit in this particular instance.

### C1.3 View Sharing

Merit Consideration

Following an initial site inspection of the subject site, a request was made to erect height poles to determine the impact of the development on views. However, this request was not met by the applicants, with a View Study and a photomontage submitted instead.

One (1) submission was received from the below listed property which included concerns regarding view loss:

- 211 Hudson Parade, Claireville.

Two (2) site inspections were conducted from the property, the first on 22 February 2022 to ascertain the extent of views obtained from the property and the second was to determine the view impact from councils portable height pole on 15 March 2022. The photos taken from both inspections will be referenced in this assessment.

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 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 on Principle 1

The affected view to No. 211 Hudson Parade is to the south-west consisting of Pittwater (water views, land and water interface). The view is not considered to be significantly obstructed, apart from one canopy tree located on No. 216 Hudson Parade, Claireville.

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 on Principle 2

The views are primarily obtained from the ground floor living/dining room and two bedrooms (habitable rooms) and outdoor deck area (main private open space) from both a sitting and standing point of view.



*(Photo 1: View obtained from outdoor dining area of Pittwater both water view and land and water interface).*



*(Photo 2: View obtained from internal living room of Pittwater both water view and land and water interface).*



*(Photo 3: View from Bedroom 2 of Pittwater both water view and land and water interface).*



(Photo 4: View from Master Bedroom of Pittwater both water view and land and water interface).

### 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 on Principle 3

The view to the south-west over the subject site (214 Hudson Parade) of Pittwater (land and water interface) will be wholly retained from both a sitting and standing position from the internal bedrooms, living room and outdoor dining area. However, a substantial section of Pittwater (water views) obtained from the affected site will be obliquely impacted upon both from a standing and sitting position. These views are considered uninterrupted by significant vegetation creating larger view corridor over the subject site. As seen in the images below, the red circle will show the location of the yellow portable height pole on each image.

The extent of impact is considered to be **moderate**.



*(Photo 5: Height Pole - shown in red circle - located to the west of the subject site - shows the height of the development causing a view loss impact)*



*(Photo 6: Height Pole - shown in red circle - located to the east of the subject site shows the height of the development causing a view loss impact)*

**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 skillful 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 on Principle 4**

The development area impacting the Pittwater (water views) to the south-east presents a complying building height standard of 8.5m (proposing 6.6m). The development however exhibits non-compliance with the side building envelope control and character as viewed from a public place affecting the extent of view loss from No. 211 Hudson Parade. These non-compliances are found to be acceptable and will achieve consistency with the objectives of the controls, subject to an imposed condition to lower the height of the skillion roof over Bedroom 4.

A more skillful design can provide the applicant with a similar development potential and amenity whilst reducing the extent of impact on the views obtained from neighbouring property No. 211 Hudson Parade. It is demonstrated that if the ceiling height of Bedroom 4 was lowered to a

compliant height of 2.4m (minimum habitable room height in BCA), with an additional roof depth of 0.4m, this will result in an overall height of 2.8m (RL 21.08) when measured from finished floor level.

This is considered to reduce the obliquely impacted water view of Pittwater by more than 50%, significantly improving the view loss outcome. Therefore, the proposed dwelling house is considered reasonable subject to conditions and does demonstrate a reasonable sharing of views.

- ***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 proposed development encourages an innovative design solution when accompanied by the abovementioned condition of consent, improving the urban environment allowing for views to be appropriately shared from the public places and roads.

- ***Canopy trees take priority over views.***

Comment

The subject site is not proposing the removal of canopy trees, ensuring that any existing canopy trees have priority over views. However a condition of consent will be included to change the proposed Banksia tree (located within the front setback) to avoid future view impacts to No. 211 Hudson Parade.

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

#### **C1.4 Solar Access**

Description of Non-Compliance

Clause C1.4 Solar Access requires the following:

- ***The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.***
- ***Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).***

Shadow diagrams have been prepared by a suitably qualified person to assist with the assessment of solar access. The shadow diagrams depict the existing and proposed shadows cast on the development on the site.

The site most affected by overshadowing with respect to the proposed development is the adjoining neighbour to the east No. 216 Hudson Parade. One (1) submission was received from the affected property during assessment in relation to Solar Access to the western façade of their property. Clause C1.4 permits a variation when constraints to the land such as orientation, adverse topography and existing development overshadowing on adjoining properties occur and will be subject to a merit assessment.

### Merit Consideration

A merit assessment of the proposal is conducted below in consideration of objectives of the control.

### **Private Open Space**

The received submission did not raise concerns regarding solar access to No. 216 Hudson Parade main private open space, however will be assessed accordingly.

In determining what constitutes the main private open space at No.216 Hudson Parade, it is considered that the lawn area to the rear is the main private open space as it is positioned to enjoyed water views to the south. However, due to its southern positioning, associated roof and the general topography of the land, this area currently receives limited direct sunlight between 9am-3pm on June 21st. As the affected site currently stands, the main private open space is in self shadow at 9am on June 21st, with no impact from the existing development from No. 214 Hudson Parade (Subject Site). No. 216 Hudson Parade at 12pm on June 21st is almost in complete shadow apart from a strip of sunlight located to the western portion of the main open space area. By 3pm on June 21st, the main private open space area is completely overshadowed by the existing development from No. 214 Hudson Parade (Subject Site).

The shadow diagrams show that there will be no impact from the proposed development at 9am, and will continue to be self-shadowed by 216 Hudson Parade. At 12pm on June 21st, additional shadowing will be present along most of the existing strip of sunlight that would be present, reducing the solar access that was currently existing. By 3pm on June 21st, the main open space of the affected site will continue to be in complete shadow with no additional shadowing to this area.

Although it is acknowledged that the proposed development would result in a reduction in solar access to the main private open space of No.216 Hudson Parade being below the required 3 hours, it is considered that the design and positioning of this private open space, with a covered roof and southerly aspect, makes this area extremely vulnerable to overshadowing. The additional shadowing of this area will occur at 12pm on June 21st, overshadowing an already limited section of solar access, however not resulting in complete loss of sunlight at this time.

### **Windows**

The residents of No. 216 Hudson Parade have raised concerns in relation to the increased overshadowing impacts to the western façade of the their dwelling house and western facing windows. This western elevation has windows from the living room, dining room and a bedroom. Given the orientation of the site, the bedroom window currently is in complete shadow from 9am-12pm, then 50% shadow at 3pm on June 21st. The living room and dining room currently enjoy solar access from 12pm-3pm on June 21st, with these windows being in complete shadow at 9am on June 21st. The submitted shadow diagrams demonstrate that the proposed development results in the following:

- No additional shadowing or solar access to any windows on the northern elevation at 9am, as all windows will continue to be overshadowed as existing.
- Additional shadowing to the bedroom window at 3pm on June 21st resulting in complete overshadowing. However, additional solar access gain will be achieved at 12pm on June 21st to the bottom right hand portion of the window.
- The living room window will maintain the existing solar access from 12pm-3pm on June 21st.
- Additional shadowing to < 50% of the dining room window at 3pm on June 21st, with no changes to solar access at 12pm on June 21st.

It is recognised that the principle living room and dining room window will maintain 3 hours of sunlight between 12pm - 3pm on June 21st, with additional shadowing only impacting the dining room at 3pm on June 21st. However, the dining room window will still achieve 50% of sunlight, and will not be completely overshadowed, presenting compliance with this requirement. It is noted that the living and

dining room of No.216 Hudson Parade is oriented to the south and contains large south facing windows to take advantage of the expansive views of Pittwater Waterway, and not within the pathway of the sun. The bedroom window will be significantly impacted losing the limited solar access that was available at 3pm on June 21st. It is noted that due to the orientation of the affected site, steep topography of the land and location of the bedroom window, vulnerability to overshadowing is quite prevalent.

Having regard to the above assessment, it is considered that the relevant Objectives of the Control have been achieved. Therefore, the application is supported on merit.

### **C1.5 Visual Privacy**

Clause C1.5 requires that habitable rooms and outdoor living areas of dwellings optimise visual privacy through an appropriate design outcome. Private open space areas including swimming pools and living rooms of the proposal, and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres, through the use of privacy screens or another similar design element.

The proposed development consists of alterations and additions to the existing dwelling, which includes a swimming pool situated within the centre courtyard, with 3.6m of the neighbouring dwelling house to the west (212 Hudson Parade). It is noted that the adjoining property boundary consists of dense landscaping and trees. Additional screen planting has been proposed for the full length of the western end of the swimming pool area, an ongoing condition of consent has been included to maintain the landscaping, which should be replaced if needed. The utilisation of screen planting will reduce potential overlooking into the adjoining property, it can be concluded that privacy would be maintained at a reasonable level within a residential environment.

It is noted that the proposed dining area on level 3 incorporates a louvred privacy screen to the west which will extend along the western edge of the balcony extension, to reduce unreasonable privacy impacts. Privacy has also been addressed by window elements which include louvres and highlight windows where appropriate. No submissions have been raised in relation to visual privacy.

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

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

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

Conditions have been imposed to ensure consistency with this control.

### **C1.19 Incline Passenger Lifts and Stairways**

#### Description of Non-Compliance

Clause C1.19 requires a 2m setback from the side boundary of the outer face of the carriage.

The inclinator on the subject site adjacent to the eastern adjoining property is proposed to be re-used with its two current access points plus an additional third access point to the proposed hallway. The inclinator as it currently stands is setback 0.3m from the eastern side boundary from the outer face of the carriage, no amendments to the alignment or location of the existing inclinator have been proposed.

#### Merit Consideration

- ***Incline passenger lifts and stairways that cause minimal visual and acoustic disturbance to the environment and neighbours.***

#### Comment

The inclinator is an existing structure that is proposed to be re-used with an additional access point, running a length of 14.5m along the eastern boundary. No alterations to the existing location or alignment of the inclinator is proposed and therefore no additional excavation or vegetation removal will be required.

The structure is setback 0.3m from the outer face of the carriage to the side boundary contrary to the 2 metre requirement. In consideration of the existing site conditions (i.e. steep topography and siting of existing buildings) and that the inclinator is an existing structure, achieving a 2 metre setback is not feasible.

An imposed condition will be included to ensure that noise levels produced will not exceed 60dBA above background noise as required, when measured from the nearest property boundary. A further condition will be imposed to erect a 1.7m privacy screen on the eastern edge of the inclinator carriage to minimise privacy impacts to the adjoining neighbour at No. 216 Hudson Parade. After careful consideration and the relation of the side setback of the inclinator structure it was determined to impose a further condition to limit the inclinator's hours of operation.

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

### **C1.24 Public Road Reserve - Landscaping and Infrastructure**

The works located within the Public Road Reserve as noted on the Architectural and Landscape Plan will not form part of this assessment.

The Applicant is to submit an application for Minor Encroachments/ Constructions With Road Reserve Application for approval (Form #4033) for approval for the proposed pathway and landscaping on Council's roadway.

Please refer to the Road Reserve Referral Comment for further information.

### **D1.1 Character as viewed from a public place**

#### Description of Non-Compliance

Clause D1.1 Character as viewed from a public place stipulates that parking structures should not be the dominant feature when viewed from the street and should be set beyond the prescribed building setback line with a width no greater than 50% of the width of the site or 7.5m, whichever is lesser. However, Council may permit parking spaces within the front setback area where site constraints limit location.

The proposed garage is located on a NIL setback, however only extends a length of 6m, less than 50% of the lot frontage. The remainder of the front building line encroachment involves the front foyer entrance and will be discussed elsewhere in this report (refer to *Clause D1.8 Front Building Line*)

#### Merit Consideration

The proposed development will be considered against the underlying outcomes of the control as

follows:

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

Comment

The proposal is consistent with the outcomes of the desired future character of the Avalon Beach Locality. The development will achieve a compliant building height that will be sited below existing tree canopy and will correspond to the existing carparking structures that provide a nil setback within the immediate vicinity.

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

Comment

Due to the steep slope of the subject site, the design is considered reasonable in relation to the spatial characteristics of the existing built environment within the immediate vicinity. The proposal includes a landscaping plan providing an appropriate amount of soft landscaping within the front setback area, enhancing the natural environment that currently existed.

- ***To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.***

Comment

The development will maintain the perception of a single storey when viewed from the street and will be sited well below the established tree canopy. The height and density of the built form of the garage structure is consistent with surrounding residential development.

- ***The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation.***

Comment

The development will not result in the removal of trees or significant topographic features. The proposal will in fact increase and enhance the landscaping due to additional planting within the front setback area, assisting in softening the built form.

- ***High quality buildings designed and built for the natural context and any natural hazards.***

Comment

The overall height, scale and design of the proposal is in harmony with the established street context and any natural hazards that may be present within the area.

- ***Buildings do not dominate the streetscape and are at 'human scale'.***

Comment

The proposed scale of the garage and entryway does not seem out of character for the area and will present a modest height when viewed from the public domain, additionally the bulk of the build will be softened by additional vegetation.

- ***To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.***

Comment

The development incorporated a skillion roof above both the proposed garage and bedroom 4.

Due to the potential view loss caused by this design element, the skillion roof over bedroom 4 (causing the extent of impact) has been amended via a condition of consent, which will likely result in the minimisation of view loss to No. 211 Hudson Parade whilst protecting the the Pittwater's natural context.

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

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

A building colours and materials schedule has not been provided with this development application. As such, condition of consent will be included within this report to ensure that the external colours and finishes are of dark and earthy tones (BCA Medium - Dark range) so as to integrate the built form into the surrounding natural environment.

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

Clause D1.8 Front Building Line prescribes a front boundary setback requirement of 6.5m for all built structures. The clause includes a variation for steeply sloping or constrained sites, to permit a reduced or nil setback for carparking structures.

The proposed development provides a nil setback to the front boundary for a length of 6m, presenting a 100% variation. Additionally, an entry foyer is included within the front setback area providing a varied front setback of 3.1m-5.7m, presenting a variation of 12.3% - 43.1%.

#### Merit Consideration

The proposed development will be considered against the underlying outcomes of the control as follows:

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

#### Comment

The proposal is consistent with the outcomes of the desired future character of the Avalon Beach Locality. The development will achieve a compliant building height that will be sited below existing tree canopy. Additionally, the proposed garage causing majority of the encroachment is considered to be similar to that of surrounding development and is unlikely to cause an unreasonable aesthetic impact to the existing streetscape character.

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

#### Comment

Hudson Parade is not a main road, and therefore this outcome does not apply.

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

#### Comment

As the site currently stands, a low presence of vegetation exists within the front setback area, consisting of only small lawn area located on the road reserve. The proposal includes the addition of further landscaping along both side setback areas and within the road reserve providing visual relief to the built form and enhancing the aesthetic of the front façade than that of what was existing.

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

#### Comment

Vehicle manoeuvring in a forward direction has not been demonstrated in the proposed plans, however, Council's Development Engineer has reviewed the proposal and is in support subject to conditions.

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

#### Comment

The development is sited below tree canopy height and as mentioned above provides further landscaping opportunities as shown in the submitted landscape plan, contributing to a design situated within a landscaped setting. The overall façade of the carpark and entry way is considered an improvement to that of the existing enhancing the appearance of the built form. Pedestrian amenity will also be improved upon through the utilisation of landscaped pavers and the retention of the council pathway.

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

#### Comment

The front setbacks can be deemed variable along Hudson Parade, containing variations of designs including garages, carports and entrance stair ways encroaching the setback area. Due to the steep slope of the subject site, the design is considered reasonable in relation to the spatial characteristics of the existing urban environment within the immediate vicinity.

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

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

#### Description of Non Compliance

Clause D1.9 Side and Rear Building Line prescribes a side setback of 2.5m to one side and 1m to the other, with a rear setback of 6.5m. For this assessment, the 2.5m side building line is applied to the western boundary and the 1m side building line applied to the eastern boundary.

The proposal presents a non-complaint side setback of 0.3m to the eastern boundary, it is noted that the cause is due to an existing inclinor proposed to be re-used with an additional access point. However, will still be appropriately assessed elsewhere in this report (refer to *Clause C1.19*). Majority of the built form of the development is setback 1.5m from the eastern boundary and is considered complaint.

The side setback encroachment to the western boundary presents a setback of 1m from the proposed pool coping and 0.3m from a proposed side access stairway. The remainder of the proposed development provides a compliant side setback of 2.6m from the western boundary.

Control D1.9 includes a variation which permits Council to consider a setback of 1m from the pool coping to the side or rear boundary. The subject site satisfies this requisite in regards to the side setback.

#### Merit Consideration

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

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

Comment

The proposed swimming pool and means of access present consistency with the spatial proportions of the surrounding properties within the immediate vicinity. Various properties within the area provide side access stairways and inclinator that encroach the side setback, therefore the proposal is considered consistent with the desired future character of the Avalon Locality.

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

Comment

The swimming pool location and side access stairway will still maintain adequate spacing for vegetation and visual softening of the development. Appropriate landscaping including screen planting between the swimming pool and boundary has been proposed (refer to landscape plan), with future opportunities for additional planting. This is considered to to minimise the built form when viewed from adjoining properties at a reasonable level.

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

Comment

The encroachment into the side setback area caused by the swimming pool and associated deck is not considered to result in any unreasonable view loss from surrounding private properties or the public domain.

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

Comment

The encroachment caused by the swimming pool, side access stairway and existing inclinator will not cause a detrimental impact to the preservation of existing views due to these design elements being sited well below the building height control and existing view corridors from both public and private places.

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

Comment

The side setback encroachments are not considered to unreasonably impede on the amenity to the neighbouring properties. Privacy will be ensured through the proposed screen planting which will act as a landscaped privacy buffer for the residents. Solar access is not expected to be negatively impacted upon in relation to the siting of the swimming pool, stairway or inclinator, given the modest height of these developments.

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

Comment

The proposed development will not impact the streetscape having been located behind the proposed garage and bedroom 4, and is sited substantially below the existing tree canopy height of the immediate area.

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

Comment

The proposed development will allow for a reasonable level of private open space areas and landscaping within the rear yard and side boundaries. Access has been improved by the addition of an external side stairway and the re-use of the existing inclinator.

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

Comment

The existing well-established trees and significant vegetation have been retained and will continue to visually reduce built form. In addition, a detailed landscape plan has been provided which will contribute to the visual relief of the development and a quality landscaped outcome when compared to that of the existing development.

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

Comment

The subject site is adjoined by residential zones along both side and rear boundaries, this outcome does not apply.

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

## **D1.11 Building envelope**

### Description of Non-Compliance

Clause D1.11 Building Envelope require development to be sited within a 3.5m building envelope to ensure the bulk and scale of the built form is minimised.

The proposed development encroaches the side building envelope on both the eastern and western elevation. The encroachment to the eastern elevation presents a variation between 22.9% - 80% in result from the proposed additions. The majority of side envelope breach is considered as existing as shown in the below diagram. The western elevation presents a variation of up to 42.9% for length of approximately 3.6m in result of a louvered privacy screen.

A variation is included within the clause that includes eaves and/or shading devices that provide shade in summer and maximise sunlight in winter, to be permitted to extend outside the building envelope. The building envelope non-compliance is largely attributed to the slope of the site, which exceeds 30%. P21DCP allows for a variation to the prescribed building envelope for development on steep sites, subject to consistency with the outcomes of this Clause.

### Merit Assessment

With regards to the consideration for a variation, the development is considered against the underlying Outcomes of the Clause as follows:

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

Comment

The non-compliance is significantly influenced by the sloping topography of the site, and the retention of existing building setbacks of the current built form. The proposal is considered to be well articulated, with a varied roof line and the use of a central courtyard area to break up the bulk and scale of the design. The area of encroachments demonstrates consistency with the desired future character of the locality with the siting of the proposed alterations and additions.

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

Comment

The proposed design keeps within the height of the natural environment by sitting below tree canopy height and provides a compliant Building Height Standard of 8.5m with no significant vegetation removal required to facilitate the works. The development proposes levels of excavation to further ensure that the built form compliments that of the existing building scale of the streetscape, minimising unreasonable bulk and scale. Therefore the development is considered to respond to, reinforce and sensitively relate to the spatial characteristics of the existing built and natural environment.

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

Comment

The proposed alterations and additions have design the development to step down the topography of the land, with variable side setbacks to minimise the scale of the development as viewed from the street as the land falls away. The proposed development is generally set below the height of surrounding tree canopy level surrounding the locality. The development is considered to be a sensitive design response in consideration of the natural characteristics of the site, with the the enhancement of landscaping.

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

Comment

In light of the steep topography, the articulation along the western façade attempts to ensure the bulk and scale of this portion of the development has been reduced. The proposal incorporates adequate vegetation in order to screen the built form of the proposed development from the neighbouring sites, the Hudson Parade street view and from the Pittwater waterway.

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

Comment

Refer to Clause C1.3 View Sharing elsewhere in this report for further detail regarding the preservation of views. The proposed development adequately shares views and vistas to and from public and private places, subject to imposed conditions.

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

Comment

It is considered that the proposal provides adequate spatial separation between adjoining buildings and is not likely to unreasonably impact on the amenity to neighbouring properties. Solar access and privacy impacts are detailed elsewhere within this report (refer to *Clause C1.5 Visual privacy* and *C1.4 Solar access*).

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

Comment

The visual aesthetic of the area will be enhanced, softening the development via the proposed landscaping, that will in time screen and break up the built form of the development. The

dimensions of the landscaped open space area is also sufficient in providing further opportunities for vegetation planting in the future. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions.

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

#### **D1.14 Landscaped Area - Environmentally Sensitive Land**

##### Description of Non-Compliance

Clause D1.14 Landscaped Area - Environmentally Sensitive Land requires a minimum of 60% landscaped area which equates to 443.9m<sup>2</sup>.

The subject site provides a landscaped area of 53.9% which equates to 398.8m<sup>2</sup>, representing a variation of 10.2% or 45.1m<sup>2</sup> to the requirements of the clause.

Provided that the outcomes of the clause have been achieved, impervious areas up to 6% of the site area can be included in the landscaped area calculation. These include impervious areas less than 1.0m in width and areas used for outdoor recreational purposes. The inclusion of this variation increases the landscaped area to 443.2m<sup>2</sup> or 62%, presenting a near-compliant landscaped area of 59.9%.

##### Merit Consideration

The proposed development will still be considered against the underlying outcomes of the clause as follows:

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

##### Comment

The proposed landscaped area will not result in the removal of significant vegetation with the development sited well below tree canopy height, consisting of new vegetation that will compliment the natural environment within the immediate vicinity. Therefore, it can be considered that the proposal is consistent with the desired future character of the Avalon Locality, in preserving the significance of the surrounding natural environment.

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

##### Comment

The development includes soft landscaped areas which accommodate for existing vegetation and is of dimensions capable of the proposed future landscaping that shall, over time, aid in the screening of the building to mitigate the bulk and scale when viewed from the public domain and neighbouring properties.

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

##### Comment

A reasonable level of amenity and solar access will be provided to the residents and adjoining neighbours (refer to Clause C1.4 elsewhere in this report).

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

Comment

The existing vegetation plus additional plantings will aid in the enhancement of the landscaped character of the area reducing the built form. The dimensions of the landscaped open space area is sufficient in providing for the new proposed vegetation as noted within the submitted landscape plan, assisting in the additional softening and visual relief of the proposed development.

- ***Conservation of natural vegetation and biodiversity.***

Comment

Natural vegetation and biodiversity will likely remain unaffected, providing adequate space for future planting and the retention of existing vegetation. Council's Bushland and Biodiversity Officer has reviewed the proposal in relation to biodiversity conservation and found the development to be acceptable, subject to conditions.

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

Comment

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for Stormwater management and has raised no objections subject to conditions included in the recommendation of this report. Stormwater runoff is not expected result in any unreasonable impacts to soil erosion and siltation of natural drainage channels.

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

Comment

The retention of existing vegetation and additional plantings will enhance the preservation of the bushland character that may be present in the surrounding vicinity.

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

Comment

As above, the proposal has been reviewed by Council's Development Engineer, having regard to provisions for Stormwater management and has raised no objections subject to conditions included in the recommendation of this report.

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

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2021**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$19,919 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,991,886.

## CONCLUSION

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/1790 for Alterations and additions to a dwelling house, including a swimming pool and garage on land at Lot 41 DP 13760, 214 Hudson Parade, CLAREVILLE, Lot LIC 187249, 214 Hudson Parade, CLAREVILLE, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-00 - DA Site Plan / Roof Plan (Rev. A)	16 September 2021	UTZ Sanby Architects
DA-01 - DA Plans (Rev. A)	16 September 2021	UTZ Sanby Architects
DA-02 - DA Sections (Rev. A)	16 September 2021	UTZ Sanby Architects
DA-03 - DA Elevations (Rev. A)	16 September 2021	UTZ Sanby Architects
DA-07 - DA Demolition (Rev. A)	16 September 2021	UTZ Sanby Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate (#A427961)	24 August 2021	BASIX Certificate Centre
Estuarine Risk Management Report (#10028)	20 September 2021	Total Earth Care Pty Ltd.
Geotechnical Assessment Report (#205400.00)	9 July 2021	Douglas Partners Pty Ltd

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-04 - DA Landscape Concept Plan (Rev. A)	16 September 2021	UTZ Sanby Architects

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	13 September 2021	Patrick & Nicole Heller

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

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

## 2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and

requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	10 November 2021

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

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

### 3. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the

development consent must, at the person's own expense:

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

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

Reason: Legislative requirement.

#### 4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is

required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming

pools

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$19,918.86 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 2021. The monetary contribution is based on a development cost of \$1,991,886.00.

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 2021 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](http://www.northernbeaches.nsw.gov.au)

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

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

### 6. Security Bond

A bond (determined from cost of works) of \$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](http://www.northernbeaches.nsw.gov.au)).

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Douglas Partners, Ref No-205400, Dated 9th July 2021, R.01.Rev1 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### 8. **Amendment of Landscape Plans**

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

- Provision of at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).

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

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

### 9. **Water Quality Management**

The applicant must install a filtration device as specified in the Stormwater Drainage Service Plan by Partridge Hydraulic Services (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

10. **Amendments to the approved plans**

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

- The maximum height of the roof to "Bedroom 4" in the module at the front of the site is not to exceed RL 21.08. This is to minimise the view impacts of the development.
- The eastern edge of the inclinator carriage must be affixed a 1.7 metre high privacy screen (measured from the finished floor level of the carriage). The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- The proposed Coastal Banksia (BI) located at the front of the property to the north-western corner is to be replaced with a species of native plant that will not reach a significant height upon maturity, in consideration to No. 211 Hudson Parade view corridor to the south-east.

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

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

11. **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.

12. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

13. **Structural Adequacy and Excavation Work**

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

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

14. **Vehicle Crossing & Reinstatement of Redundant Crossing Application**

The Applicant is to submit an application for;

1) 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 and

2) For reinstatement of redundant crossing in Hudson Parade 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 and preservation of on street parking spaces

15. **Compliance with Estuarine Risk Management Report**

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Total Earth Care, dated 20 September 2021, and these recommendations are to be incorporated into construction plans. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the release of the Construction Certificate.

Reason: To minimise potential deleterious impacts associated with development in an estuarine habitat.

16. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.

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

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

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

18. **Compliance with Standards**

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

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

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

19. **External Finishes to Roof and Walls**

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

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

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

20. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

21. **Colour of Inclinor**

The inclinor rail, carriage and balustrades are all to be finished in a medium to dark range colour of earthy tones. Details demonstrating compliance as to be submitted to the Principal Certifying Authority prior to the issuing of a construction certificate.

Reason: To reduce the visual impact of the development

22. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The plan must comply with the Northern Beaches Council Waste Management guidelines. Details demonstrating compliance must be provided to the Principal Certifying Authority prior to the issue of any

Construction Certificate.

Reason: To ensure that any demolition and construction of waste, including excavated material,

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 23. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties:

- **212 Hudson Parade, Clareville.**
- **216 Hudson Parade, Clareville.**

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

### 24. **Submission of Minor Encroachment Application for Works in the Public Road**

The applicant is to submit a Minor Encroachments/ Constructions With Road Reserve Application for approval (Form #4033).for concrete pathways from the kerb to the property entry and also for the north west corner of the property. Details are to be submitted with the application addressing the existing level difference between the existing driveway and the neighbouring driveway (No. 218). The pathway works shall be constructed concurrently with the new driveway crossing using a Council approved contractor.

The applicant is to enter into any appropriate agreements with Council. All costs related to the above application are to be borne by the applicant.

No work shall commence until written approval has been obtained from Council.

Reason: To ensure private works within the public road reserve are constructed in accordance with relevant standards and Council's specification and assign the responsibility for the structures on Council road reserve to the property owner.

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

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

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

26. **Tree and Vegetation Protection**

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

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

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,

- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

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

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

Reason: Tree and vegetation protection.

## 27. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

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

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

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

Reason: Protection of trees.

## 28. **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.

## 29. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by <INSERT> prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

30. **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.

31. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

32. **Survey Certificate**

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

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

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

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

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

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

33. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

34. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5 metres wide at kerb (plus wings on both sides of the layback) in accordance with Northern Beaches Council Drawing No A4-3330/3NLand 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 Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

35. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

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

36. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive

of the following conditions:

i) substitute the proposed *Pennisetum alopecuroides* with a locally native alternative. Suggested species include: *Imperata cylindrica*, *Lomandra longifolia*, or *Themeda australis*.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

37. **Stormwater Disposal**

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

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

38. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Utz Sanby Architects 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

39. **No Weeds Imported On To The Site**

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

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

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

40. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

42. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

43. **Removal of All Temporary Structures / Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management.

44. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

46. **Swimming Pool Requirements**

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

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

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

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

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

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life (DACPLF09)

47. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

48. **Landscape Maintenance**

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

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

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

Reason: To maintain local environmental amenity.

49. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards

identified in the Geotechnical Report referenced in Condition 1 of this consent are to met maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

50. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

51. **Inclinor Motor Noise**

The inclinor motor shall not produce noise levels that exceed 60dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

52. **Inclinor Hours of Operation**

Use of the Incline lift is restricted to between the hours of:

- 7:00am to 10:00pm Monday to Saturday

- 8:00am to 10:00pm Sunday

The inclinor must only be used between the hours of 10:00pm and 7:00am in an emergency.

Reason: To protect the amenity of adjacent residences during night hours.

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

**Signed**



**Brittany Harrison, Planner**

The application is determined on 18/04/2022, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**