

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1129
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Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 2 DP 531960, 39 Cabbage Tree Road BAYVIEW NSW 2104
Proposed Development:	Construction of a rehabilitation gym
Zoning:	RE2 Private Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Janine Elizabeth Crawford
Applicant:	Turnbull Planning International Pty Ltd

Application Lodged:	14/10/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	28/10/2019 to 11/11/2019
Advertised:	Not Advertised
Submissions Received:	6
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,885,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a rehabilitation gym. In particular, the works include:

- 3-level building comprising of the following:
 1. At Ground Floor, a new driveway connecting to an open parking area for 10 vehicle parking spaces, bicycle parking, bin storage area, water tank and building entry.
 2. At Level 1, a main gym hall (107m²), with a lounge area, seperate change room, shower and toilet facilities for both mens and ladies, 1 unisex/disabled change, shower and toilet room, 1 unisex staff toilet, staff room, plant room, external access stairs to ground floor as well as a main entry area.

3. At Level 2, an exercise room (57m²), foyer lounge, a disabled toilet, two separate ambulant toilets, an office, a foyer lounge, an outdoor terrace and a landscaped 'green roof'.

- Internal access stairs and lift facilities to all levels.
- A maximum building capacity of the recreation facility is 50 persons, of which approximately 20 to 30 persons would be users (that is, clientele) of the facilities offered in the premises at any one time.
- Proposed operating hours 8.00am to 6.30pm, Monday to Saturday.
- Tree removal and associated 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 - Zone RE2 Private Recreation

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.3 Flood planning

Pittwater 21 Development Control Plan - B3.9 Estuarine Hazard - Business, Light Industrial and Other Development

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan

Pittwater 21 Development Control Plan - C2.11 Signage

Pittwater 21 Development Control Plan - C2.15 Car/Vehicle/Boat Wash Bays

Pittwater 21 Development Control Plan - D9.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D9.6 Front building line

SITE DESCRIPTION

Property Description:	Lot 2 DP 531960 , 39 Cabbage Tree Road BAYVIEW NSW 2104
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Detailed Site Description:

The site has a legal description of Lot 2 in DP 531960, and is commonly known as 39 Cabbage Tree Road, Bayview. The site is a triangular shaped lot located on the southern side of Cabbage Tree Road, with a frontage (northern boundary) of 77.23m, a south western boundary of 38.25m, a south eastern boundary 54.84m, and a surveyed area of 980.2sqm. The site is currently vacant of any built structures. It falls within the RE2 Private Recreation zone, and within the Mona Vale locality under the Pittwater DCP.

There is a gradual fall from north to south, and a water course running nearly parallel with the south eastern boundary, mainly on the adjoining golf course, but also on the subject site in the southern corner. There is also a water course (or drainage channel) running roughly parallel with the front boundary, between the road and the subject site, which joins into the southern watercourse to the east of the site.

The site is well vegetated, with a row of mature Casuarina trees running along the front boundary, and other mature trees including Cabbage-tree palms and Eucalyptus robusta as well a ground cover located on site.

The site is surrounded entirely to the south by the adjacent golf course. The golf course maintenance depot is adjacent to the west. There are detached dwellings on R2 Low density residential zoned land directly across the road to the north.

Map:

**SITE HISTORY**

A search of Council's records has revealed the following relevant history:

20 December 2010

Application R0002/10 for the rezoning of the site from Zone No. 6(b) Private Recreation "B" to Zone No. 2(a) Residential "A" under Pittwater Local Environmental Plan 1993 was refused by Council.

27 June 2013

Development Application N0045/12 for Construction of an Affordable Rental Housing development (attached dual occupancy) and strata subdivision was refused by Council.

15 February 2016

Development Application N0085/14 for Construction of 2 serviced self-care housing dwellings under SEPP Housing for Seniors or People with a Disability 2004 and strata subdivision into two lots was refused by Council.

21 December 2018

Development Application DA2018/0567 for Construction of a recreation facility (indoor) comprising a two (2) lane commercial swimming pool and gym with associated facilities, car parking and landscaping was refused by Council.

25 May 2019

Pre-lodgement meeting PLM2019/0097 was held between the applicant and Council to discuss the the construction of a recreation Facility (indoor) at 39 Cabbage Tree Road, Bayview.

APPLICATION HISTORY

On 14 October 2019, the subject application was lodged by Council.

On 11 December 2019, confirmation was received that the notification sign had been erected on site.

On 6 March 2020, amended civil and architectural plans were presented to Council. In particular, the amended plans sought to address issues relating to the proposed layback area, pedestrian footpaths and for clarification concerning the external finishes raised by the previous assessing officer.

On 14 April 2020, a referral response was received from the Natural Resources Access Regulator.

On 28 April 2020, the assessing officer and Manager of Development Assessment undertook an inspection of the site.

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	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 Matters for Consideration'	Comments
instrument	
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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to an updated BCA Report, and amendments to works located in the road reserve as well as to the schedule of finishes.</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 clause is not relevant to this application.</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 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 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</p>

Section 4.15 Matters for Consideration'	Comments
	designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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 6 submission/s from:

Name:	Address:
Mrs Julie Ann Van Den Bosch	1 Annam Road BAYVIEW NSW 2104
Mr Michael Deitert Van Den Bosch	44 Cabbage Tree Road BAYVIEW NSW 2104
Mr James William Matthews Mrs Marie Ann Matthews	48 Cabbage Tree Road BAYVIEW NSW 2104
Mr Andrew Norman Tiede	50 A Cabbage Tree Road BAYVIEW NSW 2104
Mrs Cynthia Leabres Ryken	46 Cabbage Tree Road BAYVIEW NSW 2104

Name:	Address:
Bayview Golf Club Ltd	Po Box 312 MONA VALE NSW 1660

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

- Inconsistency with the public interest and social impact

Comment:

Concerns were raised in submissions received from adjacent property owners with regards to the proposal not being in the 'public interest'. Comments were also raised with regards to the 'social impact' of the proposal as well as the social objectives for the community. The assessment of the proposal has taken into consideration the public interest and the social impact of development under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EPA Act). Consideration has been given that the proposal is consistent with the aims of the PLEP 2014 including those in relation to and 'promote the health and well-being of current and future residents of Pittwater' as well as to 'meet the economic and employment needs of the community both now and in the future'. Furthermore, the site is within Zone RE2 Private Recreation under the PLEP 2014 that establishes objectives such as those to 'enable land to be used for private open space or recreational purposes'. In consideration of the above, no matters have arisen in this assessment that would justify the refusal of the application in the public interest and proposed development is not seen to have a detrimental social impact in the locality.

- Environmental impacts

Comment:

Submissions were received from adjoining and adjacent property owners raising concerns with regards to impact on flora and fauna, construction impacts on trees as well as impacts on waterways arising from sediment discharge and risks associated with disturbing acid sulfate soils. With regard to these concerns Council's Natural Environment – Biodiversity division have reviewed the proposal's compliance against the relevant provisions of the PLEP 2014, P21 DCP and the NSW Biodiversity Conservation Act 2016 (BC Act 2016), concluding that no objections were raised to the proposed development as presented, subject to conditions. Council's Environmental Health unit has also reviewed and supported this application as it related to Acid Sulfate Soils, without any further conditions. Further no objections to the proposal were raised by the Natural Resources Access Regulator (formerly the Department of Industry - Water) of the NSW Government. Detailed commentary from Council's Natural Environment – Biodiversity division is provided in the 'Referrals' section of this report.

- Design compatibility within a residential area

Comment:

Submissions were received from adjoining and adjacent property owners raising concerns with regards to the visual impact on the streetscape and desired character of the area, with an architectural style being 'industrial' in appearance and incorporating car parking on the ground floor. Council's Urban Designer was referred the application to review and provide comments in relation to the architectural appearance. Following clarification being received from the applicant with regards to material finishes, Council Urban Designer provided support for the application. It should be noted, that while not specifically raised in the submissions, the proposal is seen to be technically non-compliant with Clause D9.6 Front building line of the Pittwater 21 Development Control Plan (P21 DCP), with the proposed setback of 5m from the front boundary being inconsistent with the requirement of 6.5m. The application has been considered to comply with

the outcomes of Clause D9.1 Character as viewed from a public place of the P21 DCP. Refer each clauses within this report for further discussion.

- Viability of proposed operations due to proximity with similar facilities

Comment:

Concerns were raised in submissions received from adjoining and adjacent property owners with regards to economic viability of proposed operations due to proximity with similar facilities. Comments were also raised that the development may ultimately result in negative economic impact on the local community. Supporting information received by the applicant detailed that with the exception of one (1) other gym ('Place of Chi') that there were no other gyms located within a 1.0km radius of the subject site. Whilst it is clear that a number of gyms are located within the suburbs of Mona Vale and Warriewood, it is not evident that similar facilities are currently available in Bayview. Consideration has been given that the proposal is not seen to have a detrimental economic impact on the locality.

- Permissibility of the proposed 'rehabilitation gym'

Comment:

Concerns were raised in submissions received from adjacent property owners with regards to the permissibility of the proposed 'rehabilitation gym'. Comments were also raised with regards to future amendments to the development to enlarge the scope of works and with regards to competition with similar facilities. The submitted Statement of Environmental Effects proposes that the development is to be used as a rehabilitation gym. Gymnasium's are listed as a use under the definition of 'recreation facility (indoor)', and is therefore permissible with consent in a RE2 Private Recreation zone under the PLEP 2014. Should this application be approved, to ensure the compliance of the development a condition is recommended in order to clarify that the site is not to be used for anything other than for the purposes of a 'rehabilitation gym'.

- Flooding impacts and safety

Comment:

Submissions were received from adjoining and adjacent property owners raising concerns with regards to flooding impacts and in particular, the proposal's suitability for seniors, evacuation and emergency protocols, car parking on the ground level and the flow of floodwaters and drainage. In response to these concerns, Council's Natural Environment Unit – Flooding has reviewed the application detailing that the proposal generally meets the flood requirements of the Pittwater LEP 2014 (PLEP 2014), P21 DCP and Flood Prone Land Design standards. Conditions have however been recommended in order to protect property and occupants from flood risk. Detailed commentary from Council's Natural Environment Unit - Flooding is provided in the 'Referrals' section of this report.

- Car parking and traffic concerns

Comment:

Submissions were received from adjoining and adjacent property owners raising concerns with regards to the adequacy of vehicle parking, increasing traffic and the impacts of installing kerb and guttering fronting Cabbage Tree Road. Both Council's Traffic Engineer and Council's Development Engineer have reviewed the proposal as it relates to these concerns, supporting the application subject to conditions. Comments from Council's Traffic Engineer clearly indicate that a 'kerb and gutter is required along the full frontage of No.39 Cabbage Tree Road' and that provisions for a concrete footpath needs to consider both pedestrians and cyclist usage. Whilst

it is understood that the properties opposite may currently benefit from utilising the southern side of Cabbage Tree Road (fronting the subject site) for the purposes of visitor and delivery parking, on-street parking cannot typically be relied upon due to lack of off-street parking for these neighbouring properties. Detailed commentary from both Council's Traffic Engineer and Development Engineer are provided in the 'Referrals' section of this report.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>An amended BCA report has been provided subsequent to my previous comments and is now considered satisfactory.</p> <p>The previous condition requiring a new BCA report may now be withdrawn and the following comment is now applicable:</p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Environmental Health has assessed this application for Acid Sulfate Soils</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Environmental Health (Industrial)	<p>Environmental Health (Industrial) raised no objections to the proposal subject to conditions regarding noise from the operation and air conditioner, the garbage room and outdoor lighting.</p>
Landscape Officer	<p>The Arborist's Report submitted with the application is noted.</p> <p>Trees indicated for removal are not considered significant from a landscape perspective, with the majority of trees proposed for retention.</p> <p>No objections subject to conditions with regard to landscape issues, however I would defer to NEU comments for environmental impact issues.</p>
NECC (Bushland and Biodiversity)	<p>Council's Natural Environment - Biodiversity section raises no objections to the proposed development as presented, subject to conditions. Any additional works required within the road reserve within 5 metres of trees will require biodiversity re-referral.</p>

Internal Referral Body	Comments
	<p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.6 Wildlife corridors as well as the provisions of the NSW <i>Biodiversity Conservation Act 2016</i> (BC Act 2016). The sites' vegetation is mapped as Swamp Sclerophyll Forest Endangered Ecological Community (SSF EEC) within Schedule 2 of the BC Act 2016.</p> <p>The proposal is for the construction of an Indoor Recreation Facility. The site and adjoining land currently contain large native canopy and planted trees and an exotic / mown lawn understorey.</p> <p>The submitted Arboricultural Impact Assessment (Urban Forestry Australia, October 2019) assesses 85 trees or tree groups within the site and adjoining land. Trees proposed to be removed include: 3 dead trees (T11, T13, T29), T17 (<i>C. glauca</i> tree group), T18 <i>C. glauca</i> (only High Retention Value Tree to be removed), and 9 planted <i>C. cunninghamiana</i>. Fifty-seven trees will be retained and protected; of these 41 will have nil or negligible impacts, and 6 trees will incur SRZ / TPZ encroachments. All encroachments have been assessed in accordance with AS4970-2009 and detailed specific tree protection measures have been recommended to ensure long-term retention and protection. The applicant provided proposal options during the Pre-lodgement Meeting and has submitted the proposal which will result in the least biodiversity impacts in terms of tree removal / impacts. All <i>Eucalyptus robusta</i> are proposed to be retained and protected which is supported by biodiversity. The proposed Landscape Plan provides for 19 replacement tree plantings, including 8 <i>Eucalyptus robusta</i>.</p> <p>The submitted Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) assesses the impacts to biodiversity under state and local provisions. This report satisfies state provisions, including formal Test of Significance for relevant threatened entities and provides details demonstrating compliance with local controls.</p> <p>The submitted Biodiversity Management Plan (Narla Environmental, October 2019) provides mitigation measures to be implemented throughout construction to minimise impacts to biodiversity and ongoing management actions to ensure the sites' biodiversity values are improved during operation.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>The subject site has not been located within the coastal zone and therefore both the <i>Coastal Management Act 2016</i> and the State Environmental Planning Policy (Coastal Management) 2018 are</p>

Internal Referral Body	Comments
	<p>not applicable to the proposed development at present..</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>However, the subject property has been identified as affected by estuarine wave action and tidal inundation in future on Council's Estuarine Hazard Mapping. As such, 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>Estuarine Risk Management</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.24m AHD at 2050 and 2.74m AHD at 2100 would apply at the subject site.</p> <p>An assesement has been made in the submitted Statement of Environmental Effects (SEE) report prepared by Turnbull Planning International Pty.Ltd. dated October 2019. Although the habitable floor, which is the first floor of the development has an RL of 4.30m AHD and above the adopted EPL, yet car parking, a bicycle stand, bean storage area and others will be located on the ground floor that has 1.4-2.0m AHD and is below the adopted EPL for the site.</p> <p>The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.</p>
NECC (Development Engineering)	<p>Development Engineering Comments 23/2/20</p> <p>No objections to the development proposal as Councils traffic engineer has provided concurrence. Conditions related to the waste service vehicle bay and associated footpath works will be provided.</p> <p>Previous comments Councils traffic engineer has requested further information in regard to vehicle access to the development. Development Engineers will provide conditions once this information is provided.</p>
NECC (Riparian Lands and	This application has been assessed under:

Internal Referral Body	Comments
Creeks)	<p>Pittwater DCP B4.14 Development in the vicinity of wetlands Pittwater 21 DCP B5.9 Water quality Pittwater 21 DCP B5.11 Stormwater discharge into waterways and coastal areas Pittwater 21 DCP B5.13 Development on waterfront land</p> <p>The proposed stormwater management plan meets the requirements of the above controls. The proposed plantings in the riparian area of the watercourse and for the vegetated filter strip are satisfactory. The Landscape Plan and Biodiversity Management Plan must be applied according to the conditions provided by the Biodiversity Officer. Sediment and erosion controls must be installed prior to any disturbance of soil on the site and maintained under all work is complete and ground is 70% stabilised.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed DA generally meets the flood requirements of the LEP, DCP and Flood Prone Land Design standards.</p> <p>It is noted in the Flood Report that the proposed works will have a total flood storage volume increase of 9.5m³ in the 1% AEP event compared to the pre developed condition. The carpark area is proposed to be regraded to RL1.40m AHD which is approximately 10cm below the current ground level.</p>
Strategic and Place Planning (Urban Design)	<p>PREVIOUS COMMENTS The proposed development can be supported noting that clarification /confirmation of the material finishes on the plans will be required.</p> <p>CURRENT COMMENTS The revised drawings with amended materials schedule can be supported.</p>
Traffic Engineer	<p>The proposal is acceptable, subject to conditions as recommended.</p> <p>A proposed footpath alignment south of trees T7 and T8 (high retention trees) as preferred by the Arboriculturist, instead of adjacent to the road is supported in principle. However a smooth transition and continuation of the footpath is required to connect the indented service/delivery bay with the pedestrian refuge to the west, along with consideration regarding the location of the existing power pole in the Road Reserve. The footpath alignment needs to consider both pedestrians and cyclist usage as the southern side of Cabbage Tree Road has been identified as part of the future Safe Cycling Network. Kerb and gutter is required along the full frontage of No.39 Cabbage Tree Road, including provision of a layback for the driveway access to the maintenance sheds for the Bayview Golf Club. A concrete driveway slab is also required from the footpath to the layback. The</p>

Internal Referral Body	Comments
	amended plans are to be submitted to Council for approval prior to issue of the Construction Certificate.
Waste Officer	This DA has no residential component, thus waste review is not required.
Waste Officer	

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.
NSW Police – Crime Prevention Office (Local Command matters)	The proposal was referred to the NSW Police on 21 October 2019. No response has been received and therefore, it is assumed that no objections are raised and no conditions are recommended.
Nominated Integrated Development – Department of Industry – Natural Resources Access Regulator (Controlled Activity Approval for works within 40m of watercourse)	<p>The following response (Ref. IDAS1123 was received by the Natural Resources Access Regulator on 14 April 2020:</p> <p><i>Natural Resources Access Regulator (formerly the Department of Industry - Water) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary because the proposed activity is not a controlled activity as defined by the WM Act.</i></p> <p><i>Should the proposed development be varied in any way that results in development extending onto land that is waterfront land, or encompassing works that are defined as controlled activities, then NRAR should be notified.</i></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 vacant 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 commercial land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

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

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes

Clause	Compliance with Requirements
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone RE2 Private Recreation

The application proposes that development is to be used as a 'rehabilitation gym'. Gymnasium's are listed as a use under the definition of 'recreation facility (indoor)', and is therefore permissible with consent in a RE2 Private Recreation zone under the PLEP 2014.

7.1 Acid sulfate soils

The site is identified as Class 2 on the Acid Sulfate Soils Map. Council's Environmental Health unit has reviewed and supported this application as it related to Acid Sulfate Soils, without any further conditions.

7.3 Flood planning

The site has been identified as being on land that is below the Flood Planning Level (FPL). Council's Natural Environment Unit - Flooding, has reviewed the application detailing that the proposal generally meets the flood requirements of the LEP, DCP and Flood Prone Land Design standards. Conditions have however been recommended in order to protect property and occupants from flood risk. Detailed commentary from Council's Natural Environment Unit - Flooding is provided in the 'Referrals' section of this report.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	5m	20%	No
Rear building line	N/A	-	-	N/A
Side building line	2.5m (West)	5m	-	Yes
	1m (South-East)	2.5m	-	Yes
Building envelope	N/A	-	-	N/A
Landscaped area	N/A	-	-	N/A

***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
A4.9 Mona Vale Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.13 Freshwater Wetlands (non Endangered Ecological Communities)	Yes	Yes
B4.14 Development in the Vicinity of Wetlands	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	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
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C2.1 Landscaping	Yes	Yes
C2.2 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2.5 View Sharing	Yes	Yes
C2.6 Adaptable Housing and Accessibility	Yes	Yes
C2.7 Building Facades	Yes	Yes
C2.8 Energy and Water Conservation	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.11 Signage	N/A	N/A
C2.12 Protection of Residential Amenity	Yes	Yes
C2.15 Car/Vehicle/Boat Wash Bays	No	Yes
C2.16 Undergrounding of Utility Services	Yes	Yes
C2.20 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C2.22 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.11 Third Party Signage	N/A	N/A
D9.1 Character as viewed from a public place	No	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes

Detailed Assessment

B3.9 Estuarine Hazard - Business, Light Industrial and Other Development

The subject property has been identified as affected by estuarine wave action and tidal inundation in future on Council's Estuarine Hazard Mapping. The application indicates that the habitable floor areas, which is the first floor of the development has an RL of 4.30m AHD, will be above the adopted Estuarine Planning Level (EPL) yet car parking, a bicycle stand, bin storage area and others will be located on the ground floor that has 1.4-2.0m AHD and is below the adopted EPL for the site. Council's Natural Environment Unit - Coastal has reviewed and supported the application subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP. Detailed commentary from Council's Natural Environment Unit - Coastal is provided in the 'Referrals' section of this report.

B6.3 Off-Street Vehicle Parking Requirements

The proposed off-street vehicle parking arrangement has been reviewed and supported by Council's Traffic Engineer and Council's Development Engineer. To ensure minimum impact of construction activity on local parking amenity, provisions are to be made for parking for all construction staff and contractors for the duration of the project. A condition has also been imposed to ensure that the accessible parking spaces are in accordance with Australian Standards.

B8.6 Construction and Demolition - Traffic Management Plan

A Construction Traffic Management Plan is to be provided and approved by Council prior to the commencement of works. Commentary from Council's Traffic Engineer is provided in the 'Referrals' section of this report.

C2.11 Signage

No signage has been proposed.

C2.15 Car/Vehicle/Boat Wash Bays

The proposal does not indicate that a designated wash bay is to be incorporated on the site and therefore is non-compliant with a requirement of this control. Whilst vehicle parking is indicated as part of this application, consideration has been given that it would not be likely for patrons or staff associated with the rehabilitation gym to use the site for the purposes of washing vehicles or boats. Furthermore, given that the ground level consists of a porous surface, it is not seen as reasonable to require wastewater from any such wash bay to be suitably bunded and drained to the sewer. However, in order to prevent pollution from entering Cahill Creek, it is considered appropriate to recommend an on-going condition to ensure the washing of vehicles and boats do not occur on site.

Subject to compliance with this condition, the proposal is considered acceptable on merit and consistent with the outcomes of the clause in this particular instance.

D9.1 Character as viewed from a public place

The proposal is seen to be non-compliant with the control that requires parking areas to be located behind the front building line, preferably set back further than the primary building. These parking areas are also to be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser. As detailed on the submitted plans, the majority of the vehicle parking is located below the structure of the development, with one (1) parking space is indicated in front of the building. Whilst it is noted that these parking spaces are partially located within the front building line, consideration has been given that the area will generally be open throughout which assists to minimise the overall bulk and scale of the building. Furthermore, the retention majority of the mature Casuarina trees that run along the front boundary will contribute towards screening the parking area so that it appears as being secondary to landscaping.

Based on the above, the proposed location of the parking area is considered acceptable on merit, consistent with the outcomes of the clause and not a detrimental outcome that would warrant the refusal of the subject application.

D9.6 Front building line

The proposed development is located 5m from the front boundary and is therefore inconsistent with the 6.5m minimum setback prescribed by this development control. Whilst the non-compliance is carried across all three levels of the proposed development, the ground level that accommodates for carparking is largely open. The variation is largely seen as response to existing site constraints such as the triangular lot configuration and to accommodate acceptable setbacks to the western and south-eastern boundaries in order to prevent impacts to mature native trees along these boundaries. As discussed earlier in this report, the retention of the majority of established trees that line the front boundary of the site as well as the provision of 19 replacement tree plantings is seen to reduce the overall dominance, built form and visual streetscape impacts of the proposed development on residential properties adjacent to the site. The proposal facilitates vehicle manoeuvring in a forward direction to and from the site as well as improving pedestrian amenity through the provision of footpaths. The articulated built form of the development and significant use of timber finishes are considered to respond sensitively to the characteristics of the surrounding environment. As previously mentioned within this report, consideration has been given that the use of the site as a rehabilitation gym is not seen to be inconsistent with desired future character of the locality or bring unreasonable amenity impacts to

surrounding properties.

Based on the above, the proposal in this particular instance, is considered to satisfy the outcomes of this clause and is supported on its merits.

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

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$18,850 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,885,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/1129 for Construction of a rehabilitation gym on land at Lot 2 DP 531960, 39 Cabbage Tree Road, BAYVIEW, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A101, Rev. 4 (Site Plan)	26.02.2020	Blue Sky Building Designs
A103, Rev. 4 (Level 0 - Parking)	26.02.2020	Blue Sky Building Designs
A104, Rev 4 (Level 0 - Parking enlarged)	26.02.2020	Blue Sky Building Designs
A105, Rev 4 (Level 1)	26.02.2020	Blue Sky Building Designs
A106, Rev 4 (Level 2)	26.02.2020	Blue Sky Building Designs
A107, Rev 4 (North & South Elevations)	26.02.2020	Blue Sky Building Designs
A108, Rev 4 (East & West Elevations & Material schedule)	26.02.2020	Blue Sky Building Designs
A109, Rev 4 (Elevations parallel to the boundaries)	26.02.2020	Blue Sky Building Designs
A110, Rev 4 (Sections)	26.02.2020	Blue Sky Building Designs
A111, Rev. 4 (Sections across the driveway and path)	26.02.2020	Blue Sky Building Designs

Engineering Plans		
Drawing No.	Dated	Prepared By
C01, Issue D (Civil Access Plans - Sheet 1)	04.03.2020	NB Consulting Engineers
C02, Issue D (Civil Access Plans - Sheet 2)	04.03.2020	NB Consulting Engineers
C03, Issue D (Proposed Contour & Spot Levels Layout Plan)	04.03.2020	NB Consulting Engineers

C04, Issue D (Longitudinal Sections - Sheet 1)	04.03.2020	NB Consulting Engineers
C05, Issue D (Longitudinal Sections - Sheet 2)	04.03.2020	NB Consulting Engineers
C06, Issue D (Longitudinal Sections - Sheet 3)	04.03.2020	NB Consulting Engineers
C07, Issue D (Longitudinal Sections - Sheet 4)	04.03.2020	NB Consulting Engineers
C08, Issue A (Swept Path Analysis - Trash Truck Bay)	04.03.2020	NB Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BCA Report	30.09.2019	All State Building Surveying Pty Ltd
Access Report Ref. 19108 - R1.2	October 2019	Code Performance Pty Ltd
Plan of Management	October 2019	Turnbull Planning International Pty Ltd
Flora and Fauna (Biodiversity) Impact Assessment	October 2019	Narla Environmental Pty Ltd
Biodiversity Management Plan	October 2019	Narla Environmental Pty Ltd
Arboricultural Impact Assessment	October 2019	Urban Forestry Australia
Statement of Energy Objectives and Methodologies	08.10.2019	Turnbull Planning International Pty Ltd
Traffic and Parking Impact Assessment Ref. 190225.01FA	09.10.2019	McLaren Traffic Engineering
Construction Traffic Management Plan Ref. 190473.01FA	09.10.2019	McLaren Traffic Engineering
Flood Risk Assessment Ref. 11434-R2	09.10.2019	Waddington Consulting Pty Ltd
Operational Noise Emission Assessment Ref. 4264R002.GR.191011 Rev. 1	11.10.2019	Acoustic Dynamics
Landscape Design Intent Statement Ref. 1905	11.10.2019	Pam Fletcher Registered Landscape Architect

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
1905/1 (Landscape Site Plan)	10.10.2019	Pam Fletcher Registered Landscape Architect
1905/2 (Landscape Planting Plan)	10.10.2019	Pam Fletcher Registered

		Landscape Architect
1905/3 (Planting Plan L2/Weeds List)	10.10.2019	Pam Fletcher Registered Landscape Architect
1905/4 (Construction Notes/Details)	10.10.2019	Pam Fletcher Registered Landscape Architect
1905/5 (Plant Schedules)	10.10.2019	Pam Fletcher Registered Landscape Architect

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Northern Beaches Council Waste Management Plan	23.09.2019	Turnbull Planning International Pty Ltd

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site as detailed on the approved plans for any land use of the site beyond a 'rehabilitation gym' as described within the Statement of Environmental Effects.

Any variation to the approved land use beyond the scope of the above will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

3. **No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Pittwater Local Environment Plan 2014 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage.

4. **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.

5. 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) 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.

6. **Staff and Contractor Parking**

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the proposed parking once available. All necessary facilities are to be provided to accommodate this requirement including car park lighting, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

7. **Demolition Traffic Management Plan (site clearance)**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic

Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the certifying authority prior to commencing any demolition work or site clearance.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – "Manual of Uniform Traffic Control Devices", RMS' Manual – "Traffic Control at Work Sites".

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

FEES / CHARGES / CONTRIBUTIONS

8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$18,850.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,885,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or

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

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

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

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

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

9. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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.

10. Construction, Excavation and Associated Works Security Bond (Road works)

The applicant is to lodge a bond with Council of \$150,000 as security against any damage or failure to complete the construction of a garbage truck bay, footpath, kerb and gutter, road pavement/shoulder reconstruction works as part of this consent. This bond also includes any stormwater drainage works approved by council.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

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

11. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's **PITTWATER DCP21**. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

12. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

13. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for Infrastructure works on Councils roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of the waste service vehicle bay , kerb and gutter/ road shoulder construction and footpath which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1 and Councils engineering drawing. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1) Indented service/delivery bay - A 2.5m wide indented bay is required for waste and service vehicle) access and designed to enable forward in and forward out access for a waste collection vehicle 9.7m in length, as a minimum requirement.

2) Footpath - A minimum 1.5m wide footpath is required from the indented service/delivery bay (including links to the bin storage area) to connect with the pedestrian refuge located to the west of the site. Where the footpath cannot be provided adjacent to the kerb, a smooth transition and continuation of the footpath is required.

3) Kerb and Gutter and driveway access - Required along the full length of the frontage of No.39 Cabbage Tree Road, including provision of a layback for the driveway access to the Bayview Golf Club, located to the west of the site. The new kerblines is to be located 7m from the northern face of kerb. A concrete driveway slab is also required to connect the layback with the back of the footpath.

4) Road shoulder works to suit the new kerb and gutter alignment.

5) Stormwater drainage lines and kerb inlet pits in Cabbage Tree Road

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

A Council approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

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

14. **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.

15. **Air Conditioning**

Any air conditioning unit must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997*. In accordance with the *Protection of the Environment Operations (Noise Control) Regulation 2008*, air conditioners must not be audible within a habitable room in any other residential premises:

- before 8:00am or after 10:00pm on any Saturday, Sunday or public holiday, or
- before 7:00am or after 10:00pm on any other day.

Details of the acoustic measures to be employed to achieve compliance with this condition must be submitted to Council/Accredited Certifier prior to the issue of the Construction

Reason: To ensure that any noise generated does not cause a nuisance to adjoining residents.

16. **Garbage rooms**

Garbage rooms: rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.

Reason: To keep garbage rooms in a clean and sanitary condition to protect public health.

17. **Outdoor Lighting**

Prior to the issue of an Occupation Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of an *Australian Standard 4282:1997 Control of the obtrusive effects of outdoor*

lighting.

Reason: To protect public health and amenity.

18. **Noise**

Noise within the premises including but not limited to live music, amplified music, background acoustic music, recording, comedy, dance, artistic expression, free weights or otherwise must not be audible within any residential habitable room at any time.

Reason: To minimise noise disturbance to neighbouring residential properties.

19. **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 Probable Maximum Flood (3.18m 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.

Storage of Goods – D1

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

Flood Emergency Response – E2

Appropriate access to the shelter in place refuge should be available from all areas of the new development.

Floor Levels – F8

New floor levels within the development shall be set at or above the Probable Maximum Flood Level of 3.18m AHD.

Car parking – G4

Vehicle barriers or restraints are to be installed to a minimum height of the Flood Planning Level (2.45m AHD).

Perimeter walls/louvres installed as vehicle barriers or restraints are to be designed to allow flood waters to pass through and are to have a minimum of 50% open area below the 1% AEP flood level.

Car parking – G6

Car parking area to be designed to allow flood waters to pass through and have a

minimum of 50% open area below the 1% AEP flood level.

Fencing – H1

Fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open for passage of flood waters - All new fencing on the property must be design with a minimum of 50% open area between the 1% AEP flood level and natural ground level, to allow flood waters to pass through.

Recommendations

The development must comply with all recommendations outlined in:

- The Flood Risk Assessment prepared by Waddington Consulting dated 9th October 2019.

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.

20. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

21. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's Infrastructure during construction.

22. **Engage a Project Arborist**

A Project Arborist with a minimum of AQF Level 5 is to be appointed for the duration of the

works. The Project Arborist is to implement pre-construction tree protection measures and undertake direct supervision of all works within 5m of significant trees.

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

Reason: Tree protection in accordance with relevant Natural Environment LEP/DCP controls.

23. **Water Quality Management**

The applicant must install a filtration device (such as a silt arrestor 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.

24. **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.

To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

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

25. **Estuarine Planning Level Requirements**

An Estuarine Planning Level (EPL) of 2.24m AHD has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.24m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.24m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.24m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.24m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.24m AHD to avoid the likelihood of contact with splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

26. **Structural Engineering for Estuarine Risk**

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life (taken to be 100years unless otherwise justified and accepted by Council) the development is able to withstand the wave impact forces and loadings.

Note: The potential for component fatigue (wear and tear) should be recognised for the less

severe, but more frequent, wave impact loadings.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

27. Engagement of Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with these conditions of consent and the approved Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) and Biodiversity Management Plan (Narla Environmental, October 2019).

The project ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method Accredited Assessor under the NSW Biodiversity Conservation Act 2016 (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Principal Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

28. Detailed design of Outlet Structure

A certificate from a Civil Engineer, stating that the detailed design of the stormwater outlet structure is in accordance with the concept plans provided by Waddington Consulting and DPI Water's Guidelines for Outlet Structures on Waterfront land.

This design is to be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To protect the surrounding creek bank from the effects of localised erosion.

29. 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.

30. 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 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.

31. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Certifying Authority prior to issue of any Construction Certificate.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the proposed parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.

For use when near a school zone

- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an

appropriately qualified and practising Structural Engineer, or equivalent;

- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site. (DACTRCPC1)

32. Infrastructure in Public Road Reserve

Indented service/delivery bay - A 2.5m wide indented bay is required for waste and service vehicle access and designed to enable forward in and forward out access for a waste collection vehicle 9.7m in length, as a minimum requirement.

Footpath - A minimum 1.5m wide footpath is required from the indented service/delivery bay (including links to the bin storage area) to connect with the pedestrian refuge located to the west of the site. Where the footpath cannot be provided adjacent to the kerb, a smooth transition and continuation of the footpath is required.

Kerb and Gutter and driveway access - Required along the full length of the frontage of No.39 Cabbage Tree Road, including provision of a layback for the driveway access to the Bayview Golf Club, located to the west of the site. The new kerblines is to be located 7m from the northern face of kerb. A concrete driveway slab is also required to connect the layback with the back of the footpath.

Engineering plans and specifications for all roads, drainage and other civil engineering works within the existing Public Road reserve of Cabbage Tree Road, shall be submitted to Council for approval prior to the issue of the Construction Certificate.

Reason: To ensure adequate service vehicle access and to provide pedestrian and cycle facilities. The southern side of Cabbage Tree Road has been identified as part of the future Safe Cycling Network.(DACTRCPC2)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

33. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council’s road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

34. **Tree trunk, branch and root protection**

(a) Existing trees which must be retained

i) All trees not indicated for removal in the Arboricultural Impact Assessment dated October 2019 prepared by Urban Forestry Australia, unless exempt under relevant planning instruments or legislation

ii) Trees located on adjoining land

(b) Tree protection

i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.

ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.

iii) All tree protection to be in accordance with the recommendations of the Arboricultural Impact Assessment dated October 2019 prepared by Urban Forestry Australia and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with relevant planning controls and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

35. **Project Arborist**

i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.

ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment dated October 2019 prepared by Urban Forestry Australia and AS4970-2009 Protection of trees on development sites.

iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

36. **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).

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

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

All pre-construction biodiversity-related measures specified in the approved Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) and Biodiversity Management Plan (Narla Environmental, October 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist prior to issue of the Construction Certificate.

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

38. **Compliance with Arborist's Recommendations – Pre-construction**

All pre-construction tree protection measures specified in the submitted Arboricultural Impact Assessment (Urban Forestry Australia, October 2019) and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with pre-construction measures is to be certified in writing by the project arborist and provided to the Principal Certifying Authority prior to issue of the Construction Certificate.

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

39. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. A Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly (DACTRDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

40. **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.

41. **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.

42. Progress Certification (Road & Subdivision)

The applicant shall provide written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Principal Certifying Authority for the following stages of works:

- (a) Silt and sediment control facilities
 - (b) Laying of stormwater pipes and construction of pits
 - (c) Proof Roll
 - (d) Sub-grade trimmed and compacted **
 - (e) Base-course laid and compacted **
 - (f) Kerb and gutter construction
 - (g) Pavement
 - (h) Landscaping and vegetation
 - (i) Clean-up of site, and of adjoining Council roadway and drainage system.
- (**To be tested by a recognised N.A.T.A. approved laboratory).

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

Reason: To ensure compliance of civil works with Council's specification for engineering works.

43. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

44. Footpath Construction

The applicant shall construct a 1.5m wide footpath in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Section 138 Road Act approval
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Road Act approval for footpath. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

45. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

46. **Kerb and Gutter Construction**

The Applicant is to construct kerb and gutter and associated works along the entire frontage of the site in accordance with Northern Beaches Council Drawing No. A4 2276/A. Prior to the pouring of concrete, the works are to be inspected by Council and an approval issued.

The approval is to be submitted to the Principal Certifying Authority.

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

47. **Site filling - Virgin Excavated Natural Material (VENM)**

Where site fill material is necessary, fill materials must:

1. Be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997
2. Be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.
3. The Applicant shall provide certification by a N.A.T.A. approved laboratory to the Principal Certifying Authority for approval prior to importation of material.

Reason: To ensure protection of the natural environment.

48. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with the approved Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) and Biodiversity Management Plan (Narla Environmental, October 2019) and these conditions of consent.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

49. **Compliance with Arborist's Recommendations – During Construction**

All tree protection measures to be implemented during construction, as specified in the submitted Arboricultural Impact Assessment (Urban Forestry Australia, October 2019) and these conditions of consent are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified in writing by the project arborist, including photographic evidence, and submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

50. **Aboriginal Heritage**

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, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Aboriginal Heritage Protection.

51. **Implementation of Demolition Traffic Management Plan**

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.
(DACTREDW1)

52. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: to ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.
(DACTREDW2)

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

53. **Landscape completion certification**

- a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.
- b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

54. **Condition of retained vegetation (PLEP)**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the

vegetation.

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

55. **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.

56. **Post-Construction Road Reserve Dilapidation Report (Major Development)**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

57. **Undergrounding of Services**

All services connecting to the site are to be located underground.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

Reason: To reduce visual clutter.

58. **Certification of the structural stability of the building**

A suitably qualified structural engineer is to certify the structural stability of the shelter in place considering lateral flood flow, buoyancy, suction effects, and debris load impact of the PMF design flood depths and velocities. Details demonstrating compliance are to be submitted to the Certifying Authority for approval.

Reason: To protect people and reduce public and private losses in accordance with Council and NSW Government policy.

59. **Compliance with Ecologist's Recommendations – Post Construction**

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the approved Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) and Biodiversity Management Plan (Narla Environmental, October 2019) and these conditions of consent.

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in

accordance with relevant Natural Environment LEP/DCP controls.

60. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

61. **Flood Management Report Compliance**

A suitably qualified engineer is to demonstrate compliance with the recommendations in the Flood Management Report.

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.

62. **Compliance with Arborist's Recommendations – During and Post-construction**

All tree protection measures to be implemented following construction, as specified in the submitted Arboricultural Impact Assessment (Urban Forestry Australia, October 2019) and these conditions of consent, are to be implemented. Written certification of compliance is to be prepared by the project arborist and submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

63. **Minimising surface runoff and pollutant loads to a wetland**

To meet the requirements of Pittwater DCP B4.14, permeable pavement must be installed in the carpark as indicated on the Stormwater Management Plan provided by Waddington Consulting, and a vegetated buffer strip planted as indicated in areas E, F and G on the Landscape Plan provided by Pamela Fletcher.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

64. **House / Building Number**

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

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

Reason: Proper identification of buildings.

65. **Accessible Parking Spaces**

Where accessible parking spaces are provided they must be in accordance with AS2890.6:2009

Reason: To ensure compliance with Australian Standards.

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

66. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) 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.

Reason: To maintain local environmental amenity.

67. Control of Weeds

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

68. Restrictions to external artificial night lighting

Artificial night light is known to disrupt foraging nocturnal fauna, especially threatened species found within the locality.

The following external artificial night light restrictions are to be adhered to for the life of the development:

- All external artificial night lighting installed is to be directed away from surrounding vegetation and close to ground level to avoid light spillage into these habitat areas.
- Where possible, install motion sensors for external artificial lighting to reduce impacts to wildlife.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

69. Maintenance of Stormwater Treatment Measures

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

70. 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.

71. **Dead or Injured Wildlife**

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

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

72. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 8.00am to 6.30pm
- Saturday – 8.00am to 6.30pm
- Sunday and Public Holidays – No trading

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

73. **Plant Equipment**

No plant equipment, including exhaust systems, hot water systems and air-conditioning units are permitted on the roof or in any location where they will be visible from the public domain.

Reason: To ensure that the visual impact of the development is appropriately minimised.

74. **External colours and finishes**

The development is to maintain consistency with the material schedule (Plan No. A108, Rev 4) required by this consent.

Reason: To minimise the visual impact of the development.

75. **Washing of vehicles and boats**

The washing of vehicles and boats must not be undertaken on site in order to prevent untreated effluents contaminating water courses.

Reason: To prevent pollution from entering Cahill Creek and potentially contaminating Pittwater.

76. **Maximum Number of Patrons/Staff**

The maximum number of patrons/staff within building must not exceed 50 at any one time.

Reason: To ensure that the development does not cause adverse impacts to the traffic network and parking.

77. **Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

78. **Deliveries**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties.