

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/1069
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<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 4 DP 18667, 205 Riverview Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a swimming pool
<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>	Kristen Rooney
<b>Applicant:</b>	Kristen Rooney

<b>Application Lodged:</b>	26/09/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	23/10/2019 to 06/11/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	5
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 2,186,800.00
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The application seeks the determination for the alterations and additions to a dwelling house, and a new swimming pool at 205 Riverview Road Avalon.

The application seeks the approval for a forth (4) storey addition to be located behind the modernised carport area, as well as reconfiguration and additions to the existing three (3) storeys of the dwelling house. The application also includes a new swimming pool, decking and associated landscaping at the rear of the site. There is no works proposed for the rear area of the site that adjoins the Pittwater waterway.

The proposal includes a minor building height variation of up to 9.1m, of which the applicant seeks to rely upon a variation prescribed by 4.3(2D) of the Pittwater Local Environment Plan 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with the

certain criteria.

The proposed building height was determined to be consistent with the criteria of clause 4.3(2D) of PLEP 2014, with the non-compliant areas providing a satisfactory residential amenity, character and design.

The proposal includes further non-compliance with the Pittwater 21 Development Control Plans. However, it was assessed that the non-compliances are acceptable, and that the proposal provides a bulk and scale that is consistent with the E4 Environmental Living zone, the character of the area, and the Riverview Road streetscape.

A view loss assessment was undertaken with the finding that the proposal constitutes view sharing, with the view loss being determined as minor in accordance with the four planning principals outlined within the Land and Environment Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004)* NSWLEC 140.

The notification of the review application resulted in five (5) submissions each objecting to the development. A number of concerns each raised in the submissions are concurred with by Councils assessment of the application, particularly those relating to impacts upon the privacy levels, however conditions have been applied to address these concerns.

Accordingly, the application is referred to the DDP with a recommendation for approval.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development involves alterations and additions to the existing dwelling house and detached carport with the inclusion of a swimming pool and associated decking areas.

The proposal includes the following works:

### **First Floor (RL 30.48 - 31.33)**

- Addition of a pedestrian entry from Riverview street level;
- New double carport;
- Addition of a new master bedroom and ensuite;
- Addition of a new study area; and
- Addition of a new internal lift.

### **Ground Floor (RL 27.410 - 28.260)**

- Conversion of existing floor area involving:
  - Reconfiguration of rooms:
  - Inclusion of open-plan living, dining, kitchen, laundry and cellar.
- Addition of a lounge and bathroom at the east side of the dwelling, connecting to the laundry and cellar:
- Addition of an internal lift:
- Addition of a new deck area, at the western side of the dwelling.

### **Lower Ground Floor (RL24.35)**

- Conversion of existing floor area involving:
  - Reconfiguration of rooms;
  - Inclusion of a lounge, rumpus/guest bedroom, and bathroom.
- Addition of two new bedrooms,
- Addition of an internal lift; and
- Addition of new internal access stairs.

### **Pool Level (RL 20.5 - 21.9)**

- Addition of a new outdoor room;
- Addition of a new bathroom and WC;
- Addition of new internal access stairs;
- Addition of a new swimming pool and spa; and
- Addition of new deck areas.

#### **External**

- New access stairs within the southern side boundary from the first floor carport to the ground floor;
- New courtyard on the ground floor servicing the living and lounge areas;
- New deck area adjoining the swimming pool/spa;
- New access stairs within the northern side boundary to access the rear of the site; and
- Associated landscaping throughout the site.

As a result of initial view loss inspections, amended plans were requested to address the planning concerns regarding the view loss created by non-compliant building height and privacy concerns due to overlooking. As a result, amended plans were received that redesigned the upper roof below the 8.5m building height requirement, moved the Pool Level external stairs/deck area from the northern side boundary by 0.3m, and amended the north-facing door to the Outdoor Room on the Pool Level to address privacy. The assessment report is undertaken with these amended plans.

## **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 E4 Environmental Living  
 Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
 Pittwater Local Environmental Plan 2014 - 5.7 Development below mean high water mark  
 Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks  
 Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection  
 Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards  
 Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area  
 Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality  
 Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community  
 Pittwater 21 Development Control Plan - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run  
 Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place  
 Pittwater 21 Development Control Plan - D1.8 Front building line  
 Pittwater 21 Development Control Plan - D1.9 Side and rear building line  
 Pittwater 21 Development Control Plan - D1.11 Building envelope  
 Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 4 DP 18667 , 205 Riverview Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site is identified as Lot 4, DP 18667 and is known as 205 Riverview Road, Avalon.</p> <p>The subject site is a single residential allotment located on the western side of Riverview Road, Avalon. The property is located within land zoned for E4 Environmental Living pursuant to the Pittwater Local Environmental Plan 2014. The site is also located within the Coastal Zone and is subject to estuarine and geotechnical hazards.</p> <p>The site is regular in shape and has a total area of 762.4m<sup>2</sup>. The property has a street frontage of 15.3m and depths of 51.8m to the north and 50.3m to the south, measured from the front boundary to the Mean High Water Mark (M.H.W.M). The site fronts onto the Pittwater Waterway.</p> <p>The site has a steep fall, approximately 30m, from the street down to Pittwater waterway.</p> <p>The site has numerous trees throughout that were established prior to the construction of the dwelling house, or have been planted and established since its construction.</p>

At present, the site accommodates a detached double carport on the front boundary, a three (3) storey dwelling house, a boatshed, jetty/pontoon and inclinator to the lower ground floor.

Surrounding developments consist of other similar detached dwelling houses, of varying ages, within a landscaped and bushland setting.

Map:



## SITE HISTORY

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

- Development Application **N0334/15** for the alterations and additions to existing dwelling and carport was approved by Council on the 28 July 2016.
- Development Application **N0389/14** for the alterations to the dwelling involving excavation below basement floor level, internal reconfiguration of existing dwelling, modify the roof form and minor aesthetic works to the carport, including new metal roof sheeting to match dwelling, was refused by Council on the 2 April 2015.
- Development Application **N0010/07** for the construction of a new seawall, boatshed, skid, and inclined passenger lift was approved by Council on the 10 October 2007.
- Development Application **N0128/06** for a seawall, boatshed, skid and inclined passenger lift was withdrawn from Council.
- Development Application **N0884/04** for a new jetty and pontoon was approved by Council on the 07 March 2005.
- Development Application **N1155/01** for the alterations and additions including a carport was on approved by Council on the 14 March 2002.
- Development Application **N0998/01** for the alterations and additions to the existing dwelling, including a new carport was refused by Council on the 6 December 2001.

Pre-lodgement Meeting **PLM2019/0037** was held on the 19 March 2019 for the alterations and

additions to the existing dwelling house. The notes concluded that greater consistency with the Pittwater Local Environment Plan 2014, and the Pittwater 21 Development Control Plan controls was required, particularly in regards to the maximum building height and bulk and scale of the proposal.

It was recommended that a redesign of the garage, entryway and first floor level be undertaken to minimise the extent of the building height breach, and reduce the bulk and scale in order to maximise opportunities for view sharing for the surrounding properties. Councils Biodiversity, Landscaping and Waterway and Riparian officers also provided recommendations in regards to addressing specific Pittwater Development Control Plan clauses in order for the application to be considered satisfactory.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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&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>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to building height, side setbacks, privacy and view loss.</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 matter has</p>

Section 4.15 Matters for Consideration'	Comments
	<p>been addressed via a condition of consent.</p> <p>Clause 98 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>Clause 98 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>Clause 143A 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 matter may be addressed via a condition of consent.\</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 (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 5 submission/s from:

Name:	Address:
Mr Peter Francis Van Der Kraan	188 Riverview Road AVALON BEACH NSW 2107
Ms Dinusha Peiris Mr Shane Peter Oliver	203 Riverview Road AVALON BEACH NSW 2107
Mr Maurice Peter Drenth	192 Riverview Road AVALON BEACH NSW 2107
Ms Kathleen Helen Kohn	184 Riverview Road AVALON BEACH NSW 2107
Vaughan Milligan Development Consulting Pty Ltd Mr John Morton Smythe	207 Riverview Road AVALON BEACH NSW 2107

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

- **Type of Development**
- **Building Height**
- **Side Setback**
- **Side Boundary Envelope**
- **Privacy Privacy**
- **Views**
- **Overshadowing**
- **Bulk and Scale**
- **Landscaping**
- **Construction methodology/Dilapidation Reports**
- **Property Value**

The matters raised within the submissions are addressed as follows:

- ***Concern was raised with the type of application.***

Comment:

The application was submitted as “Alterations and Additions to an existing dwelling house”. Whilst the submitted plans show increases in floor space (new upper floor), and changes to the external fabric of the existing dwelling, the proposed design does not represent a complete transformation of the existing character, design and external appearance of the dwelling.

To assist, the Land and Environment Court case *Edgar Allen Planning Pty Limited v Woollahra Municipal Council* 2006 LGERA 1 and *Coorey v Municipality of Hunters Hill* [2013] NSWLEC 1187 sets out Planning Principles for the assessment of both qualitative and quantitative issues to determine whether or not an application is “alterations and additions” or a “new dwelling”.

Using the Planning Principles, Council agrees that the application is for alterations and additions existing dwelling, as opposed to an new dwelling.



This issues does not warrant refusal of the application.

- ***Concern was raised in regards to the building height of the proposal.***

Comment:

With respect to the permitted 8.5m building height referred to in the submission, the applicant seeks to rely upon a variation prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria. The assessment of the criteria has also been considered elsewhere in this report (see Clause 4.3 - 'Height of Buildings').

In the consideration of the variation prescribed by 4.3(2D) of PLEP 2014 it was found that the development achieved consistency with the objectives of the clause and E4 Environmental Living zone, as well as demonstrating that variation was minor. As a result, there were sufficient environmental planning grounds to justify the variation and support the non-compliance.

This issues does not warrant refusal or further amendment of the application.

- ***Concern was raised with the continuation of the non-compliant side setbacks demonstrated by the existing dwelling.***

Comment:

This issue has been addressed in detail in this report (refer to Clause D1.9 - Side and Rear Building Line under the P21 DCP).

The proposed new first floor complies with the required setbacks of the P21 DCP.

In summary, the areas that mimicked the existing non-compliance (as conditioned) was found to satisfy the various objectives of the control and had minimal impact upon the provision of deep soil landscaping, visual dominance, bulk and scale and the amenity of neighbouring property (including view sharing, privacy and overshadowing) such that the non-compliance did not warrant the refusal of the application.

- ***Concern is raised that the proposed side boundary envelopes will be visually dominant, result in overshadowing and the amenity impacts on the neighbouring sites and the Riverview Road streetscape.***

Comment:

This issue has been addressed in detail in this report (refer to Clause 1.11 - Building Envelope under the P21 DCP). It is considered that the development has been sufficiently articulated to visually define the dwelling within the shape and topographical context of the site achieving an architectural consistency with the detached dwellings which collectively characterise the local area. It was also considered that the development, as amended, satisfied the applicable requirements of the clause by providing sufficient articulation and wall lengths to reduce building mass and provide visual relief.

As such the non-compliance did not warrant the refusal of the application.

- ***Concern is raised in the submission from No. 203 and No. 207 Riverview Road that the development will result in a significant loss of privacy to the private open space areas, particularly with respect to the proposed windows and terraces on all four levels.***

Comment:

This issue has been addressed in detail elsewhere in this report (refer to Clause C.1 - Visual Privacy under the P21 DCP).

In summary, the assessment found that the the development has been generally designed to satisfactorily address overlooking. However, areas which have been identified as creating unreasonable overlooking have been appropriately addressed by conditions which require the installation of privacy screens to certain windows and terraces on all four (4) levels.

The proposed access stairs within the southern side boundary from the carport to the Ground Floor level, are considered a transitional zone for access, and it is not anticipated that there would be unreasonable impacts of overlooking from this area.

This issue does not warrant the refusal of the application.

- ***Concern is raised that the development will adversely impact upon views from surrounding properties and the Streetview.***

Comment:

This issue has been addressed in detail elsewhere in this report (refer to Clause C1.3 - View Sharing under the P21 DCP).

In summary, the assessment found that the extent of view loss was minor No. 188, No. 184 and No. 192 Riverview Road and that the extent of view loss was not sufficient grounds to refuse the application.

- ***Concern is raised in the submission from No.203 Riverview Road that the development will create unreasonably overshadowing on the north side of the property, particularly during the mid-winter months.***

Comment:

This issue has been addressed in detail in this report (refer to Clause C1.4 - Solar Access under the P21 DCP).

In summary, the assessment found that the development satisfies the requirements of the control and did not warrant the refusal of the application.

- ***Concern is raised in the submissions that the development, by virtue of the number of storeys (4), and the non-compliance with the DCP requirements has the appearance of an large dwelling house that does not relate to the streetscape or overall character of the local area.***

Comment:

The development involves alterations and additions to an existing dwelling. The alterations and additions occur predominantly on and within the existing building footprint and, as such, do not add the the built form such that it exacerbates the bulk and scale of the building that it no longer is consistent with the character of the area.

The development includes an additional fourth floor and refurbishment to the existing carport structure. The forth floor is located behind the modernised carport design that thereby relieves the bulk and scale of the additional floor area with sufficient articulation and improved street presence.

The development also involves replacing the pitched roof with a flatter roof form which improves visual outlook from surrounding properties.

The upgrading of the detached dwelling is consistent with the scale, design and character of

the local area and does not warrant refusal of the application.

- **Concern is raised in the submission from No. 203 Riverview Road that the provision of landscaped open space is below that required under D1.14 Landscaping Area - Environmentally Sensitive Land, and further built form within the side setbacks removes existing landscaped areas.**

Comments:

This issue is discussed above (see 'Site Coverage') and in detail under Clause D1.14 - 'Landscaping Area - Environmentally Sensitive Land' in this report where it was found that the proposal satisfied the objectives of the clause and the variation could be supported. However, it is agreed that the location of the northern Pool Level deck area removes additional areas of landscaping that can screen and soften the built form, and also provide additional privacy. Therefore, the decking has been conditioned to maintain a larger side setback to the northern boundary so to allow areas of landscaping to be retained and provided to mitigate privacy impacts.

This issues does not warrant refusal of the application.

- **Dilapidation reports have been requested by the neighbouring sites.**

Comments:

The development proposes excavation within close proximity to the southern and northern boundary.

It is considered a dilapidation report is appropriate to ensure security against possible damage to private property. The dilapidation report has been included within the conditions of consent.

It is considered that this issue does warrant the refusal or amendment of the application.

- **Concern is raised that the development will reduce property value as a result of view loss.**

Comment:

This issue of property value is not a planning matter which can be addressed under the provisions of s.97C of the EP&A Act.

This issue does not warrant the refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p><b>General Comments</b></p> <p>There is no objection to a gas fireplace and no conditions.</p> <p>However, the proposal is not supported if the fireplace is a solid fuel heater due to insufficient information.</p> <p>If the application is for a solid fuel heater, there is no details in regards to the make and model of the heater and any installation details that will determine if the appropriate Australian Standards will be met.</p>

Internal Referral Body	Comments
	<p>For the installation of a Solid fuel heater the following information is required or Section 68 Local Government Act application:</p> <ol style="list-style-type: none"> <li>1. Provide evidence that the flue pipe will extend not less than 4.6m above the top of the floor protector.</li> <li>2. If the flue is 3m or less in horizontal distance from the highest point of the roof, is the top of the flue at least 600mm above the highest point of the roof?</li> <li>3. If the flue is over 3m metres in horizontal distance from the highest point of the roof, is the height of the flue at least 1000mm above the roof penetration?</li> <li>4. Provide council evidence that the topography of the site or likely weather patterns or configuration of nearby dwelling/s indicate a potential to cause a smoke nuisance? (Include on site plan)</li> <li>5. Provide evidence that there are not any significant trees or other environmental or structural factors in the immediate vicinity that may cause a smoke down draught? (Include on site plan)</li> <li>6. The application must contain site, floor and elevation plans drawn to a scale of 1:100 or 1:200 clearly demonstrating the location of the proposed heater and the proposed flue in relation to the roof line of the dwelling and the closest neighbouring dwelling/building.</li> <li>7. Provide detailed evidence to Council that the application contains specifications of the appliance to be installed indicating compliance with AS/NZS 2918:2001 and the Building Code of Australia?</li> <li>8. provide evidence that the proposed heater will meet the emission control requirements of AS 4013.1999/AS 4013.2014?</li> <li>9. provide evidence that the installation will meet the requirements of AS/NZS 2918.2001</li> </ol> <p><b>Planners Comment</b></p> <p>Inquires with the applicant confirmed that the fireplace is to be a gas fireplace, not a solid fuel fireplace.</p> <p>Therefore, there are no concerns or further conditions for the proposed gas fireplace servicing the Ground Floor Lounge Room.</p>
Landscape Officer	<p>The Arborist's Report and Landscape Plans submitted with the application are noted.</p> <p>The Arborist's Report indicates that all trees can be retained subject to specific tree protection measures.</p> <p>Recommended conditions have been provided addressing tree protection, including requirement for a Project Arborist to oversee works adjacent to trees.</p> <p>A number of rock outcrops are located across the site below the existing building and are a feature of the site. The plans indicate that these can be retained, with additional condition provided requiring protection and retention of rock outcrops.</p>

Internal Referral Body	Comments
	In view of the above, no objections are raised to approval subject to conditions as recommended.
NECC (Bushland and Biodiversity)	<p>Council's Natural Environment - Biodiversity section raises no objections to the proposed development, subject to conditions.</p> <p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.7 Pittwater Spotted Gum EEC.</p> <p>The proposal is for the alterations and additions to the existing dwelling, including demolition and construction of new structures including a swimming pool and landscaping.</p> <p>The submitted Arboricultural Impact Assessment report (NSW Tree Services, 12/09/2019) assesses 9 trees, 8 of which are canopy species from PSG EEC. The report indicates that all trees can be retained using tree sensitive construction measures and specific tree protection measures. The Landscape Plan complies with biodiversity controls.</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><b>Coastal Management Act 2016</b> The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p><b>State Environmental Planning Policy (Coastal Management) 2018</b> As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p><u>Comment:</u></p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Mark Hurcum Design Practice Architects dated September 2019 and Council accepts the assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p>

Internal Referral Body	Comments
	<p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p>The subject property has also been identified as affected by estuarine wave action and tidal inundation 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><b>Estuarine Risk Management</b></p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.66m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.07m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>On internal assessment, the ground floor level for the proposed additions and alterations is at 20.5 m AHD or above and is much higher than the applicable EPL of 2.66m AHD for the site.</p> <p>The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</p>
NECC (Development Engineering)	<p>The proposed development does not require OSD. The existing driveway crossing is to be reconstructed which has been conditioned. The submitted Geotechnical report addresses the relevant DCP controls. No objection to approval, subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed under  Pittwater 21 DCP B5.8 Water Quality  Pittwater 21 DCP B8.2 Erosion and Sediment Control  SEPP Coastal Management 2018 - Coastal Environment Zone</p> <p>As the application does not increase impervious area by more than 50sqm, the owner is not expected to meet water quality controls. Given the sensitivity of the coastal environment on this lot, the owner is however encouraged to install a sediment arrestor/control pit on their stormwater drainage prior to stormwater being discharged from the property and into Pittwater. The pit would need to be cleaned out every year or two to remove built up sediment and organic matter.</p> <p>Sediment and erosion controls must be installed prior to disturbing</p>

Internal Referral Body	Comments
	any soil on the site and maintained until work is complete and groundcover re-established.

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.
Aboriginal Heritage Office	The Aboriginal Heritage Office provided a response on the 25 November 2019, that there are no concerns in regards to the proposal subject to conditions.

## **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. A357306\_02 dated 26 September 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A357306\_02 dated 26 September 2019).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
<b>Water</b>	40	Pass
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	50	Pass

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.

### **SEPP (Coastal Management) 2018**

The site are located within the Coastal Use Area and Coastal Environment Area as identified by State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP), and the provisions of this policy are applicable in relation to the proposal.

Following detailed assessment of the proposed development, the consent authority can be satisfied of the following:

- the proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP,
- the proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1) of the CM SEPP,
- the proposal is not likely to cause increased risk of coastal hazards on the site or other land.

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

### **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	Complies
Height of Buildings:	8.5m - 10m	2.6m - 8.8m	Yes

\*The proposed development is non-compliant with the 8.5m maximum building height prescribed by clause 4.3(2) of PLEP 2014. However, The applicant seeks to rely upon a variation prescribed by 4.3 (2D) of PLEP 2014, which provides that the building may reach up to 10m in height, subject to consistency with certain criteria. The objectives of the height of buildings development standard, and relevant criteria are assessed within the 4.3 Height of buildings section of the report.

#### Compliance Assessment

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

#### Detailed Assessment

#### Zone E4 Environmental Living

The proposed alterations and additions are consistent with the objectives of the E4 Environmental Living zone. The development will continue to have the appearance of a "low impact" residential dwelling house in a natural landscaped setting, integrated with the scenic landform and aesthetic values. The new upper First Floor and carport area modernises and contributes to the Riverview Road streetscape and reflect the predominant character of residential development in the immediate Riverview Road area.

Overall, the proposal is consistent with the desired objectives and future character of the E4 Environmental Living zone.

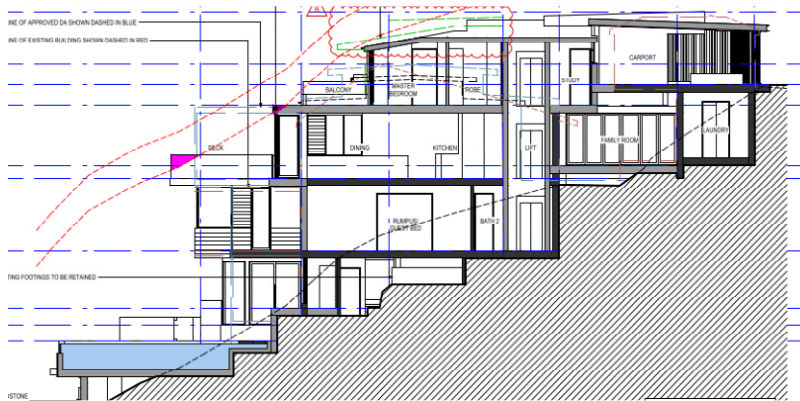
#### 4.3 Height of buildings

The proposed development is non-compliant with the 8.5m maximum building height prescribed by

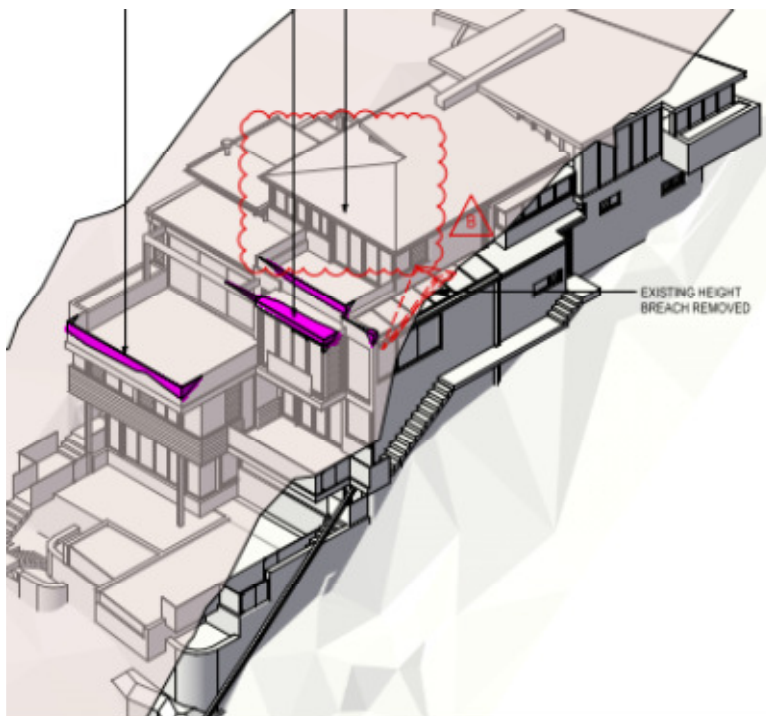
clause 4.3(2) of PLEP 2014, as follows:

- Maximum overall height of the roof line of the roofline of the Ground Floor 8.8m - 8.0m; and
- Maximum overall height of the additional balcony area (including the balustrade) of the Ground Floor is 6.9m - 9.1m.

The building height non-compliance is demonstrated in figures 1 and 2 below.



**Figure 1:** Building height non-compliance shown in pink.



**Figure 2:** Building height non-compliance shown in pink.

The maximum overall height of the new carport is compliant at 2.5m - 7m, and the maximum overall height of the new First Floor is compliant at 6.2m to 8.3m.

The applicant seeks to rely upon a variation prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria.

One of the relevant criteria is to ensure that the objectives of the clause are achieved. The

objectives of the height of buildings development standard are considered as follows:

- ***To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.***

Comment:

The proposal reflects the established built form character of the immediate Riverview Road area where multi-level, variably stepped dwelling houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access. The proposed works have been designed to accommodate the steep slope of the site, while providing the required gradients for safe entry and exit for vehicles to Riverview Road.

The proposal is for a four (4) level dwelling house, with the new addition of the fourth storey.

In this case, the existing three levels are to remain but reconfigured with internal changes, new access and balcony elements and a new roof form. It is the new roof form and the balcony additions that contributes to the noncompliance, not the fourth floor addition.

Although the design of the alterations is more contemporary and architecturally unique when compared to the more traditional style of surrounding dwelling houses and parking structures, the residential nature of the development and the non-compliance, is considered to be consistent with the objectives of the zone and the urban context of the local area.

The development satisfies this objective.

- ***To ensure that buildings are compatible with the height and scale of surrounding and nearby development.***

Comment:

The development is located on the downward slope of the Riverview Road escarpment which is characterised by undulating topography to the Pittwater water high water mark. This results in variable built forms along the road, such that there is an eclectic mix of height and scale in which to be compatible with.

Notwithstanding, the overall height of the development is below the 10m requirement, and is representative of a four (4) storey development when viewed from properties to the north and south and a one (1) storey development when viewed from the upslope of Riverview Road.

The non-compliance is located at the western edge of the roofline and along the new terrace areas (demonstrated in figure 1 and 2 above) due to the topographical nature of the site. The non-compliance is considered to be relatively minor and does not unreasonably conflict with the height and scale of surrounding and nearby development. In this context, the proposed height non-compliance is considered to be compatible.

The development satisfies this objective.

- ***To minimise any overshadowing of neighbouring properties.***

Comment:

The western roof element and terrace balustrade (where the maximum height protrusions occur) do not contribute to any unreasonable overshadowing of adjoining properties.

The development satisfies this objective.

- ***To allow for the reasonable sharing of views.***

Comment:

It is acknowledged that the non-compliance along the western edge of the proposed roof does not impact the viewing angle from the properties to the north No.207 Riverview Road or south No.203 Riverview Road. The sweeping range of views available from the internal areas and balconies of both properties remain intact.

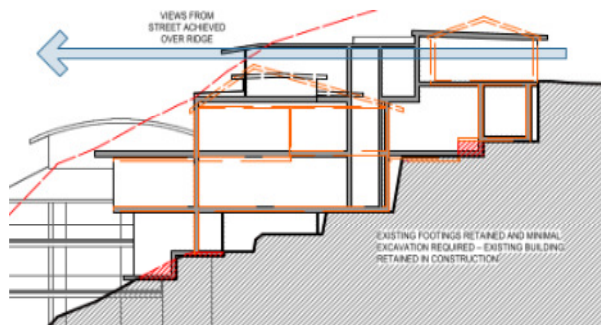
The height non-compliance does not have an unreasonable impact upon the existing views from further up the escarpment to Riverview Road due to the higher placement/vantage point of these properties. The views from these dwelling houses are likely to be improved and enhanced from some areas as a result of the reduction of the carport roofline that is less than what is currently on the site.

The development satisfies this objective.

- ***To encourage buildings that are designed to respond sensitively to the natural topography.***

Comment:

The proposal is reliant upon a minor volume of excavation under the footprint of the carport on the Ground Floor and under the footprint of the Lower Ground Floor for the proposed toilet and bathroom for the Pool Level as shown in figure 3. However, the visual impact of the minor excavation will be screened from view, and the proposal presents as a dwelling that has been sited to sympathetically follow the natural slope of the land.



**Figure 3. Extent of excavation shown red.**

The proposals design with the open style rear balcony areas, provides a more "stepped" look when viewed from the rear and the neighbouring properties. The proposal reflects the established built form character of the immediate Riverview Road area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access.

The development satisfies this objective.

- ***To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.***

Comment:

Despite the topographical constraints of the site, the developments design creates additional

articulation, and visual interest and the additional floor is sufficiently setback from the boundaries such that the visual impact of the building will be appropriately managed.

Existing landscaping has been retained wherever possible and will soften and filter the built form. Therefore, the proposal will be sufficiently integrated into the existing landscaped setting.

The development satisfies this objective.

The remainder of the criteria prescribed by clause 4.3(2D) of PLEP 2014 have been considered, as follows:

- ***The consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.***

Comment:

The portions of the development that exceed the 8.5m building height plane are limited in height and depth, as demonstrated in figure 1 and 2 above. The protrusions are reasonably described as minor.

The development satisfies this objective.

- ***The building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).***

Comment:

The proposed new carport is sited on a slope of approximately 23 degrees.

The development satisfies this objective.

- ***The buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.***

Comment:

The proposal is reliant upon a minor volume of excavation. However, the extent of excavation proposed is not unreasonable in the context of the site, and does not present as excessive built form as seen from the public domain.

The development satisfies this objective.

The proposed development will be consistent with the criteria of clause 4.3(2D) of PLEP 2014, and the application of the 10m variation is supported. As such, the proposed development is consistent with the maximum building height prescribed for the site.

## **5.7 Development below mean high water mark**

The application does not include any works below the mean high water mark.

## **7.1 Acid sulfate soils**

The site is identified as being partly within 'Class 1' and partly within 'Class 5' on the Acid Sulfate

Soils Map.

The proposed development involves minor earthworks in relation to the construction of the proposed swimming pool and dwelling. Due to the sloping nature of the site, there is minimal excavation as part of the proposal. The proposed earthworks do not involve the disturbance of more than one tonne of soil, which is the trigger for an Asset Sulfate Soil Management Plan (ASSMP). As a result, a ASSMP is not required.

In addition, the water table will also not be affected by the proposed works.

## 7.2 Earthworks

A Geotechnical Assessment has been prepared by J K Geotechnics, Reference No. 27796Rrpt2, dated 11 September 2019. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposals required excavation.

Accordingly, Councils Landscape and Biodiversity officers have concluded that the impact of the earthworks will not unreasonably impact or disrupt vegetation on the property.

## 7.6 Biodiversity protection

A landscaping design statement from Landforms with associated Landscape Plans dated 18 September 2019, have been submitted with the application as well as an Arborist Report from NSW Tree Services, dated 12 September 2019. As a result, Councils Landscaping and Biodiversity officers have assessed the proposal and consider the impact of the development on the existing biodiversity to be reasonable, subject to the imposed conditions.

## 7.7 Geotechnical hazards

A Geotechnical Assessment has been prepared by J K Geotechnics, Reference No. 27796Rrpt2, dated 11 September 2019. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposal on sloping land.

## 7.8 Limited development on foreshore area

This development application does not propose any changes to the foreshore area of the site.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	<u>First Floor</u>	up to 96%	<b>No</b>
		0.2m - 0.5m Carport	up to 6%	<b>No</b>
		6.1m - 8m First Floor	up to 78%	<b>No</b>
		<u>Ground Floor</u>		
		1.4m - 2.2m Ground Floor Retaining Wall	-	Yes
		7.7m - 8.3m Ground Floor Dwelling House (Living Room)	-	Yes
			up to 49%	<b>No</b>

		3.3m - 4.6m Ground Floor Dwelling House (Lounge)  <u>Lower Ground Floor</u> 7.1m - 9.9m Lower Ground Floor Dwelling House 10.7m - 13.8m Pool Level Dwelling House (Existing)	- -	Yes Yes
Side building line	2.5m North	<u>First Floor</u> 5m Entry 5.1m - 7.3m Dwelling House 7.1m Carport	- - -	Yes Yes Yes
		<u>Ground Floor</u> 1.1m Planter (balcony) 1.2m - 7.2m Dwelling House	- up to 52%	Yes <b>No</b>
		<u>Lower Ground Floor</u> 1.2m Dwelling	52%	<b>No</b>
		<u>Pool Level</u> 2.1m Dwelling House 0.3m Deck 1.3m Access Stairs	16% 88% 48%	<b>No</b> <b>No</b> <b>No</b>
	1m South	<u>First Floor</u> 0.0m Planter 0.5m Access Stairs 2m - 2.5m Dwelling House	100% 50% -	<b>No</b> <b>No</b> Yes
		<u>Ground Floor</u> 1.5m - 2.6m Dwelling House	-	Yes
		<u>Lower Ground Floor</u> 1.1m Deck (existing)	-	Yes
		<u>Pool Level</u> 1.1m Pool Area 3.1m Swimming Pool	- -	Yes Yes
Building envelope	3.5m North	Encroachment of up to 3.3m in height for a length of 5.5m, and encroachment of 1.6m in height for a length of 4.4m	up to 94% & up to 45%	<b>No</b>
	3.5m South	Encroachment of up to 2.3m in height for a length of 12.3m, and height of 3.3m for a length of 2m	up to 65.7% & up to 94%	<b>No</b>
Landscaped area	60%	58% (440.6sqm)	3.3%	<b>No</b>

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	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
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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	No	Yes
C1.4 Solar Access	No	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

##### **A4.1 Avalon Beach Locality**

The development is consistent with the Desired Character statement of the Avalon Beach Locality with exception of the third and fourth storey element of the dwelling.

Specifically, the locality statement provides that the *"locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape"*.

The addition First Floor Level and Pool Level and the alterations to the dwelling house are proposed with no significant site excavation.

In this regard, the built form will continue to sit comfortably with adjoining and surrounding two, three and four storey residential development. The built form is located downslope in steep topography, with the fourth storey element siting behind the carport, presenting as one storey to the Riverview Road. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Avalon Beach locality.

##### **B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community**

The property contains a modified landscape typical of a suburban garden with several upper canopy trees of which the species are typical of the Pittwater Spotted Gum Forest.

Councils Biodiversity Officer states:

*"The submitted Arboricultural Impact Assessment report (NSW Tree Services, 12/09/2019) assesses 9 trees, 8 of which are canopy species from PSG EEC. The report indicates that all trees can be retained using tree sensitive construction measures and specific tree protection measures. The Landscape Plan complies with biodiversity controls."*

As a result, the proposal there are no further natural environment issues with conditions to ensure appropriate tree protection is undertaken.

##### **C1.3 View Sharing**

### Merit consideration

Three submissions were received from the following properties which included concerns regarding view loss:

- 194 Riverview Road
- 188 Riverview Road
- 184 Riverview Road

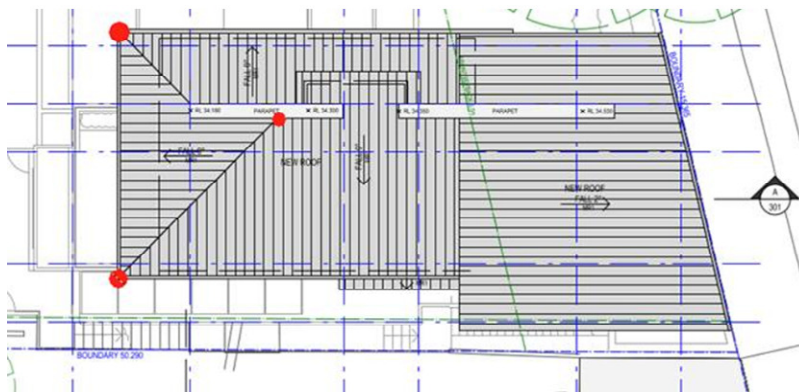
The figure below shows the origin of the submissions relative to the subject site, and the view angles of the sites over the subject site (outlined in red).



**Figure 4:** View angles over the subject site.

Following an initial site inspection of 188 Riverview Road a request was made to erect height poles to determine the impact of the development on views.

The figure below shows the location and height of the height poles (red dots).



**Figure 5:** Location of Height Poles on the subject site.

The height poles were erected and inspections of the submitters properties occurred. As a result of the inspections, amended plans were received that amended the design of the roof. The roof parapet was deleted, and the roof has been pulled back and compressed so it is below the 8.5m building height plane.

Therefore, the view loss is undertaken with the amended design.

Note: The poles exiting onsite continue to display the original design, not the amended design. However the overall height does not change.

Whilst no formal view loss submission was received from No. 203 or No. 205 Riverview Road, the impact to their existing view lines was assessed during site visits. It was determined that these sites did not have unreasonable view loss as a result of the proposal.

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

- *A reasonable sharing of views amongst dwellings.*

Comment:

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

**1. Nature of the views affected**

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

Comment to Principle 1:

No. 188 Riverview Road

No. 188 Riverview Road is situated up the Riverview Road escarpment and therefore experiences more limited views over the existing houses on the lower side of Riverview Road than the dwelling houses lower on the escarpment that adjoin the Pittwater waterway.

As can be seen in the photographs below, the main view is the Pittwater Water views, Ku-Ring-Gai Chase National Park (land and water interface) and district views towards Lovett and Morning Bay.

The view is obstructed by existing dwellings, vegetation and power infrastructure.



**Photo 1:** Existing views from No.188 River Road to the south-west over the subject site.

No. 184 Riverview Road

No. 188 Riverview Road is situated up the River Road escarpment and therefore experiences more limited direct views over the existing houses on the lower side of Riverview Road than the dwelling houses lower on the escarpment that adjoin the Pittwater

waterway.

As can be seen in the photographs below, the main view is the Pittwater Water views, Ku-Ring-Gai Chase National Park (land and water interface) and district views towards Lovett and Morning Bay.

The view is obstructed by existing dwellings, vegetation and power infrastructure.



**Photos:** Existing Views from No.184 River Road to the west over the subject site.

#### No. 192 Riverview Road

No. 192 Riverview Road is located north-east of the subject site, approximately 30m from the subject property. No. 192 Riverview Road is situated up the River Road escarpment and therefore experiences more limited views over the existing houses on the lower side of Riverview Road, and over the existing houses in Cabarita Road than the dwelling houses lower on the escarpment that adjoin the Pittwater waterway.

As can be seen in the photographs below, the main view to the south-east and east is the Pittwater Water views, Ku-Ring-Gai Chase National Park (land and water interface) and district views towards Lovett and Morning Bay. The views to the north, of Palm Beach headlands, Pittwater waterways, land and water interface and the headlands of the Central Coast.

The view is obstructed by existing dwellings, vegetation and power infrastructure.

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

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

#### Comment to Principle 2:

##### No.188 Riverview Road

Views are primarily obtained from the rooms orientated towards the front boundary on the ground floor and first floor of the dwelling house. The affected views are over the front boundary, in a south-west orientation. The views to the west and north-west remain unaffected by the proposal.

The oblique views are obtained from the ground floor front terrace area, the lounge/dinning room, kitchen and front entry area. The views from the first floor are obtained from a family room, study and bedroom. The views are partially obstructed from both a standing and

sitting position by existing dwellings, vegetation and power infrastructure.

It is important to note that the view line and the view impact as a result of the development changes as you move across the width and depth of the property.

#### No. 184 Riverview Road

Views are primarily obtained from the habitable rooms and outdoor areas orientated towards the front boundary. The affected views are over the front boundary, in a west orientation. The views to the south-west and north-west remain unaffected by the proposal.

The oblique views are obtained from the ground floor front balcony, the lounge/dinning room and kitchen. The views are partially obstructed from both a standing and sitting position by existing dwellings, vegetation and power infrastructure.

It is important to note that the view line and the view impact as a result of the development changes as you move across the width and depth of the property.

#### No. 192 Riverview Road

Views are primarily obtained from the habitable rooms and outdoor areas orientated towards the front and side boundary. The affected views are over the front boundary, in a south-west direction. The views to the west, north-west and north remain unaffected by the proposal.

The oblique views are obtained from the first floor front balcony, and a bedroom. The views are partially obstructed from both a standing and sitting position by existing dwellings, vegetation and power infrastructure.

It is important to note that the view line and the view impact as a result of the development changes as you move across the width and depth of the property.

### **3. Extent of impact**

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

#### Comment to Principle 3:

#### No. 188 Riverview Road

The affected view is to the south-west and consists of a partial Pittwater water view while the remainder of views sweep uninterruptedly from the south-west, west and north-west. The affected view lines of the Pittwater water view are the same area from each room on the ground and first floor and the front terrace area. The Pittwater water views affected are obtained from both a standing and sitting position while the views are only partially limited from a sitting position in the front terrace and combined dining/living room on the ground floor, and the family, study and bedroom on the first floor. There is no view impact to the views towards Ku-Ring-Gai Chase National Park (land and water interface) and district views towards Lovett and Morning Bay.

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

#### No. 184 Riverview Road

The affected view is mainly to the west and consists of a partial Pittwater water view while the remainder of views over the subject site sweep uninterruptedly from the south-west, west and north-west. The Pittwater water views affected are obtained from both a standing and sitting position while the views are only partially limited from a sitting position. There is no view impact to the views towards Ku-Ring-Gai Chase National Park (land and water interface) and district views towards Lovett and Morning Bay.

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

#### No. 192 Riverview Road

The affected view is mainly to the south-west and consists of a partial Pittwater water view while the remainder of views over the subject site sweep uninterruptedly from the west, north-west and to the north. The Pittwater water views affected are obtained from both a standing and sitting position while the views are only partially limited from a sitting position. There is no view impact to the views towards Ku-Ring-Gai Chase National Park (land and water interface) and district views towards Lovett and Morning Bay.

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

#### **4. Reasonableness of the proposal that is causing the impact**

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

#### Comment to Principle 4:

#### No. 188, No. 184 and No.192 Riverview Road

Of relevance to view sharing, the development area that impacts the main view lines complies with the building height standard of 8.5m. The development is predominantly lower than the prescribed height of the existing carport, therefore there is a small portion of water view that is gained via the proposal. However, it is acknowledged that the roof line extends further into the water view line with the increase of the built form towards the west.

The development been found to exhibit non-compliance with the Front Boundary Setback and the Side Boundary Envelopes built form controls. Both elements of non-compliance for the fourth (4) level (area causing the view loss) have been found to be acceptable, achieve consistency with the objectives of the control and have subsequently been supported.

With regards to the building envelope, the non-compliance along the side elevations and are due to the sloping topography, which form constraints to the final built form. The building envelope does not cause additional view impact to properties No.184 or No.192 Riverview Road due to the location of the breaches away from the view lines. However, there is a very minor portion of Pittwater water view loss to No. 188 Riverview Road as a result of the building envelope non-compliance. Due to the small portion of view loss, and the view loss being determined as minor,

it is considered reasonable in this instance.

In context to the elevated position of all three (3) dwellings to the subject property and the extensive range of available and retained views, the non-compliances were considered not to be unreasonable. It is concluded that the extent of the breaches of the planning controls is reasonable and a more compliant design would not vastly improve the outcome.

Therefore, the proposed First Floor addition is considered reasonable in the circumstances of this application in that the application does demonstrate a reasonable sharing of views.

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

Comment:

The design alters the existing dwelling by upgrading it to a more contemporary appearance.

The design does alter the roof profile such that it improves views and visual outlook from surrounding properties through lowering of the roof line from the existing carport roofline.

The dwelling will also better address the street through the provision of modern open style carport and by soft landscaping within the front setback area.

The development satisfies this objective.

- *Canopy trees take priority over views.*

Comment:

The development retains some canopy trees and proposes additional landscaping.

The development is considered to satisfy this objective.

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

## **C1.4 Solar Access**

### Description of non-compliance

The property to the south at No. 203 Riverview Road is most affected by the proposed development in relation to solar access. The position of the two dwellings is such that No. 203 Riverview Road is already significantly constrained in this regard; it is set much further to the east meaning that at 9.00am and 12.00 midday it is completely overshadowed by No. 205 Riverview Road.

At No. 203 Riverview Road, the main private open space is located to the west area of the dwelling.

It is noted that the actual windows of No. 203 Riverview Road are not correctly demonstrated on the shadow diagrams. However, a full assessment has been undertaken of the two windows that currently receive sunlight.

The submitted shadow diagrams demonstrate that at No. 203 Riverview Road:

- The private open space area (upper deck area on Level 3 servicing the living room) currently receives sunlight between 9am and 3pm;
- The private open space area (roofed decking area on Level 2, servicing the kitchen/dinning/lounge) currently is overshadowed by the roof, however there is sunlight between 12 noon and 3pm;
- The private open space area (roofed decking area on Level 1, servicing the rumpus and study) currently is currently overshadowed with no direct sunlight; and
- The two northern windows (Level 2 servicing the kitchen and bedroom) will be impacted by the proposal, however the kitchen and bedroom window currently receive sunlight between 12 noon and 3pm.
- The rear areas do not currently receive a compliant amount of sunlight.

The proposed development results in:

- A minor increase to overshadowing to the private open space area of No. 203 Riverview Road at 12noon to 3pm (at 9am, the private open space area is overshadowed due to the topography);
- A increase to overshadowing of the kitchen window between 12 noon to 3pm, 100% overshadowing to the window at midday, and part overshadowing by 3pm;
- Full overshadowing of the bedroom window for the entire day.

This reduction in sunlight appears to be as a result of the the proposed upper floor level, which is compliant with building height, and side setback controls.

The subject site has a slope of approximately 55%, which is considered a steep and adverse slope. Where there is adverse slope or topography, reasonable solar access to main private open space and to windows to principal living areas will be assessed on a merit basis.

Subject to that merit assessment, consent may be granted where a proposal does not comply with the standard, provided the resulting development is consistent with the general principles of the development control, the desired future character of the locality and any relevant State Environmental Planning Policy.

The proposed development has been assessed below in relation to the relevant outcomes of this clause, as follows:

- ***Residential development is sited and designed to maximise solar access during mid-winter.***

Comment:

The proposed fourth level (First Floor) is closer to the south than the north, due to the existing built form on the site, and the design objective of the upper floor being located behind the carport to assist in screening the proposed built form from the streetscape.

However, the First Floor proposal is compliant with the building height standard and required side building lines, and the proposal includes sufficient landscaped open space on site. As such, the proposal is demonstrably of an acceptable footprint for the site.

The proposed development is acceptable in relation to the relevant built form controls within the P21 DCP, for the reasons detailed throughout this report. In this way, the proposed



development is reasonable in its context.

The proposed development, being located on an east-west orientated lot, is designed in order to provide reasonable solar access in consideration of the topography of the site and surrounding areas.

- ***A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development.***

Comment:

The proposal provides a reasonable level of solar access to the subject site and surrounding sites, considering the site's slope and context.

The level of overshadowing resulting from the proposed development is a product of the steep topography of the site and the surrounding land. It is acknowledged that No. 203 Riverview Road is particularly vulnerable to overshadowing.

The bedroom window within No. 203 Riverview Road, is currently overshadowed for most of the day but benefits from a small section of sunlight around 12.00 midday, which would be lost as a result of the proposed upper floor. This window is a side-facing window set deep into the site, making it difficult to protect. As a bedroom window, it is considered less vital to maintain sunlight to this window given that this is a space used primarily at night. Daylight and natural ventilation will remain to this window. Therefore, strict adherence to the solar access requirements in this case would unreasonably restrict development of the subject site.

The proposed development demonstrates it is acceptable in relation to all built form controls, for the reasons detailed in this report. As such, given the reasonableness of the proposed dwelling, the overshadowing impact is considered reasonable.

- ***Reduce usage and/dependence for artificial lighting.***

Comment:

The subject site achieves adequate solar access in order to reduce its reliance upon artificial lighting. As above, the proposal provides a reasonable level of solar access to the subject site and surrounding sites, given the context of the area's topography and the vulnerability of the site's to the south.

## **Planning Principle consideration**

The 'Access to sunlight' planning principle from the *Benevolent Society v Waverley Council [2010] NSWLEC 1082* has been considered below. Relevant parts of the planning principle include:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while*

*reducing the impact on neighbours.*

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

#### Comment:

Given the constraints of the site (listed above) this is a case where *"even at low densities there are sites and buildings that are highly vulnerable to being overshadowed"*. Even in mid-winter, direct sunlight still reaches the upper terrace areas for several hours between 9am and 3pm; and the kitchen windows for a small part of the day between 12noon and 3pm. Finally, the proposal is not a poor design. As described above, multiple design considerations have been incorporated to maximise the amount of sunlight to No. 203 Riverview Road.

Overall, the proposal, while not strictly complying with the requirements of the control, meets the criteria for a variation and meets the objectives of the control.

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

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

#### Description of non-compliance

Clause C1.5 requires private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7m above floor level).

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

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

Furthermore, in the Land and Environment Court Case *Meriton v Sydney City Council* [2004] NSWLEC 313 Senior Commissioner Roseth established a planning principle for the protection of visual privacy where it was considered that "generalised numerical guidelines..., need to be applied with a great deal of judgment, taking into consideration density, separation, use and design." The principles state:

- *The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.*
- *Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)*
- *The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.*
- *Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.*
- *Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.*
- *Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.*
- *Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.*

The development has been generally designed to address overlooking by locating some living room windows and terraces away from habitable room windows, balconies and private open space area on neighbouring properties.

However, the plans indicate that the following elements could either result in actual overlooking, or the perception of being overlooked into neighbouring properties, and are therefore examined in detail against the above requirements and objectives:

#### First Floor

- Window (south facing) to study;
- Balcony (west/north/south facing) to master bedroom;
- Window (south facing) to master bedroom;
- Window (north facing) to entry; and
- Access stairs from carport to ground floor.

The north facing window serving the entry is facing the neighbouring property front setback. As this window adjoining a transitional area, it is not considered privacy treatments are required.

The window servicing the master bedroom is not likely to be accommodated as regularly than the living room located on the Ground or Lower Ground Level or the swimming pool/decking on the Pool Level. Similarly, the balcony that services the master bedroom is not likely to be used as regularly as the terraces at Level 01 (swimming pool) or Level 03 (living room).

As noted in the planning principle above, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time, therefore it is not considered privacy treatments are required.

However, the balcony area serves a purpose beyond that which the Court considered to be typically intended for bedroom use, as the balcony is designed to be used as an outdoor area in which to actively stand and/or sit (i.e. not sleep). Due to the significantly elevated nature of the First Floor balcony and the spatial distance (i.e. 2.4m to the southern boundary, and 7.2m to the northern boundary), there is real potential to overlook the existing windows and open space area of the neighbouring properties. It is recommended that privacy screens are installed on both elevations to prevent overlooking.

It is acknowledged that there is a planter box proposed on the northern elevation of the balcony to assist in privacy mitigation, however this will not prevent the unreasonable downward viewing onto the neighbouring windows (i.e. master bedroom window) and private open space areas.

It is considered that the proposed access stairs from the carport to the Ground Floor are a transitional area with limited potential for unreasonable overlooking.

#### Ground Floor

- New glazed doors (north facing) to lounge room;
- New windows (north facing) to the living room;
- New deck area (north/south/west facing) to the living room;
- New door (south facing) to lounge room;
- New window (south facing) to the pantry; and
- New Window (south facing) to the dining room.

The north facing windows to the living room are directed towards the front and side setback area of No. 207 Riverview Road. These additional windows are located 1.1m from the northern side boundary, elevated above ground level of the neighbouring front entry area and adjoining neighbouring windows. Therefore it is recommended that privacy screens are installed to these windows to prevent unreasonable overlooking.

The south facing window to the dining room is positioned to take advantage of the view lines to Pittwater waterway. However, this window is located 0.9m from the southern side boundary and elevated above ground level thereby enabling direct overlooking to the private open space areas of the southern adjoining site. Therefore, it is recommended that a privacy screen is installed to the window to prevent unreasonable overlooking.

The new door servicing the lounge room, due to its close proximity to the southern boundary (1.4m), will be required to be of solid non-transparent material or opaque glazing to ensure privacy impacts are mitigated.

The new doors adjoining the new lounge area are located a sufficient distance (7.3m) from the northern side setback, and adjoin a ground level court yard, thereby limiting any unreasonable privacy impacts.

While it is appreciated that the locating the planter box on the northern side of the deck area adjoining the living room is to mitigate potential overlooking, this will not be sufficient due to the significant elevation and close location (1.2m) to the northern side setback. It is recommended that

privacy screens are installed to the northern elevation to prevent direct and downward viewing onto the neighbouring windows and private open space.

#### Lower Ground

- New doors (north facing) to lounge room; and
- New windows (north facing) to bedroom 1.

The window servicing bedroom 1 is not likely to be accommodated as regularly than the living room located on the Ground or Lower Ground Level or the swimming pool/decking on the Pool Level. As noted in the planning principle above, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time, therefore it is not considered privacy treatments are required.

The new door servicing the lounge room, due to its close proximity to the southern boundary (1.1m), will be required to be of solid non-transparent material or opaque glazing to ensure privacy impacts are mitigated.

#### Pool Level

- New door (north facing) to the outdoor room;
- New deck area (north facing);
- New access stairs (west facing);
- New swimming pool and spa; and
- New decking (south facing).

The deck area is in close proximity (0.3m) from the northern boundary and elevated such that downward viewing is possible. In this respect, it is considered that the conditioned spatial distance of a minimum of 1m, to avoid the potential overlooking viewing while still allowing for a sufficient landscaping area to screen the proposal.

The new door servicing the lounge room, due to its close proximity to the southern boundary (2.0m), will be required to be of solid material or opaque glazing to ensure privacy impacts are mitigated.

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

#### Comment:

The conditioned proposed is adequately so does not result in any unreasonable overlooking.

- *A sense of territory and safety is provided for residents.*

#### Comment:

Given the above, a suitable sense of territory and safety is provided for the subject site and adjacent sites.

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

### **C1.25 Plant, Equipment Boxes and Lift Over-Run**

To ensure that the swimming pool pump does not give rise to any adverse acoustic impacts a condition will be imposed to ensure the swimming pool pump is contained within a sound proof enclosure.

The placement of the proposed lift within the existing dwelling house footprint will ensure there is no adverse amenity impacts to the surrounding sites.

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

The proposed carport, with a minimum setback of 0.2m - 0.5m from the front property boundary, is inconsistent with the requirements of this clause, which prescribe that parking structures must not be the dominant site feature when viewed from a public place, and should be located behind the building line, preferably setback further than the primary building.

However, the proposed siting of the carport structure provides a larger front setback than the existing 0.0m - 1.3m, and demonstrates consistency with the permitted variation prescribed by the front building line development control, which allows parking forward of the front building line on steeply sloping sites.

As a result, the modernised presentation of the proposed carport is consistent with other parking structures along this particularly steep stretch of Riverview Road. The siting of the proposed carport is supported on merit, as the proposal is compatible with the character of Riverview Road, and will not detract from consistency with the outcomes of this development control.

The dwelling whilst large, has a proposed design that is well articulated and will present as a one storey dwelling house from the Riverview Road streetview. The visual impact of the proposed works will be lessened over time with the growth of the proposed landscaping, and ultimately, there will be a significant improvement in the presentation to Pittwater.

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

#### Description of non-compliance

The proposed development is inconsistent with the 6.5m minimum front building line prescribed by this development control. The non-compliance with the front setback is as follows:

- Carport 0.2m - 0.5m
- First Floor Dwelling 6.1m - 8.0m
- Lounge area of the Ground Floor 3.3m - 4.6m (sited behind existing built form)

As discussed with respect to clause D1.1 of P21 DCP, the siting of the proposed carport is consistent with a prescribed variation which permits parking structure forward of the building line on steeply sloping sites. However, this variation requires all other structures to be set back in accordance with the 6.5m minimum building line prescribed, and as such, the siting of a small portion of the dwelling house and the new lounge area of the lower Ground Floor are inconsistent in this regard.

Despite non-compliance with the minimum front building line, the siting of the First Floor Dwelling and lounge area of the lower Ground Floor is considered to be an appropriate solution for the site,

reducing extent of disturbance on the environmentally sensitive site.

The siting of the dwelling house First Floor and Ground Floor additions as a whole is considered to be acceptable on merit, particularly as the proposal otherwise achieves consistency with the outcomes of the front building line development control, as follows:

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

Comment:

The siting of the carport, minor encroachment of the First Floor and the additional dwelling elements on the Ground Level do not detract from consistency with the desired character prescribed for the Avalon Beach Locality.

The proposal satisfies this requirement.

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

Comment:

Not applicable - the site is not adjoining a main road.

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

Comment:

The site contains a number of existing canopy trees, some of which are proposed for removal to facilitate the development. However, a considerable portion are to be retained, including the more significant species on the site, with enhancement plantings proposed. As such, the proposed development is considered to appropriately retain and enhance vegetation on the site, to reduce the visual impact of the proposed built form as seen from the public domain.

The proposal satisfies this requirement.

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

Comment:

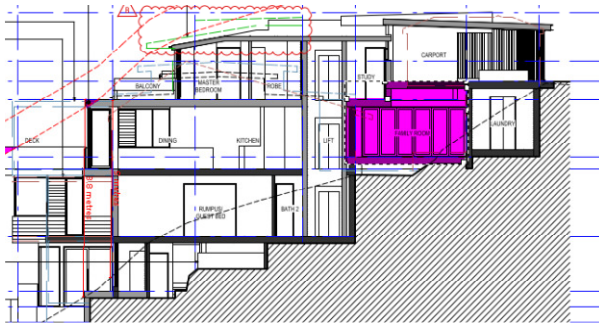
Vehicular movement in a forward direction is not facilitated by the proposal. However, as prescribed by clause B6.2 of P21 DCP, the provision for vehicles to enter and leave in a forward direction is not required for this site, irrespective of the front setback proposed.

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

Comment:

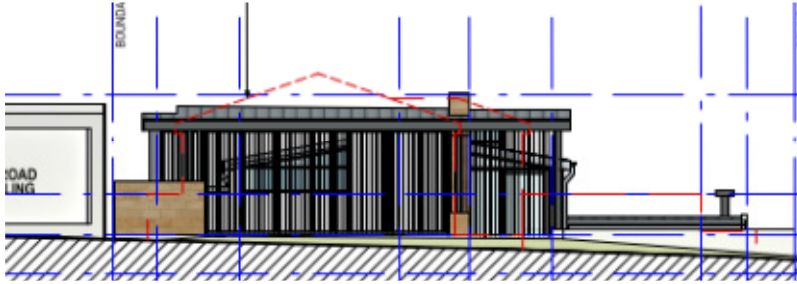
The proposed parking solution has been designed with adequate site lines, to maximise pedestrian safety. Furthermore, the structure itself is of a high quality design, finished in materials that will blend with the natural surrounds, resulting in an attractive presentation to the street.

The proposed Lounge Room on Ground Level will be situated below street level as demonstrated within Figure 6 and 7 below. Therefore, the character of Riverview Road will remain unaffected by the built form of the Lounge Room.



**Figure 6:** The location of the lounge room below the Riverview Road street level.

**Figure 7:** Street view of the proposal



The retention of the canopy trees and landscaping within the front boundary will soften the built form and is consistent with the bushland character of Riverview Road and the Locality.

The proposal satisfies this requirement.

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

Comment:

The siting of the carport, First Floor and Ground Level Lounge Room is consistent with other structures along Riverview Road. The proposal will present as a one storey dwelling house from Riverview Road, with the below built form below the Riverview Road level.

When viewing the total streetscape in Riverview Road, it is evident that landscaped areas feature prominently and provide a balance between built form and landscaping. Additionally, the visual impact of adjoining dwellings and associated structures have been further minimised through adequate separation from the Riverview Road boundary. Overall, the proposal ensures new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment and retains sufficient canopy trees and landscaping to soften and screen the built form.

The proposal satisfies this requirement.

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

## D1.9 Side and rear building line

### Description of non-compliance



The existing dwelling is located 1.2 metres from the northern side boundary and 0.9 metres from the southern side boundary, which represents a non-compliance with the numerical requirements of this control.

The proposed alterations and additions seek to retain the existing side walls on all three existing levels and to increase these side setbacks on the proposed First Floor, or fourth level.

The side setbacks of the proposed additions are as follows:

### **First Floor**

#### North

- 5.0m Entry
- 5.1m - 7.3m Dwelling House Additions
- 7.1m Carport

#### South

- 0.0m Planter
- 0.5m Access Stairs
- 2.0m - 2.5m Dwelling House

### **Ground Floor**

#### North

- 1.1m Planter (balcony)
- 1.2m - 7.2m Dwelling House

#### South

- 1.5m - 2.6m Dwelling House

### **Lower Ground Floor**

#### North

- 1.2m Dwelling

#### South

- 1.1m Deck (existing)

### **Pool Level**

#### North

- 2.1m Dwelling House
- 0.3m Deck
- 1.3m Access Stairs

## South

- 1.1m Pool Area
- 3.1m Swimming Pool

The control includes a variation which allows the maintenance of existing side setbacks where alterations and additions are proposed; given the substantive retention of these existing walls, no concern is raised.

The dwelling itself does not move closer to this boundary than the existing dwelling, however external works are proposed within the northern side setback relating to the rebuilding and repositioning of external staircases and decks, which have amenity impacts to the adjoining properties.

Overall, the proposal (as conditioned) is supportable on merit, as the design is consistent with the outcomes of this control, as follows:

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

Comment:

The proposed development is consistent with the desired character of the Avalon Beach Locality.

The proposal complies with this outcome.

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

Comment:

The proposed non-compliant additions to the dwelling house are minor in scale, with the new upper level compliant with the side setback requirements. However, additional deck area within the northern setback adds to the excessive bulk and scale of the built form, particularly as the location removes vital landscaping areas that would assist in softening the built form.

The northern deck area is to be conditioned to be located a minimum of 1m from the northern boundary, with the access stairs within the southern setback to be removed, and these areas maintained as landscaping. It is considered that the development (as conditioned) has been sufficiently articulated to visually define the dwelling within the shape and topographical context of the site.

The southern side access stairs are visually identifiable from the Riverview Road street view, and are adjoining the three storey elevation of the southern adjoining site. The stairs are considered a transitional area, therefore minimising unreasonable privacy impact. The stairs do not remove an area of landscaping that would be considered reasonable in size in order to incorporate landscaping features to screen and soften the built form. Therefore, the stairs are considered reasonable in this instance.

The proposal (as conditioned) complies with this outcome.

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

Comment:

The proposal will not result in any unreasonable impacts upon views to/from public/private

places.

The proposal complies with this outcome.

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

Comment:

As above, the proposed additions are sited such that they will not result in any unreasonable impacts upon views to/from public/private places.

The proposal complies with this outcome.

- ***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 additions within the northern and southern side setback create amenity and privacy impacts to the neighbouring sites. Due to the proximity to the neighbouring windows, and private open space areas, the northern deck area is to be conditioned to be located a minimum of 1m from the northern boundary, and this area maintained as landscaping.

Therefore, the proposal (as conditioned) will maintain reasonable privacy and general amenity to neighbouring properties.

The proposal complies with this outcome.

Reasonable levels of solar access is achieved for the southern adjoining site.

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

Comment:

The proposed development provides for substantial landscaping within the foreshore area and within the front setback to Riverview Road.

The proposal complies with this outcome.

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

Comment:

The proposed non-compliant additions demonstrate a flexible design solution that provides for the modernised design for the existing dwelling house.

The proposal complies with this outcome.

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

Comment:

With the conditioned removal of the southern access stairs and the decking within the northern side setback, additional vegetation areas will be retained. Sufficient areas within the front and rear setback are to be retained and enhanced, to screen the proposed non-compliant elements as seen from the neighbouring sites and the waterway.

The proposal (as conditioned) complies with this outcome.

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

Comment:

Not applicable.

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

### D1.11 Building envelope

#### Description of non-compliance

The existing dwelling exhibits significant non-compliance with the side building envelope requirements.

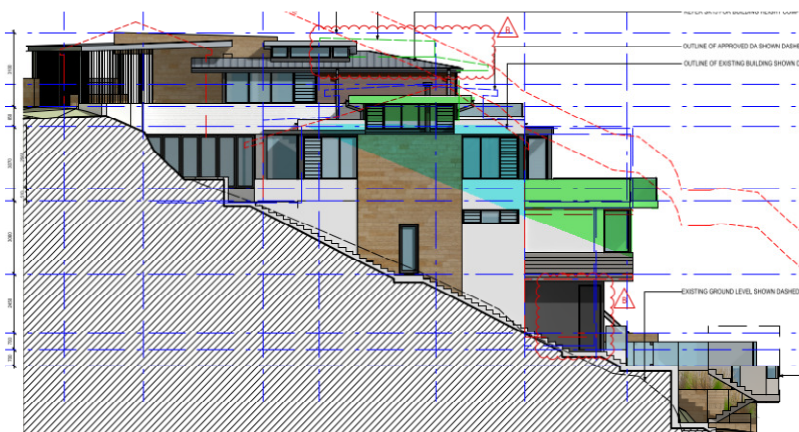
The proposed development involves additional areas that protrude beyond the existing envelope breach on both side boundaries.

These additional side envelope breaches areas include the following:

- Northern Elevation: two additional areas measuring: up to 3.3m (height) and 5.5m (width) and a 1.6m (height) and 4.4m (width)
- Southern Elevation: two additional areas measuring: up to 2.3m (height) and 12.3m (width) and a 3.3m (height) 2.0m (width)

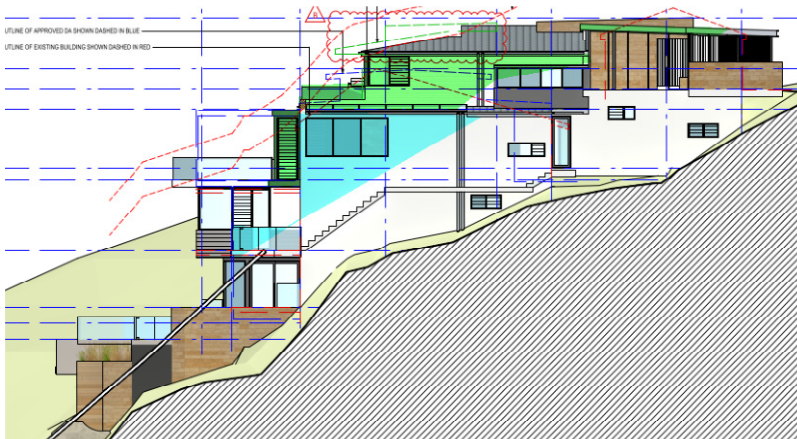
The existing dwelling includes non-compliance with the stated building envelope from the north to the north western corner and south to the south western of the upper level, caused by the significant slope of the site from front to rear. The proposed bedrooms of the lower ground floor of the dwelling are proposed to project further to the west, meaning that a further breach results. The proposed First Floor introduces a new non-compliance with the building envelope control, particularly on the southern elevation.

The figures below shows the location and extent of the non-compliance.



**Figure 8:** Additional envelope breach on the northern elevation shown in green, existing envelope

*breech shown in blue.*



**Figure 9:** Additional envelope breach on the southern elevation shown in green, existing envelope breach shown in blue.

A consideration of the proposed breach against the relevant outcomes of the control is provided below:

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

Comment:

The non-compliance is influenced by the sloping topography of the site. The proposal is well articulated along front and side of the dwelling with a varied roof line. The areas of encroachment demonstrates consistency with the desired future character of the locality with the siting of the dwelling maintaining the landforms, landscapes and other features of the natural environment.

The proposal complies with this outcome.

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

Comment:

The development is situated predominately over the existing building footprint and does not alter the existing topography of the site. The proposed development presents a more modern and improved design, with the First Floor addition compliant with the maximum building height, with the new carport below the height of the existing carport roof line. The encroachment is considered satisfactory in regards to the design, scale, bulk and the height of the proposal. Furthermore, the resultant built form will be maintained below the existing tree canopy. The building form and density respond to the natural land form of the site which will be below the height of the trees of the natural environment.

The proposal complies with this outcome.

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

Comment:

The facade of the dwelling on the north and south elevation is sufficiently modulated to respond aspect of the site and its steep slope. The resultant development is considered to be a sensitive design response in consideration of the natural characteristics of the site, with

the retention of existing canopy trees and the enhancement of landscaping.

The proposal complies with this outcome.

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

Comment:

The area of the dwelling outside of the envelope is typified by a variation in facade treatments and structures. The proposed resultant dwelling is of comparable building bulk and scale to existing and approved developments in the locality.

The development steps with the topography of the land, and the proposed height is mostly compliant with the building height development standard.

Finally, the proposal will include adequate vegetation in order to screen the built form of the proposed development.

In light of the steep topography, the significant articulation along the northern and southern facade and noting that the built form non-compliance is compliant with the building height, attempts to ensure the bulk and scale of this portion of the development has been minimised.

The development complies with this outcome.

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

Comment:

A more detailed analysis of view loss is provided elsewhere in this report. In summary, the proposed development will not result in any significant view loss that would warrant refusal of the application.

The development complies with this outcome.

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

Comment:

There will be no adverse amenity impact in regard to privacy or solar access (subject to conditions) as a result of the proposed breach of the Building Envelope.

The development complies with this outcome.

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

Comment:

The proposed dwelling is sited in a manner that will retain existing vegetation and enhance the future viability of the vegetation community that exists on the site.

The development complies with this outcome.

In conclusion, despite the breach of the building envelope control, the development has demonstrated achievement of the Outcomes of the control.

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

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

##### Description of non-compliance

The proposed landscaped area does not meet the 60% landscaped area requirement under this control.

The proposed development results in a 11.9sqm reduction of landscaped area, to provide a landscape area of 394m<sup>2</sup> or 51.7%, which is a variation of the 60% minimum requirement.

However, the control provides for the inclusions of pathways and certain hard surfaces (up to 6% of the site associated with recreation areas), if the proposal is consistent with the outcomes of the control.

As a result, when taking into account the variations for outdoor recreational area and pathways, the revised landscape area is 58% or 440.6m.

This represents an overall reduction of 1% from the existing provision of 552.5sqm or 59%. The conditioned removal of the elevated deck area from the northern side setback will allow additional areas of landscaping to increase the overall landscape provision.

Due to the inclusion of the pathways and certain hard surfaces, a merit assessment has been undertaken to ensure the proposal is consistent with the outcomes of the control.

The application of the variation is considered to be warranted, as the outcomes of the control are achieved as follows:

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

##### Comment:

The proposed development is inconsistent with the desired future character of the Avalon Beach Locality, as the proposal provides adequate opportunities to ensure that the visual impact of the development is secondary to landscaping. In addition, it can be said that the proposal has been effectively integrated within the landform, through developing a considerable landscape buffer areas in the front and rear of the site.

The proposal does not comply with this outcome.

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

##### Comment:

The proposed (as conditioned) will provide sufficient landscape buffers, which will assist in visually breaking down the built form, particularly with the removal northern deck area from the setbacks, reinstatement of landscaping in this area, and retention of the significant canopy trees on the site. Overall, it is considered that the proposal's design reasonably mitigates the visual impact of the built form.

The proposal does not comply with this outcome.

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

Comment:

The proposal (as conditioned) will not result in any unreasonable impact on light, solar access or privacy. This is as a result of the sufficient orientation and separation of windows.

The proposal complies with this outcome.

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

Comment:

The proposal involves a landscaped area of 58% (440.6sqm), whereas the control requires a minimum of 60% (457.4sqm). In proposal (as conditioned) will provide adequate areas for the retention and establishment of more considerable planting, particularly in the side setbacks, front, and rear setback between the waters edge and the proposed swimming pool. In this regard, the proposal provides adequate areas for substantial planting, to visually reduce the built form.

The proposal complies with this outcome.

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

Comment:

The proposed development, which is primarily constructed on piers, is a sensitive solution for the constrained site that preserves the natural features and biodiversity. Native trees and vegetation are retained as part of the proposal. In addition, the development is supported by Council's Natural Environment Biodiversity and Landscaping Team.

The proposal complies with this outcome.

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

Comment:

The development will provide sufficient areas that are of soil depth for the infiltration of stormwater. It is considered that stormwater runoff will not be reasonably reduced as a result of this proposal. Subject to conditions recommended by Council's Development Engineers, stormwater will be appropriately managed on the site.

The proposal complies with this outcome.

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

Comment:

The subject include two areas capable for the establishment of deep soil planting. The street frontage will include one landscaped area, while the rear setback will include much larger landscaped area between the mean Pittwater waters edge and the proposed swimming pool area.

Overall, the proposal provides reasonable opportunities within the site for the establishment of any trees and landscape features, resulting in the proposal integrating with the landscaping and bushland character of the escarpment and the locality.

The proposal complies with this outcome.

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



Comment:

A considerable proportion of the hard surface areas proposed are elevated above ground and permeable, maximising water infiltration. Furthermore, subject to conditions of consent, Council is satisfied that stormwater will be appropriately managed on the site.

The proposal complies with this outcome.

Based on the above, the proposed landscape area in this instance is supported on merit and considered to satisfy the outcomes of the control.

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

### **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 \$21,868 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,186,800.

### **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

This assessment has taken into consideration the amended plans, Statement of Environmental Effects, written submission for the variation prescribed by 4.3(2D) of Pittwater Local Environment Plan 2014, other documentation supporting the application and public submissions.

The proposal does not result in unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

The applicant's written request for a variation prescribed by 4.3(2D) of Pittwater Local Environment Plan 2014 seeking to justify a contravention of clause 4.4 Building Height development standard has adequately addressed and demonstrated the compliance with the criteria of the clause and there is sufficient planning grounds to support the minor variation.

The critical concerns relating to the view loss, the side setbacks, and building envelope have been determined to not cause unacceptable and reasonable impacts on the privacy, amenity and view impacts to the adjoining properties.

Five (5) submissions were received in response to the notification of the review application. The issues raised in the submissions have been addressed in the "Public Notification Section" of this report. A number of concerns each raised in the submissions are concurred with by Council's assessment of the application, particularly those relating to impacts upon the privacy levels, however conditions have been applied to address these concerns.

The proposal displays reasonable scale and density compatible with the surrounding development of Riverview Road.

Accordingly, the application is referred to the DDP with a recommendation for approval.

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2019/1069 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 4 DP 18667, 205 Riverview Road, AVALON BEACH, subject to the conditions printed below:

### **DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

#### **1. Approved Plans and Supporting Documentation**

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

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Analysis A001 Rev B	January 2019	Mark Hurcum Design Practice
Demolition Plan - Site/Roof A010 Rev A	January 2019	Mark Hurcum Design Practice
Demolition Plan - Pool Level A011 Rev A	June 2019	Mark Hurcum Design Practice
Demolition Plan - Lower Ground Floor A012 Rev A	June 2019	Mark Hurcum Design Practice
Demolition Plan - Ground Floor A013 Rev A	June 2019	Mark Hurcum Design Practice
Demolition Plan - First Floor A014 Rev A	June 2019	Mark Hurcum Design Practice
Pool Level Plan A101 Rev B	February 2019	Mark Hurcum Design Practice
Lower Ground Floor Plan A102 Rev A	November 2018	Mark Hurcum Design Practice
Ground Floor Plan A103 Rev B	March 2019	Mark Hurcum Design Practice
First Floor Plan A104 Rev B	March 2019	Mark Hurcum Design Practice
Roof Plan A105 Rev B	November 2018	Mark Hurcum Design Practice
Northern Elevation A201 Rev B	November 2018	Mark Hurcum Design Practice
South Elevation A202 Rev B	November 2018	Mark Hurcum Design Practice
East Elevation A203 Rev B	November 2018	Mark Hurcum Design Practice
West Elevation A204 Rev B	November 2018	Mark Hurcum Design Practice
Section A-A A301 Rev B	November 2018	Mark Hurcum Design Practice
Section B-B A302 Rev B	November 2018	Mark Hurcum Design Practice

<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 Assessment	11 September 2019	JK Geotechnics
Arboricultural Impact Assessment	12 September	NSW Tree

	2019	Services
Landscape Design Statement	18 September 2019	Landforms

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Front Entry Landscape Plan 1 of 2	22/08/2019	Landforms
Pool Level Landscape Plan 1 of 2	22/08/2019	Landforms

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

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

## 2. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

### 3. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

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

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

SafeWork NSW Codes of Practice.

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

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

## **FEES / CHARGES / CONTRIBUTIONS**

### **4. Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$21,868.00 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 \$2,186,800.00.

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 \$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](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. 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 JK Geotechnics dated 11 September 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.

### **7. Amendments to the approved plans**



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

1. **First Floor** - A 0.65 metre privacy screen (measured from the top of the planterbox) is to be erected along the northern length of the outermost northern edge of the balcony located off the Master Bedroom as shown on the approved plans.  
A 1.65m privacy screen (measured from finished floor level) is to be erected for the entire southern length of the outermost southern edge of the balcony located off the Master bedroom as shown on the approved plans.  
The privacy screens shall be of louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development or the glass to be fitted with obscured glazing.
2. **Ground Floor** - Privacy screens are to be installed on the Ground Floor northern windows adjoining the Living Room as shown on the approved plans.  
The privacy screens shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development, or the glass is to be fitted with obscured glazing.
3. **Ground Floor** - Privacy screens are to be installed on the Ground Floor southern window adjoining the Dining Room as shown on the approved plans.  
The privacy screens shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development, or the glass is to be fitted with obscured glazing.
4. **Ground Floor** - The door on the southern elevation adjoining the lounge room is to be of solid construction, or obscured glazing.
5. **Ground Floor** - A 0.75 metre privacy screen (measured from the top of the planterbox) is to be erected along the northern length of the outermost northern edge of the planter box/balcony located off the Living Room as shown on the approved plans.  
The privacy screens shall be of louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development or the glass to be fitted with obscured glazing.
6. **Lower Ground Floor** - The door on the northern elevation adjoining the lounge room is to be of solid construction, or obscured glazing.
7. **Pool Level** - The door on the northern elevation adjoining the outdoor room is to be of solid construction, or obscured glazing.
8. **Pool Level** - The proposed elevated decking and access stairs within the northern boundary (servicing the pool level) is to maintain a 1.0m northern side setback.

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

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

#### 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. Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

**10. Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

**11. 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.

**12. External Finishes to Roof**

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

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

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

**13. Sydney Water "Tap In"**

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

requirements.

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

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

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

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

**14. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

**15. Pre-Commencement Dilapidation Report**

A Pre-Commencement Dilapidation Report of adjacent buildings (No. 203 and No.207 Riverview Road, Avalon) must be conducted prior to any site work.

The Pre-Commencement Dilapidation Report must clearly detail the condition of all the adjoining properties, infrastructure, natural and manmade features within the likely “zone of influence” of any excavation or construction induced vibration.

A copy of the Pre-Commencement Dilapidation Report must be provided to Council, any other owners of public infrastructure, the owners of adjoining and affected private properties and the Certifying Authority prior to the issue of the Construction Certificate.

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

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**16. Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, 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 12 September 2019 prepared by NSW Tree Services P/L 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

local 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.

**17. 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 12 September 2019 prepared by NSW Tree Services P/L 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.

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

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

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

**19. 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.

**20. Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005;

- and
  - The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

**21. 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 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.

**22. Vehicle Crossings**

The Applicant is to reconstruct the existing vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 Normal and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

**23. Protection of rock and sites of significance**

- a) All rock outcrops outside of and below the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

**24. Priority and environmental weeds**

Landscaping is not to include any Priority or environmental weeds identified in the Greater Sydney Regional Strategic Weed Management Plan 2017 – 2022. Evidence of compliance with this condition is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To manage the spread of environmental weeds in accordance with relevant Natural Environment LEP/DCP controls.

**25. Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection.

**26. Waste Management During Development**

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

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

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

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

**27. Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal 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 with conditions of consent 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.

**28. 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.

**29. Post-Construction Dilapidation Report**

A Post-Construction Dilapidation Report of adjacent buildings (No.203 and No.207 Riverview Road) must be conducted prior to the issue of the Occupation Certificate.

The Post-Construction Dilapidation Report must clearly detail the final condition of all the adjoining properties, infrastructure, natural and manmade features that were originally

recorded in the Pre-Commencement Dilapidation Report.

A copy of the Post-Construction Dilapidation Report must be provided to Council, any other owners of public infrastructure, the owners of adjoining and affected private properties and the Certifying Authority prior to the issue of the Occupation Certificate.

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

31. **New Vegetation Planting**

Prior to the issue of any Occupation Certificate, evidence that the new landscaping comprises a minimum of 80% locally native vegetation species from the Pittwater Spotted Gum EEC as a proportion of the total number of plants is to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

32. **Swimming Pool Requirements**

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

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

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

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

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

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

(e) Signage showing resuscitation methods and emergency contact

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

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

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

Reason: To protect human life (DACPLF09)

**33. Waste Management Confirmation**

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

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

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

**34. 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.

**35. Retention of Natural Features**

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

**Reason:** To ensure the retention of natural features.

**36. 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.

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

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

**Reason:** To protect Aboriginal Heritage.

**38. 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.

39. **Swimming Pool Filter and Pump**

The swimming pool filter and pump is to be enclosed and remain in a sound proof enclosure and is to not emit noise over 5dba above background noise at the nearest residential boundary.

Reason: to protect the acoustic amenity of neighbouring sites.