

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0741
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<b>Responsible Officer:</b>	Penny Wood
<b>Land to be developed (Address):</b>	Lot A DP 397484, 3 Beaconsfield Street NEWPORT NSW 2106
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Therese Mary Rushby
<b>Applicant:</b>	THW Architects

<b>Application Lodged:</b>	12/07/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	23/07/2019 to 06/08/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 33.5%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 391,600.00
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### Executive Summary

This application seeks consent for the alterations and additions to an existing dwelling house.

The proposal is permissible with consent in the E4 Environmental Living zone under Pittwatwer Local Environmental Plan 2014. The proposal is non-compliant with the building height development standard of 8.5m under the LEP. The applicant has therefore lodged a request under Clause 4.6 to vary the standard.

The proposal involves a new three (3) car garage located in the north eastern corner of the site with access granted from the existing driveway from Beaconsfield Street. Other proposed changes to the existing dwelling include internal alterations to reconfigure the existing layout of the dwelling, an external staircase along the southern elevation, material changes to the facade of the dwelling and additional

landscaping to the site.

Notification of the application resulted in one (1) submission raising no objection to the proposed development. The issues raised in the submission were enquiries relating to the construction phase of the development and the times and days construction is able to commence.

The application has been referred to the Development Determination Panel (DDP) as the development has a non-compliance with the Building height in excess of 10% for a class 1 building. it is recommended that the panel approve the application.

## **PROPOSED DEVELOPMENT IN DETAIL**

The subject development application proposes the following works:

### **Lower Ground Floor:**

- internal alterations and additions to provide new entry, internal access stairs, a lift, bathroom, gym, rumpus room and laundry
- New garage to accommodate three (3) cars and a bin storage area
- existing workshop area to remain as existing

### **Ground Floor:**

- Proposed alterations and additions to existing ground floor to provide internal access stairs, lift, two (2) bedrooms, one with an ensuite, a bathroom, open plan kitchen/living/dining area and balcony;
- external access stairs along the rear.

### **First Floor:**

- Proposed alterations and additions to existing first floor to provide for internal access stairs, lift, media room, bathroom, three (3) bedrooms, master bedroom with ensuite and walk in robe and balcony.
- External access stairs.

### **Roof Level:**

- Proposed alterations and additions to existing roof level to provide for internal access stairs, bathroom and outdoor roof terrace.

## **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 - 4.6 Exceptions to development standards

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D10.15 Fences - Flora and Fauna Conservation Areas

## SITE DESCRIPTION

<b>Property Description:</b>	Lot A DP 397484 , 3 Beaconsfield Street NEWPORT NSW 2106
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern corner of Barrenjoey Road and Beaconsfield Street, Newport.</p> <p>The site is irregular in shape with a primary frontage of 12.27m along Beaconsfield Street and a secondary frontage of 31.34 along Barrenjoey Road. The western side boundary measures 49.47m and the rear boundary measures 22.635m. The site has a surveyed area of 697m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone under the PLEP 2014 and accommodates a three (3) storey residential dwelling with a roof terrace. Vehicular access is provided from Beaconsfield Street to the site via a gravel and concrete driveway to an attached brick garage at the rear</p> <p>The site is identified as being within a Terrestrial Biodiversity zone and as 'W Hazard H1 on Council's Geotechnical Map.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p>

Adjoining and surrounding development is characterised by residential dwellings.

Map:



## SITE HISTORY

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

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

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;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&amp;A Regulation 2000 requires the submission of a design verification certificate from</p>

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

Name:	Address:
Michelle Spartalis	249 Barrenjoey Road NEWPORT NSW 2106

The submission did not raise any concerns with the proposed development. The concerns were raised were in relation to when works would commence should the DA be approved and what the hours of construction would be. The following issues were raised in the submissions and each have been addressed below.

The matters raised within the submissions are addressed as follows:

- When would works commence?  
Comment:  
The objector was advised that in the event the development application was approved, the applicant has five (5) years to commence works from the date of the Determination.
- Construction time frames  
Comment:  
The objector was advised that in the event the development application was approved, a condition of consent would be imposed outlining the permissible hours that construction may occur at the subject site.

A written response was sent to the person who made the enquiry on 19 August 2019.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development application seeks approval for the construction of alterations and additions to an existing dwelling including a new garage, lift and alterations to the existing driveway.</p> <p>The proposal in terms of landscape outcome is acceptable subject to the protection of existing trees and vegetation on adjoining property, and the completion of landscaping.</p> <p>A Arboricultural Impact Assessment is provided assessing no existing trees worthy of retention and that all are exempt species not requiring Council approval. Conditions of consent shall be imposed to ensure protection of all other trees and vegetation on adjoining property.</p> <p>A Landscape Plan has been prepared in accordance with the DA Lodgement Requirements, and completion of landscaping is subject to conditions.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCPC Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D10 Newport Locality</p>
NECC (Bushland and Biodiversity)	<p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.4 Flora and fauna habitat enhancement category 2 and wildlife corridor.</p> <p>The proposal is for the alterations and additions to the existing dwelling including a new garage, lift and alterations to the existing driveway. The submitted Arborist report (SAS Landscape and Tree Solutions, no date) indicates that no native trees or vegetation will be removed or impacted by the proposal.</p> <p>Council's Natural Environment - Biodiversity section supports the application subject to conditions.</p>
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <ol style="list-style-type: none"> <li>1. A new garage is to be constructed. Excavation is required. Council's Normal Profile shall apply.</li> <li>2. No flood risk. The site is unlikely to be affected by overland flow.</li> <li>3. Part of the site is located within the Geotechnical Hazard Area. An "Acceptable Risk Management" level is achieved in accordance with the geotechnical report prepared by Hodgson Consulting Engineers, dated 1 July 2019.</li> <li>4. No OSD is required. The proposed stormwater system seems to be satisfactory.</li> </ol> <p>No objection to approval, subject to conditions as recommended.</p>
External Referral Body	Comments

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

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP 55 - Remediation of Land

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

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

A BASIX certificate has been submitted with the application (see Certificate No. A349313, date 28 May 2019).

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

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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



power line.

Comment:

The proposal was referred to Ausgrid. 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	11.35m	33.5%	No (See Clause 4.6 variation discussion in report)

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	No
5.9 Preservation of trees or vegetation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

**4.6 Exceptions to development standards**

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	11.35m
Percentage variation to requirement:	33.5%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *REBELIMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

*(1) The objectives of this clause are as follows:*

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of this clause.

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

**Clause 4.6 (4)(a)(i) (Justification) assessment:**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'*

s 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act(cf previous s 5)*

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

The proposed height non-compliance largely relates to the existing height of the building. The new works proposed will reduce the non-compliant height by 1.03m and in doing so will serve to increase

the amenity of the site, while maintaining a building bulk that is suitable for the area. The works do not propose unreasonable amenity impacts on adjoining properties and the majority of the works proposed remain compliant with the height of buildings development standard. The proposal is considered to maintain a consistent height and appearance with surrounding development.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

**Clause 4.6 (4)(a)(ii) (Public Interest) assessment:**

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E4 Environmental Living zone. An assessment against these objectives is provided below.

**Objectives of development standard**

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the PLEP 2014 are:

(1) The objectives of this clause are as follows:

*a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

Comment:

The proposed building height of the development is reasonable given the fall of the land, the existing building and the location of the dwelling being on the corner of Beaconsfield Street and Barerenjoey Road. The reduction in height will ensure that overall bulk and scale of the dwelling is reduced and will soften the appearance of a three (3) storey dwelling when viewed from a public place. The proposed flat roof will be of a more sympathetic design which will result in an overall reduction in height of 1.03m. The proposed finishes and materials will be of a darker nature which will result in a less dominating appearance and will improve the aesthetics of the dwelling.

*b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment:

The proposed works will see a reduction in height of the overall development by 1.03m with the introduction of a flat roof as opposed to the existing pitched roof located above the existing staircase. The other works proposed for the dwelling will result in a development that will improve the articulation of the building through the use of materials that will ensure that the dwelling will be compatible with the form and nature of surrounding development.

*c) to minimise any overshadowing of neighbouring properties,*

Comment:

The development does not impose any additional overshadowing as a result of the proposed changes to the existing dwelling. The development will reduce the overall ridgeline of the development which will maintain the neighbour's amenity and will not result in any unreasonable loss of solar access for the subject site and the neighbouring properties.

*d) to allow for the reasonable sharing of views,*

Comment:

The development will maintain existing views currently experienced towards Pittwater as a result of the proposed works. The location of the dwelling on the corner of Beaconsfield Street and Barrenjoey Road means no property located directly adjacent to the subject site are affected. The reduction in the overall height of the dwelling may result in improved views towards Pittwater from distant properties.

*e) to encourage buildings that are designed to respond sensitively to the natural topography,*

Comment:

The overall built form of the building responds well to the natural topography of the site with the general built form of the dwelling remaining unchanged.

*f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items,*

Comment:

The development will not have any direct or adverse impacts on any heritage items of the conservation areas in the wider area.

## **Zone objectives**

The underlying objectives of the E4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The development proposes to reduce the overall height of the dwelling by 1.03m. This reduction in height will result in the third storey element located within the roof terrace to alter the existing roof from a pitched roof to a flat roof. This will reduced the overall bulk and scale of the dwelling, particularly when viewed from Barrenjoey Road. The proposed alterations to the external fabric of the dwelling will ensure the visual bulk and appearance of the dwelling will also be reduced.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The proposed design changes to the existing dwelling are considered to improve the appearance of the development which will not have an adverse impact on the special aesthetic values of the site.

- *To provide for residential development of a low density and scale integrated with the landform and landscape*

Comment:

The existing dwelling contains three (3) levels with a pitched roof over the existing stairwell located on the rooftop. The proposal removes the pitched roof and provides a new flat roof. The proposal maintains the existing general bulk and scale of the dwelling. The setbacks are compatible with the existing surrounding development and the proposal will not impact on any long distance views afforded to the subject property and adjoining properties.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The existing dwelling will have no impact on riparian and foreshore vegetation. No trees are to be removed subject to the application and is supported by Council's natural Environment - Biodiversity section.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the



Local Planning Panel, for which Council has an exemption for dwelling houses that can be determined by the Development Determination Panel.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line - Primary	6.5m	6.5m	N/A	Yes
Front building line adjoining Barrenjoey Road	10.0m	2.4m	76%	No
Side building line	2.5m (south)	900mm	Existing - no change	No
	1m (west)	1.0m	Existing - no change	Yes
Building envelope	3.5m	Outside envelope	Existing - no change	No
	3.5m	Outside envelope	Existing - no change	No
Landscaped area	60%	55.3%	7.9%	No

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

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.15 Fences - Flora and Fauna Conservation Areas	No	No
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **C1.1 Landscaping**

See D10.13 Landscaped Area - Environmentally Sensitive Lands

#### **D10.7 Front building line (excluding Newport Commercial Centre)**

#### Description of Non-compliance

The Pittwater 21 DCP 2014 requires buildings within the E4 Environmental Living Zone adjoining Barrenjoey Road be setback 10.0m. The subject site proposes a front setback of 2.4m to Barrenjoey Road which is generally in keeping with the established building line. Where the outcomes are achieved, Council may except accept a non-compliant building setback to Barrenjoey Road where there is an established building line. The development proposes a 6.5m setback to the primary frontage (Beaconsfield Street) which complies with the prescribed setback control.

### Merit Consideration

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

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

### Comment

The proposed non-compliance to Barrenjoey Road will retain an established building line. The development proposes to maintain the location of the existing dwelling along the eastern elevation of the site fronting Barrenjoey Road and as a result, will not impose on the streetscape. The development is not considered to dominate the streetscape at 'human scale' and is compatible with the height of the natural environment. The subject site is zoned E4 Environmental Living and whilst the subject site maintains a non-compliant building height when viewed from Barrenjoey Road, the dwelling will not dominate the streetscape due to the amount of vegetation along Barrenjoey Road and will maintain a development that resembles the desired future character of the locality.

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

### Comment

The proposed non-compliance will not result in any impacts on views within the locality.

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

### Comment

The proposed non-compliance is existing along Barrenjoey Road and is consistent with established building lines within the vicinity. The non-compliance runs along the entire eastern elevation of the dwelling and is largely shielded by the boundary wall and existing vegetation. The setback does increase along the Barrenjoey Road setback to 6.9 at the rear of the dwelling due to the splayed eastern boundary. The non-compliant element is designed to ensure no unreasonable impacts on the amenity of the adjoining properties.

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

### Comment

The development will maintain suitable vegetation forward of the building line to visually reduce the built form of the development.

*Vehicle manoeuvring in a forward direction is facilitated. (S)*

### Comment

The non-compliant setback to Barrenjoey Road is largely resultant of the proposed three (3) car garage located within the north eastern corner of the site. HOWEVER the car parking arrangement is considered an improvement to the accessibility of the site and will facilitate vehicle manoeuvring in a forward direction.

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

### Comment

The proposed works reduce the height of the existing development from 12.38m to 11.35m which is a reduction of 1.03m in height. Whilst not complying with the maximum 8.5m height control prescribed for the site, the proposed flat roof over the stairs to the rooftop will be a more appropriate and visually

sympathetic building form and will be an improvement to the existing design. The location of the garage will propose a 2.4m setback to Barrenjoey Road. This is considered acceptable as it will retain a similar existing established building line when viewed from Barrenjoey Road. Whilst the development proposes a non-compliant frontage to Barrenjoey Road, the structure is not overly visible due to the slope of the site with the garage being excavated below a section of natural ground level with the north eastern corner of the site and will be adequately landscaped to reduce any visual bulk of the development when viewed from Barrenjoey Road. The proposal is suitably designed to ensure it is in keeping with the streetscape and the height of the natural environment.

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

Comment

As discussed above the development will result in an attractive street frontage and will not impact pedestrian amenity.

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

Comment

The proposal is an appropriate response to the spatial characteristics of the existing urban environment.

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

## **D10.8 Side and rear building line (excluding Newport Commercial Centre)**

Description of non-compliance

The control requires development located in the E4 Environmental Living zone to be setback 2.5m to at least one side and 1m for other side. The proposal is setback 1m to the western side boundary and 1m to the southern side boundary.

The site is located on a corner lot and therefore the side boundaries are identified as being along the southern and western side of the site. The western side complies with the minimum 1.0m side setback requirement with the southern side encroaching within the 2.5m minimum. The encroachment within the side setback is due to the siting of the existing dwelling house. The proposed works will have a minimal impact on the amenity to the surrounding properties.

As such, despite non-compliance, the proposal is considered to achieve consistency with the outcomes of this control and is supportable on merit, as follows:

*To achieve the desired future character of the Locality*

Comment: The proposed development has been designed in consideration of the constraints and natural features of the site, and represents a balanced approach to the retention of natural features and the development of the site. Overall, the proposed development is considered to be consistent with the desired character of the locality.

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

Comment: The proposed works do not attribute to excessive bulk and scale. The development reduces the overall height of the development which will contribute to a reduced bulk and scale when viewed from a public place.

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

Comment: The proposed do not result in any unreasonable impacts upon views.

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

Comment: As above, the proposal does not result in any unreasonable impacts upon views.

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

Comment: The proposed works do not result in any unreasonable impacts upon the amenity of the adjoining property to the rear and to the west with respect to privacy or solar access.

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

Comment: The proposal has been designed and located to minimise impacts upon existing vegetation. Furthermore, the application is supported by the increased amount of landscaping particularly towards the front of the site.

*Flexibility in the siting of buildings and access*

Comment: As mentioned, the dwelling is existing with only minor external changes proposed. These works will not alter the existing siting of the dwelling or access to the site.

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

Comment: The development proposes a substantial increase in vegetation to the site which will help soften the building and create a development which is more in keeping with the existing streetscape.

*To ensure a landscaped buffer between commercial and residential zones is established*

Comment: N/A

Based on the above, the proposed setbacks in this instance are supported on merit and considered to satisfy the outcomes of the control.

#### **D10.11 Building envelope (excluding Newport Commercial Centre)**

The building envelope controls prescribed for the site requires a building to maintain an envelope which provides for a height of 3.5m with an angle projected at 45 degrees.

The proposed works to the existing dwelling will not alter the existing envelope. The proposed works will improve the appearance of the dwelling in that the overall height of the dwelling will be reduced by approximately 1.03m when viewed from both Barrenjoey Road and Beaconsfield Street with an increased amount of landscaped open space which will significantly improve the appearance of the dwelling when viewed from a public space and will soften the overall appearance of the development.

The proposed alterations and additions will have no additional impact on the amenity of the surrounding neighbours.

#### **D10.13 Landscaped Area - Environmentally Sensitive Land**

##### Proposed

386m<sup>2</sup> or 55.3% (without variation)

463.2m<sup>2</sup> or 66.3% (with variation)

##### Requirement

418.8m<sup>2</sup> or 60%

There is a shortfall in landscaped area of 32.8m<sup>2</sup> (without variation). Clause D10.13 of P21 DCP permits a variation up to 6% of the total site area that is provided as impervious landscape treatment for the purpose of outdoor recreation. The variation also includes impervious areas less than 1.0m in width. Council may consider these variations where it can be demonstrated that the outcomes of the Clause can be achieved. The outcomes are achieved in the following ways:

*Achieve the desired future character of the Locality.*

##### Comment

The desired future character of the Newport locality is maintained. The increased level of landscaping, particularly within the north eastern corner of the site reduces the visual impact of the proposed garage and is not considered to be a dominant site feature when viewed from a public place.

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

##### Comment

The bulk and scale of the structure is minimised as the application proposes to reduce the overall height of the development by 1.03m. The development does not alter the existing building envelope. The built form is further softened through the retention of vegetation on and around the site, proposed screen planting and the introduction of generous planting and turf located along the northern elevation fronting Beaconsfield Street.

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

##### Comment

A reasonable level of privacy, amenity and solar access is maintained by the residents of the subject site and the adjoining dwellings.

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

##### Comment

One non-native tree is proposed for removal as part of this application. The proposal incorporated screen planting along the southern elevation of the swimming pool to enhance the existing vegetation onsite and visually reduce the built form.

*Conservation of natural vegetation and biodiversity.*



#### Comment

No native vegetation or wildlife species will adversely be affected by the proposed works.

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

#### Comment

The increased level of soft landscaping and will result in a reduction of runoff. No OSD is recommended with the existing stormwater system considered to be satisfactory.

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

#### Comment

Consistency with the relevant built form controls and the retention and introduction of additional vegetation on the site will ensure the character of the area is maintained. The amount of addition landscaping is a vast improvement to the appearance of the site and will significantly assist in softening the appearance of the built form when viewed from both Barrenjoey Road and Beaconsfield Street.

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

#### Comment

Soft surfaces and porous materials have been utilised where possible to minimise run-off and assist with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

### **D10.15 Fences - Flora and Fauna Conservation Areas**

The development application proposes a new boundary fence along the northern (front) boundary and part of the eastern boundary front Barrenjoey Road. The proposed plans have indicated that the proposed fence is subject to compliance with the Exempt and Complying Codes SEPP and therefore does not form part of the subject development application. A condition is imposed as part of the consent to not include the fence as part of the proposal.

### **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 \$3,916 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$391,600.

## 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

In summary, a detailed assessment has been required for the following specific issues:

- PLEP2014 - Clause 4.3 Height of Buildings
- D10.7 - Front Building Line (excluding Newport Commercial Centre)
- D10.8 - Side and Rear Building Line (excluding Newport Commercial Area)
- D10.13 - Landscaped Area - Environmentally Sensitive Land

The non-compliance's identified are not considered to result in any additional adverse impact on the adjoining or surrounding properties and are considered on merit as acceptable in the circumstances.

The proposal includes a non-compliance with the Height development standard of 33.5%. The non-compliance has been considered in the context of the site and the surrounding properties and in considered of the development for this site. On balance, the non-compliance with the height has been assessed as reasonable given the slope of the site and the high level of vegetation screening along the eastern elevation fronting Barrenjoey Road. The reduction of the overall height of the development along with improvements to the materials and finishes of the dwelling will result in a dwelling that is more compatible with the surrounding development and the E4 Zone.

In conclusion, the application has complied with the relevant policies and is recommended for

approval.

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

## RECOMMENDATION

Council is satisfied that:

1) the applicant's written request under clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of clause 4.3 Height of Buildings development standard, has adequately addressed and demonstrated that:

a) compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) there are sufficient environmental planning grounds to justify the contravention.

2) the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2019/0741 for Alterations and additions to a dwelling house on land at Lot A DP 397484, 3 Beaconsfield Street, NEWPORT, 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
MD 00 - B	29 May 2019	THW Architects
A 00 - A	31 May 2019	THW Architects
A 01 - A	31 May 2019	THW Architects
A 02 - A	31 May 2019	THW Architects
A 03 - A	31 May 2019	THW Architects
A 04 - A	31 May 2019	THW Architects
A 10 - A	31 May 2019	THW Architects
A 11 - A	31 May 2019	THW Architects
A 12 - A	31 May 2019	THW Architects
A 13 - A	31 May 2019	THW Architects
A 20 - A	31 May 2019	THW Architects
A 21 - A	31 May 2019	THW Architects

L1	15 June 2019	SAS Landscapes
L2	15 June 2019	SAS Landscapes

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Report	1 July 2019	Hodgson Consulting Engineers
BASIX Report No. A349313	28 May 2019	THW Architects

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

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

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Northern Beaches Waste Management Plan	19 June 2019	THW Architects

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

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

## 2. **Prescribed Conditions**

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

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

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

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

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

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

Reason: Legislative Requirement

### 3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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



- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
  - (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
  - (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
  - (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
  - (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
  - (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
  - (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
  - (j) Prior to the commencement of any development onsite for:
    - i) Building/s that are to be erected
    - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
    - iii) Building/s that are to be demolished
    - iv) For any work/s that is to be carried out
    - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
    - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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



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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,916.00 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 \$391,600.00.

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

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

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

5. **Security Bond**

A bond (determined from cost of works) of \$1,500 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](http://www.northernbeaches.nsw.gov.au)).

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

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

6. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Clause B5.10 in PITTWATER DCP21.

Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Northern Beaches Council's Clause B5.10 in PITTWATER DCP21 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.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Hodgson Consulting Engineers dated 1 July 2019 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **Structural Adequacy and Excavation Work**

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

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

9. **Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

10. **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.

11. **External Finishes to Roof**

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

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

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

12. **Boundary Survey**

A boundary survey, prepared by a Registered Surveyor, shall be provided as evidence that all buildings/works are within the appropriate property, easement boundaries and rights of carriageway.

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

Reason: To ensure the accurate location of buildings in relation to boundaries, easements and rights of way.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 13. **Tree removal**

The following existing trees are granted approval for removal following assessment and recommendation in the Tree Report prepared by SAS Landscape and Tree Solutions:

- Trees numbered 1 to 7 - all exempt species

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

### 14. **Vehicle Crossings**

The provision of one vehicle crossing 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

### 15. **Maintenance of Road Reserve**

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

Reason: Public Safety.

### 16. **Tree and vegetation protection**

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

- i) all trees and vegetation located on adjoining properties, and in particular the existing Gum within property No. 243 Barrenjoey Road,
- ii) all road reserve trees and vegetation.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
  - vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
  - viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
  - ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
  - xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.
- c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

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

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

### 17. **Landscape works**

Landscaping is to be implemented in accordance with the Landscape Plans L1 and L2 prepared by SAS Landscapes, inclusive of the following requirements:

- i) the eastern boundary garden bed planting along Barrenjoey Road shall consist of screening planting selected from the following list: *Elaeocarpus reticulatus*, *Syzygium 'resilience'*, or *Syzygium 'pinnacle'*, planted no more than 1 metre apart, and planted at a minimum pot container size of 300mm.

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.

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

### 18. **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.

### 19. **Geotechnical Certification Prior to Occupation Certificate**

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

**20. Landscape maintenance**

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

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

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

**21. Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

**22. 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](http://www.pittwater.nsw.gov.au/environment/noxious_weeds)

**Reason:** Weed management.

**23. 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.

**24. Dead or Injured Wildlife**

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

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

**25. Domestic Animals Exclusion**

For the life of the development, cats are to be kept in a cat run and/or inside the dwelling such that they are prevented from entering wildlife habitat areas at all times. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties.

**Reason:** Wildlife protection



26. **Use of Premises**

The dwelling is to be solely used as a single dwelling.

Reason: To ensure the development is not to be used for the purpose of a dual occupancy.

27. **Boundary Fence and Gate**

The front fence and gate located along the northern boundary and along part of the eastern side boundary on approved Plan No's A 00 - A, A 10 - A, A 11 - A, A 12 - A and A 21 - A is not approved and does not form part of the consent.

Reason: The fence does not comply with Part D10.5 Fences - Flora and fauna Conservation Areas prescribed in Pittwater 21 Development Control Plan.

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

**Signed**

**Matthew Edmonds, Manager Development Assessments**

The application is determined on 09/10/2019, under the delegated authority of:

**Matthew Edmonds, Manager Development Assessments**