

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1812
Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot 2 DP 25088, 76 George Street AVALON BEACH NSW 2107
Proposed Development:	Partial demolition and construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Adam Daniel Micallef Rebecca Michelle Micallef
Applicant:	Adam Daniel Micallef
Application lodged:	12/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/03/2019 to 04/04/2019
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval
Estimated Cost of Works:	\$ 700,000.00

ASSESSMENT INTRODUCTION

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

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

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.1 Landscaping
 Pittwater 21 Development Control Plan - C1.4 Solar Access
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place
 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
 Pittwater 21 Development Control Plan - D1.16 Fences - Flora and Fauna Conservation Areas

SITE DESCRIPTION

Property Description:	Lot 2 DP 25088 , 76 George Street AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north-eastern side of George Street.</p> <p>The site is irregular in shape with a frontage of 17.5m along George Street and a depth of 52.88m. The site has a surveyed area of 923.2m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single storey dwelling house with detached 3 car garage.</p> <p>The site is generally flat and does not include any significant landscape features.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one and two storey dwelling houses.</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.

The proposal includes a 3.7m between the garage and the western boundary. There is an existing wall of 2.09m in this location. After discussions with the applicant it was advised that they were unaware the wall was being raised and would raise no objection to a condition requiring the wall to remain at the existing height. A suitable condition of consent is recommended.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes the partial demolition of the existing buildings and construction of a dwelling house. In particular the proposal will include the following:

Ground Floor

- Raised floor level
- Entry area, rumpus, WC, laundry, two bedrooms with ensuites, linen room, gym, and open plan living dining kitchen with attached butlers pantry and outdoor dining area
- Incorporation of the three car garage into the building

First Floor

- Office, retreat, three bedrooms, bathroom and master bedroom with ensuite, walk in robe and attached balcony

Site

- Landscaping

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:

Name:	Address:
Mr James Lindsay Gordon	78 George Street AVALON BEACH NSW 2107
Dr Louis Wald	74 George Street AVALON BEACH NSW 2107
Mrs Debbie Nyua Gordon	78 George Street AVALON BEACH NSW 2107

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

- Privacy
- Property enclosed
- Sunlight

The matters raised within the submissions are addressed as follows:

- Privacy
Comment:
The submissions raised concerns of overlooking from balconies and windows of the proposed development on both the eastern and western side.

The windows facing the side boundary are screened and suitably designed to minimise overlooking. The northern facing rear balcony is attached to a bedroom, modest in size and centrally located within the site. This balcony is suitably setback to ensure it does not result in any unreasonable privacy impacts. The southern facing, first floor balcony attached to the office will provide a direct line of sight into the pool of 74 George street within close proximity. A condition of consent is recommended to require a privacy screen on the eastern elevation of this balcony.

A more detailed assessment of the privacy impacts of the proposed development has been carried out below in accordance with C1.5 Visual privacy of the Pittwater 21 DCP 2014. In summary the proposal subject to the conditions of consent will maintain a reasonable level of privacy within the locality.

- Property Enclosed
Comment:
This submission raised concerns that the development will result in a wall that results in an enclosed feel to the property.

The proposal will maintain the existing ground floor setback. The first floor of the proposed development is compliant with both the D1.9 Side and Rear building line control and D1.11 Building Envelope. The additional setback of the first floor will ensure the proposal does not result in any enclosure of the adjoining properties.

- Sunlight
Comment:
The submission raised concerns of the overshadowing of the pool area and bedrooms of the adjoining property.

The proposed development has been assessed below with regard to C1.4 Solar Access. The assessment has found that the development will maintain adequate solar access to the principal living areas and private open space of the adjoining properties. Please see assessment for

further details.

MEDIATION

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The landscape component is assessed and satisfactorily covered within the Natural Environment - Biodiversity referral.</p> <p>No further assessment is provided by Council's Landscape section over and beyond NECC imposed conditions.</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against Pittwater LEP 7.6, DCP B4.4 and B4.21 and SEPP (Coastal Management). The existing rear fence will ensure the proposed works will not encroach onto the Bush Stone Curlew habitat at the rear of the site. Pursuant to DCP B4.4, 60% of new planting should incorporate native vegetation from the species listed in <i>Native Gardening</i> booklet. A Landscape Masterplan (Sht-101 and 102) was provided, indicating a number of non-locally native plants, non-native plants and exempt species (palms). The planting of exempt species is not supported. Conditions will be imposed for a revised Landscape Plan that replaces exempt species with locally native species and for a minimum of 60% of plantings to be from the <i>Rolling hills and lower shale slopes</i> and/or <i>Tidal flats</i> vegetation type.</p>
NECC (Coast and Catchments)	<p>Estuarine Risk Management</p> <p>The property at 76 George Street, Avalon Beach, has been identified as affected by estuarine tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>The foreshore edge type at Careel Bay adjacent to the subject site appears to be a mangrove forest. As such, in accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), an estuarine planning level (EPL) of RL 2.22m AHD has been adopted by Council for the subject site. This level equates to the local still water level for the 100 year ARI storm tide level for the 2050 sea level rise planning scenario plus a 0.3m freeboard. No reduction factor applies to this EPL.</p> <p>As the Flood Planning Level (FPL) for the new development is RL 3.78m AHD however, the higher level will prevail as will the relevant Flood Prone Land controls in P21 DCP. Compliance with the B3.11 Flood Prone Land controls will also satisfy the relevant requirements of the Estuarine Risk Management Policy and B3.7 Estuarine Hazard controls.</p>

Internal Referral Body	Comments
	<p>State Environmental Planning Policy (Coastal Management) 2018.</p> <p>12 Development on land within the coastal vulnerability area</p> <p><i>Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <ul style="list-style-type: none"> <i>(a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i> <i>(b) the proposed development:</i> <ul style="list-style-type: none"> <i>(i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i> <i>(ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i> <i>(iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i> <i>(c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i> <p><u>Comment:</u> The subject land has not been included on the Coastal Vulnerability Area Map under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and in regard to clause 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land. As such, it is considered that the application complies with the requirements of State Environmental Planning Policy (Coastal Management) 2018 as they relate to development on land identified as a coastal vulnerability area or land that may be affected by coastal hazards.</p>
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <ol style="list-style-type: none"> 1. Low and medium flood risk. Council's flooding engineers propose no objection to the proposal. 2. It is a low level property. 3. The site is not located within the Geotechnical Hazard Area. 4. No OSD is required as the site drains to the Reserve Area. No significant landfill or excavation. No geotechnical report is required. 5. The existing crossing is to be reconstructed as part of the works. <p>No objection to approval, subject to conditions as recommended.</p> <p><u>Planning Comment</u> The NECC (Riparian Lands and Creeks) referral required the</p>

Internal Referral Body	Comments
	discharge of stormwater into Councils drainage infrastructure. This was raised with the development engineer who raised no objection to the condition.
NECC (Riparian Lands and Creeks)	<p>The Statement of Environmental Effects (SEE) is inconsistent on the matter of stormwater disposal from the land, and also with the stormwater layout design prepared by Development Engineering Solutions, Project No 180627 dated 27 June 2018. In addressing <i>Pittwater 21 DCP B5.8</i>, the SEE states that the proposed new roof areas will drain to George Street, but the response to <i>B5.10</i> states that stormwater will be directed to existing drainage to the rear of the property. The response to <i>B5.11</i> incorrectly assumes that roofwater will not have an adverse impact on water quality. Any hard surface allows the collection of nitrogen from the atmosphere that would normally be absorbed in a dispersed manner into the ground. Stormwater collection concentrates the nitrogen and creates an impact at the discharge point, particularly relevant to sensitive estuarine communities.</p> <p>The property borders on estuarine habitat including endangered ecological communities of mangroves and saltmarsh. <i>Pittwater 21 DCP B4.15 Saltmarsh Endangered Ecological Community</i> states that stormwater shall not be disposed of into saltmarsh and <i>Pittwater 21 DCP B4.19 Estuarine Habitat</i> states that stormwater shall be disposed of in a manner that mimics natural conditions, does not adversely impact estuary habitat, and that minimises changes to local surface runoff.</p> <p>The land falls within the proximity area for coastal wetlands as defined under the <i>State Environmental Planning Policy (Coastal Management) 2018</i>, which states:</p> <p>11 Development on land in proximity to coastal wetlands or littoral rainforest Note. The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.</p> <p>(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:</p> <p>(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</p> <p>Due to the scale of the works proposed and to ensure the development results in an improvement of current conditions and does not impact the adjacent coastal wetlands, the applicant is instructed to</p>

Internal Referral Body	Comments
	<p>redirect the household stormwater to the public drainage system in George Street. The existing stormwater connection to the rear of the property and entering Careel Bay must be disconnected.</p> <p>A silt arrestor pit must also be installed on the stormwater pipe prior to discharge of stormwater from the land (the design provided in the stormwater plan by Development Engineering Solutions meets requirements).</p> <p>Sediment and erosion controls must be installed prior to any work on site and must be maintained until groundcover has been re-established.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed development generally complies with the flood requirements of the DCP and LEP. It should be noted that although the drawings show the external finish of the house all the way down to ground level, it has been conditioned that: "The underfloor area of the dwelling below the 1% AEP flood level of 3.28m AHD is to be designed and constructed to allow for the clear passage of floodwaters. The underfloor perimeter of the dwelling, including any external finish or cladding to the building, is to have a minimum of 50% open area below the 1% level".
Parks, reserves, beaches, foreshore	<p>This application seeks consent for any application on land or land being adjoining or adjacent to any parks, reserves, beaches, or foreshore and as such, Council's Parks, Reserves and Foreshores officers are required to consider the likely impacts of the proposal.</p> <p>The application is recommended for approval without conditions.</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A314416 dated 8 November 2018).

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:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

The development is not within the "coastal wetlands" or "littoral rainforests" area.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The proposed development is within the coastal wetlands proximity area. The development has been assessed by the, Bushland and Biodiversity, Riparian Lands and Creeks, Stormwater and Floodplain Engineering and Coast and Catchments officer and has been found to be satisfactory subject to conditions. The conditions of consent will ensure the development does not significantly impact on the matters raised in 1(a) and (b) above. In particular a condition of consent will require stormwater run-off to be directed to the street to improve water quality within the vicinity.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) the proposed development:*
 - (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

The proposal has been referred to Councils Coast and Estuary Officer. It was advised that the development does not fall within the Coastal Vulnerability Area Map.

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:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*
- (c) 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,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) 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,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

Comment:

Councils referral bodies have considered in detail the developments impact on items (a)-(e). In summary the development has been found to not be likely to cause an adverse impact on these points, subject to the conditions of consent.

With regard to point (f), the development is situated over the existing disturbed area of the site and is not located near any known Aboriginal sites or features that would suggest any likelihood of an Aboriginal site or object. A condition has been recommended to ensure that should any aboriginal or object be found the appropriate action is taken. The development will not result in an adverse impact on Aboriginal cultural heritage, practices and places.

With regard to point (g), the development will not impact on the surf zone.

- (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:

As discussed above, the development is designed and conditions have been recommended to avoid adverse impacts to the items referred to in subclause (1).

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:

The development will not impact access to or along the foreshore or the visual amenity and scenic qualities of the coast. The development will not result in unreasonable impacts on the amenity, including solar access, loss of views or wind funneling, of the foreshore or neighbouring properties. As discussed above the development will not impact on aboriginal cultural heritage, practices and places nor will it impact on cultural and built environment heritage.

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:

The proposal is designed and conditions have been recommended to ensure that it does not result in an increased risk of coastal hazards on the site or other nearby properties.

Conclusion

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

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 or 8m above flood planning level	8m above flood planning level	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Garage 6.441m Dwelling 10.6m	0.9%	No
Rear building line	6.5m	16.5m	N/A	Yes
Side building line	South-east 2.5m	Garage 0.68m Ground 1.7m First 2.64m	Garage 72% Ground 32%	No
	North-west 1m	Ground 1.2m First 2.1m	N/A	Yes
Building envelope	South-east 3.5m	Within envelope	N/A	Yes
	North-west 3.5m	Outside envelope	5.4%	No
Landscaped area	60% (553.8sqm)	Proposed 45.3% (418sqm) Existing 35.6% (329sqm)	24.5%	No
Landscaped Frontage	60% of site frontage to be landscaped	50.6%	17.6%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.21 Bush-Stone Curlew Habitat	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C5.17 Pollution control	Yes	Yes
D1.1 Character as viewed from a public place	No	Yes
D1.5 Building colours and materials	Yes	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
D1.16 Fences - Flora and Fauna Conservation Areas	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.1 Landscaping

Description of Non-Compliance

The Pittwater DCP 2014 requires 60% of the site frontage to be provided as landscaped area. The proposal includes 50.6% of the site frontage as landscaped area.

Merit Consideration

With Regard to the consideration of the variation the development is considered under the outcomes of the control below:

A built form softened and complemented by landscaping. (En)

Comment

The proposal includes extensive landscaping to the front of the dwelling. The landscaping includes two canopy trees planted on the front corners of the lot. The proposed landscaping will frame the development within the site and will soften the built form as viewed from the street. The proposed landscaping will ensure the development is consistent with this control.

Landscaping reflects the scale and form of development. (En)

Comment:

As discussed above the landscaping is appropriate for the site. The plantings on the street frontage will soften the built form of the development and ensure it does not become dominant within the street. The proposed landscaping will reflect the scale and form of the development.

Retention of canopy trees by encouraging the use of pier and beam footings. (En)

Comment

The proposal does not require the removal of any significant trees on the site.

Development results in retention of existing native vegetation. (En)

Comment

The proposal does not require the removal of any significant trees on the site. The proposal subject to the conditions of consent will also result in a significant enhancement of native vegetation on the site.

Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)

Comment

The proposal will result in a tree canopy on the site. This is a significant improvement from the existing situation

Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)

Comment

A condition of consent will require the landscaping to be made up of a minimum of 60% locally native vegetation species. The proposal subject to this condition will be consistent with this outcome.

Landscaping enhances habitat and amenity value. (En, S)

Comment

The proposed landscaping, subject to the conditions of consent, will enhance the native vegetation species on the site and subsequently enhance the habitat of locally native species. The proposal will also enhance the amenity on the site.

Landscaping results in reduced risk of landslip. (En, Ec)

Comment

The development will enhance the vegetation on the site. This is considered to reduce any risk of landslip risk.

Landscaping results in low watering requirement. (En)

Comment

The use of locally native species and the provision of canopy trees to provide shading will reduce the watering requirement of the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCA and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.4 Solar Access

Merit Consideration

The Pittwater 21 DCP 2014 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)."

The development will result in substantial overshadowing of the pool area and the windows to bedrooms on the south-eastern wing of 74 George Street. However, this property will retain greater than 3 hours of solar access during the winter solstice to the northern facing elevation of the house where the living areas are located. There also exists a terrace/patio area to the north of the property that is attached to the living areas. This area will also retain greater than 3 hours of solar access during the winter solstice.

It is considered that the development will comply with the requirements of the Pittwater 21 DCP 2014. However as it is unclear as to what is the "main private open space" of 74 George Street an assessment of the outcomes has been conducted below

Residential development is sited and designed to maximise solar access during mid-winter. (En)

Comment

The proposal is designed to ensure the main living areas and private open space of the site are orientated to the north. This orientation will ensure solar access is maximised all year round.

A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)

Comment

The development will result in substantial overshadowing of the pool area and the windows to bedrooms on the south-eastern wing of 74 George Street. The pool area will retain solar access during the morning to midday of the winter solstice. The windows to living rooms will retain solar access from the north from 9am to 3pm during the winter solstice, receiving some self-shadowing from the existing outbuilding. There also exists private open space to the north of this dwelling that will retain solar access all day during the winter solstice. The retention of solar access from the north to the main living space of the site will ensure the site maintains adequate solar access and will obtain a reasonable amenity for the occupants.

To the north-west of the bedroom windows of 74 George Street is a verandah covered by a low roof.

This roof results in the overshadowing of the bedroom windows from 9am to the early afternoon of the winter solstice. The proposed development will then result in overshadowing of these windows during the afternoon of the winter solstice. The element that causes the overshadowing is compliant with the setback, envelope and height controls of the Pittwater 21 DCP 2014 and Pittwater LEP 2014. Due to the low angle of the sun in the afternoon of the winter solstice and the compliance of the proposal, the protection of the remaining sunlight to these windows is not considered to be reasonable.

Given the location of the pool area on the side boundary and adjacent to the key buildable area of the subject, the protection of winter sunlight is not considered to be reasonable.

The proposed development will maintain a reasonable level of solar access to existing residential properties.

Reduce usage and/dependence for artificial lighting. (En)

Comment

The proposed development is suitably designed to reduce usage and dependence for artificial lighting.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCA and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.5 Visual Privacy

Description of non-compliance

The Pittwater 21 DCP 2014 requires private open space areas including swimming pools to be protected from overlooking within 9m. The first floor window to the bedroom 3 W28, the balcony attached to the office and the balcony attached to the master bedroom do not comply with this requirement.

Merit Consideration

With regard to the consideration for the variation, the proposal is considered under the outcomes of the control below

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)

Comment

The proposed rear facing balcony is attached to the master bedroom, is small in size and is centrally located within the site. The living areas of the site are located downstairs and the use of the attached room as a bedroom is considered to minimise the use of this balcony area. Furthermore the dimension of the balcony is not excessive and its location 8m from the pool area will ensure no unreasonable overlooking. The proposed balcony will not have any unreasonable impacts on the privacy of the neighbouring properties.

The front facing balcony attached to the office is a much larger space and is setback 1.7m from the side boundary. This balcony will provide a direct line of sight into the swimming pool area of 74 George Street. This balcony will result in an unreasonable impact on the privacy of 74 George Street. It is recommended that the balcony incorporate a 1.65m privacy screen on the eastern elevation. The balcony subject to the condition of consent will not result in any unreasonable privacy impacts.

The proposed window (W28) is to a bedroom, small in size and setback 2.64m from the side boundary. This window will not result in any unreasonable impacts on the privacy of the neighbouring property. The remainder of the windows are frosted or screened/suitably designed to minimise overlooking of the neighbouring properties.

A sense of territory and safety is provided for residents. (S)

Comment

The proposal will maintain the sense of territory and safety on the site and on the adjoining properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDPC and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.1 Character as viewed from a public place

The existing garage structure is 10m in width and does not comply with this clause. However, as this is an existing structure that will be refurbished and incorporated into the building design it will not result in any contravention of the outcomes of this control. The design of the proposed dwelling, subject to conditions, is consistent with the control and the relevant outcomes.

D1.8 Front building line

Description of Non-Compliance

The Pittwater DCP 2014 requires buildings to be setback 6.5m where there is no established building line. The proposal includes the refurbishment of the existing garage that is setback 6.441m from the front boundary.

Merit Consideration

With regard to the consideration for the variation, the development is considered under the outcomes of the control below:

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

Comment

The proposal will refurbish the existing garage, maintaining the existing street front setback. The proposed refurbishment will enhance the presentation of this structure to the street. The proposed first floor of the dwelling incorporates the garage into the design of the building assisting in softening the presentation of this structure to the street. Furthermore, the proposed non-compliance of 0.059m will not result in a structure that is obviously non-compliant within the street. The proposal will maintain the existing and desired character of the locality.

The amenity of residential development adjoining a main road is maintained. (S)

Comment

The amenity of the subject site and the nearby properties will be maintained, subject to the conditions of consent.

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

Comment

The proposal does not include the removal of any significant vegetation. The proposal includes landscaping to the site frontage that will visually reduce the built form.

Vehicle maneuvering in a forward direction is facilitated. (S)

Comment

The existing vehicle maneuvering is adequate for this development.

To encourage attractive street frontages and improve pedestrian amenity.

Comment

The proposal will enhance the existing street frontage by refurbishing the existing garage and incorporating it into the building design. This in conjunction with the proposed landscaping will result in an attractive street frontage.

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

Comment

The proposed front setbacks and building design appropriately responds to the spatial characteristics of the existing urban environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.9 Side and rear building line

Description of Non-Compliance

The Pittwater 21 DCP 2014 requires side boundary setbacks of 1m and 2.5m. The proposal will maintain and extend along the existing south-eastern side setback of 1.77m for the dwelling. The proposal will also maintain the existing setback of 0.676m to the garage. As this side is the most southern side it is considered most appropriate to apply the 2.5m control.

Merit Consideration

With regard to the variation, the development is considered under the objectives of the control below

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

Comment

The development will maintain the existing side setbacks as viewed from the street. The proposed first floor is setback compliant with this control. The proposal will not result in any unreasonable impacts on the character of the locality.

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

Comment

The proposal is suitably setback to ensure the bulk and scale of the built form is minimised.

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

Comment

The proposal will not impact on views or vistas from public and private places.

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

Comment

The development will not impact on views.

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

Comment

The development has been assessed above with regard to solar access and privacy of the neighbouring properties and has been found to be satisfactory, subject to the conditions of consent. The proposal will achieve a reasonable level of privacy and solar access for the site. The proposal will not impact on views nor will it result in any unreasonable impacts on the streetscape of the locality.

Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)

Comment

The proposal includes good landscaping to the front of the development. The landscaping includes the planting of species to achieve a tree canopy. The landscaping will soften the built form of the development and ensure substantial plantings on site. The proposed development will ensure the streetscape character is maintained.

Flexibility in the siting of buildings and access. (En, S)

Comment

The proposal has been assessed with regard to amenity and streetscape and has been found to be satisfactory within the locality. The proposed flexibility is satisfactory in this circumstance.

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

Comment

The proposal does not include the removal of any significant vegetation. The proposed landscaping to the front of the site will visually reduce the built form.

A landscaped buffer between commercial and residential zones is achieved. (En, S)

Comment

Not Applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCA and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.11 Building envelope

Description of Non-compliance

The proposal does not comply with the north-western side boundary envelope by 0.3m resulting in a variation of 5.4% to the control.

Merit Consideration

With regard to the consideration for the variation, the development is considered under the objectives of the control below:

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

Comment

The proposed non-compliance of 0.3m will not be visually prominent from the street and thus will not impact on the desired future character of the

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 building scale will be below the height of the nearby trees and will include the provision of a tree canopy on the site. As discussed above, the proposal will not result in any unreasonable impacts on the streetscape of the locality.

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

Comment

The proposal is of a suitable design to respond to the natural environment within the locality. The

development

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

Comment

The proposed non-compliance of 0.3m will not result in a bulk and scale that is unreasonable within the locality.

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

Comment

The proposal will not impact any significant views within the locality.

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

Comment

The proposal has been assessed above with regard to privacy, amenity, solar access of the adjoining properties and within the development site and has been found to be acceptable.

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

Comment

The proposal does not include the removal of any significant vegetation. The proposed landscaping, subject to the conditions of consent, will enhance the vegetation on the site. The plantings include two canopy trees on the street frontage. Once these trees reach maturity they will act to visually reduce the built form of the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCA and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of Non-compliance

The Pittwater 21 DCP 2014 requires that 60% of the site area be provided as landscaped area. The proposal will result in 45.3% of the site area as landscaped area. The existing landscaped area on the site is 35.6%.

Merit Consideration

With regard to the consideration of the variation, the development is considered under the objectives of the control below.

Achieve the desired future character of the Locality. (S)

Comment

The proposal will result in a significant increase to the landscaped area on the site and a significant enhancement of landscaping on the site. This includes the provision of plantings to the street frontage. The proposal will enhance the presentation of the streetscape and will achieve the desired future character of the locality.

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

Comment

The proposal is suitably setback on all sides and complies with the maximum permitted height control. The proposal will not result in an unreasonable bulk or scale within the locality. The proposed plantings

to the street frontage will assist in softening the built form of the development to ensure it does not impose on the streetscape.

A reasonable level of amenity and solar access is provided and maintained. (En, S)

Comment

The proposal has been assessed above with regard to amenity and solar access. The assessment has found that the development will provide a reasonable level of amenity and solar access within the site and to neighbouring properties.

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

Comment

The proposal does not include the removal of any significant vegetation. The proposal does include, subject to conditions, good planting on the site that will visually reduce the built form of the development.

Conservation of natural vegetation and biodiversity. (En)

Comment

The proposal does not include the removal of any significant landscaping on the site. The proposed landscaping on the site, subject to conditions, will result in a significant enhancement of natural vegetation on this site that will aid in the enhancement of the biodiversity within the locality.

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)

Comment

The stormwater run-off on the site will be reduced from the existing situation. The conditions of consent require the stormwater be directed to Council's stormwater infrastructure as opposed to the rear of the property. This will prevent any potential soil erosion or siltation of natural drainage channels in the future.

To preserve and enhance the rural and bushland character of the area. (En, S)

Comment

The proposed landscaping, subject to conditions, will enhance the natural bushland character of the area.

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

Comment

The proposal will result in a significant increase to soft surfaces on the site. This will enhance the infiltration of water to the water table on this site and will assist with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCA and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.16 Fences - Flora and Fauna Conservation Areas

Description of Non-compliance

The Pittwater 21 DCP 2014 permits fences within the front setback to be a maximum height of 1m above the ground level. The proposal includes a 3.7m high wall setback 6.419m from the street. After discussions with the applicant it was agreed to limit the height of the wall to the existing height which is 2.09m above ground level.

Merit Consideration

With regard to the consideration for the variation, the development is considered under the objectives of the control as follows.

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

Comment

There are a number of examples of masonry walls on the front boundary at a height of 1.8m. The proposed wall is setback 6.419m from the boundary and at a height of 2.09m is marginally large than those on the street frontage. The setback of this wall in conjunction with the landscaping will ensure it does not impose on the streetscape. The proposed wall will maintain the open streetscape character of the locality and will maintain a development on the site that achieves the desired future character of the locality.

An open streetscape that allows casual surveillance of the street. (S)

Comment

The proposed first floor will ensure casual surveillance of the street.

Fences, where provided, are suitably screened from view from a public place. (S)

Comment

The recommended condition of consent will ensure that the wall is of a reasonable height that is consistent with the streetscape of the locality. The recommended condition will also ensure that the vegetation easily screens the wall from view.

Safe and unhindered travel for native animals. (En)

Comment

A suitable condition is recommended to allow unhindered travel for native animals.

To ensure fences compliment and conserve the visual character of the street and neighbourhood

Comment

As discussed above, the proposal subject to the conditions of consent will conserve the visual character of the street and neighbourhood.

To define the boundaries and edges between public and private land and between areas of different function.

Comment

The proposal subject to the condition will provide a suitable definition of private and public land.

To contribute positively to the public domain.

Comment

As discussed above, the proposal subject to the conditions of consent will positively contribute to the public domain.

To enhance safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians. (S)

Comment

The proposal will not impact on sight distance from the driveway.

To ensure heritage significance is protected and enhanced. (S)

Comment

Not applicable.

To ensure an open view to and from the waterway is maintained. (S)

Comment

There is no existing view of the waterway from the street. There is no potential to gain a view from the

waterway from the street.

To ensure native vegetation is retained (En).

Comment

The proposal has been assessed by Councils Landscape Officer. The assessment has found that the development includes suitable landscaping on the site.

To ensure any fencing provides for the safe and unhindered travel of native animals. (En)

Comment

A suitable condition has been included in the recommendation.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

CONCLUSION

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

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

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

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

- Consistent with the objectives of the DCP

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1812 for Partial demolition and construction of a dwelling house on land at Lot 2 DP 25088, 76 George Street, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-00-03 Site Plan/Site Analysis - Issue B	1/03/19	Hancock Architects
DA-01-07 - Demolition Plan - Issue B	1/03/19	Hancock Architects
DA-02-01 - Proposed Ground Floor Plan - Issue B	1/03/19	Hancock Architects
DA-02-02 - Proposed First Floor Plan- Issue B	1/03/19	Hancock Architects
DA-02-03 - Proposed Roof Plan - Issue B	1/03/19	Hancock Architects
DA-02-04 - Proposed South Elevation - Issue B	1/03/19	Hancock Architects
DA-02-05 - Proposed North Elevation - Issue B	1/03/19	Hancock Architects
DA-02-06 - Proposed East Elevation - Issue B	1/03/19	Hancock Architects
DA-02-07 Proposed West Elevation - Issue B	1/03/19	Hancock Architects
DA-02-08 - Proposed Section A-A - Issue B	1/03/19	Hancock Architects
DA-02-09 - Proposed Section B-B - Issue B	1/03/19	Hancock Architects

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
SHT101 Landscape Master Plan - Issue B	19/10/2018	Jamie King Landscape Architect
SHT102 Landscape Areas and Planting Plan - Issue B	19/10/2018	Jamie King Landscape Architect

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

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

2. Prescribed Conditions

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

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

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

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

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

Reason: Legislative Requirement

3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner

that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

5. Vehicle Crossings Application

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

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

Reason: To facilitate suitable vehicular access to private property.

6. Soil and Water Management Program

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

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

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

7. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 3.78m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 3.78m AHD.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 3.78m AHD unless adequately protected from floodwaters in accordance with industry standards.

Floor Levels – F1

New floor levels within the development shall be set at or above the Flood Planning Level of 3.78m AHD.

Floor Levels – F2

The underfloor area of the dwelling below the 1% AEP flood level of 3.28m AHD is to be designed and constructed to allow for the clear passage of floodwaters. The underfloor perimeter of the dwelling, including any external finish or cladding to the building, is to have a minimum of 50% open area below the 1% level.

Fencing – H1

Fencing shall be open for the passage of flood waters. Any new fencing on the property must be designed with a minimum of 50% open area between the 1% flood level of 3.28m AHD and natural ground level, to allow flood waters to pass through.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

8. **Stormwater drainage plan and stormwater management**

The stormwater layout plan prepared by Development Engineering Solutions, Project No 180627 dated 27 June 2018 is not approved.

A revised stormwater layout plan showing all roof water and stormwater draining to the gutter in George Street must be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of endangered ecosystems (DACNECPCC1)

9. **Estuarine Hazard Design Requirements**

The following applies to all development:

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes; they will not reduce public access to or diminish the amenity of adjoining public foreshore land.

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

10. **Revised Landscape Plan**

Prior to the issue of a Construction Certificate, a revised Landscaping Plan is to be provided to the Principal Certifying Authority that shows:

- a minimum of 60% locally native vegetation species (as per species listed in *Rolling hills and lower shale slopes* and/or *Tidal flats* vegetation types within the *Native Gardening Booklet* available on Councils website)
- removal of the exempt species and replacement with locally native species.

Reason: To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNECPCC2)

11. **Water Quality - Low Density Residential**

To comply with *Pittwater 21 DCP B5.8* and *State Environmental Planning Policy (Coastal Management) 2018*, the applicant must install stormwater quality improvement measures as follows:

- Pre-screening of organic matter (eg. leaf litter) prior to the collection of rainwater in the rainwater tank
- filtration of stormwater to capture organic matter and coarse sediments prior to discharge from the land.

Provision must be made for maintenance access.

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 (DACNECPCC2)

12. External Finishes to Roof

The external finish to the 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. (DACPLC03)

13. Amendments to Approved Plans

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

- A 1.65m Privacy screen is to be erected on the eastern elevation of the first floor balcony attached to the office
- The proposed wall between the garage and western boundary setback 6.419m from the street front boundary is not to exceed 5.12 AHD.

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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. 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 (DACNED06)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Vehicle Crossings

The provision of one vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

16. Maintenance of Road Reserve

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

Reason: Public Safety.

17. **Maintenance of Sediment**

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

18. **Fencing for Wildlife Passage**

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

Reason: Management of wildlife corridors

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

19. **Stormwater Disposal**

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

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

20. **Landscaping**

Prior to the issue of any Occupation Certificate, evidence that the new vegetation planting comprises a minimum of 60% locally native vegetation species (as per species listed in *Rolling hills and lower shale slopes* and/or *Tidal flats* vegetation types within the *Native Gardening Booklet* available on Councils website) is to be provided to the Principal Certifying Authority.

Reason: To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

21. **Disconnection of existing stormwater drainage to property rear**

Existing stormwater drainage currently directed to the rear of 76 George Street must be disconnected.

The Principal Certifying Authority must verify that household drainage to the rear of the property has been disconnected prior to the release of the Occupation Certificate.

Reason: Protection of Endangered Ecosystems (DACNEFPOC1)

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

22. **No Planting Environmental Weeds**

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

Reason: Weed management.

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

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

Reason: To protect Aboriginal Heritage.

24. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016.

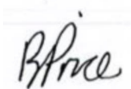
25. **Provision of Three Canopy Trees**

At least two (2) canopy trees are to be provided in the front yard and one (1) in the rear yard area, which at maturity will achieve a canopy height greater than 8.5 metres. Species selection is to incorporate locally native species. This planting is to be retained over the life of the development and replaced if they should die or be destroyed or removed.

Reason: To ensure the retention of the Urban Forest/Natural Environment.

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

Signed



Benjamin Price, Planner

The application is determined on 10/04/2019, under the delegated authority of:



Rodney Piggott, Manager Development Assessments