

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1425
Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 19 DP 7593, 46 Alleyne Avenue NORTH NARRABEEN NSW 2101
Proposed Development:	Demolition works, construction of a dwelling house including a swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	David Andrew Loftus Aymee Elyse Loftus
Applicant:	David Andrew Loftus Aymee Elyse Loftus
Application lodged:	28/08/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	03/09/2018 to 19/09/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Approval
Estimated Cost of Works:	\$ 927,000.00

ASSESSMENT INTRODUCTION

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

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - B3.1 Landslip Hazard

Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - D11.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D11.3 Building colours and materials

Pittwater 21 Development Control Plan - D11.6 Front building line

Pittwater 21 Development Control Plan - D11.14 Construction, Retaining walls, terracing and undercroft areas

SITE DESCRIPTION

Property Description:	Lot 19 DP 7593 , 46 Alleyne Avenue NORTH NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Alleyne Avenue.</p> <p>The site is regular in shape, although tapers in from the front boundary to the rear boundary. The site has a frontage of 24.385m along Alleyne Avenue and a depth of 49.175m. The site has a surveyed area of 695.6m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a single storey brick and weatherboard cottage located centrally.</p> <p>The site falls 9.2m from the rear boundary to the road frontage with an average slope of 18.7%.</p> <p>The site does not contain any canopy trees or significant vegetation, with turf being the only landscaping present.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings in a landscaped setting.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Property History

23/11/2017

Development Application N0423/17 for the construction of a new dwelling, pool, garage, internal lift and driveway was withdrawn.

12/12/2017

Tree Removal Application T0430/17 for the removal of one (1) dead tree within the rear yard was granted consent.

25/05/2018

Development Application DA2018/0420 for the construction of a new dwelling, pool, garage, internal lift and driveway was withdrawn.

19/07/2018

A prelodgement meeting was held between Council and the owners of the subject site to discuss the construction of a new dwelling, pool, garage, internal lift and driveway on the subject site.

20/08/2018

Prelodgement Report PLM2018/0151 for the construction of a new dwelling, pool, garage, internal lift and driveway was prepared by Council and forwarded to the property owners.

Application History

24/10/2018

The subject application was requested to be withdrawn due to the following concerns:

- Inconsistency with the E4 Environmental Living zone
- Inconsistency with PLEP Clause 7.2 Earthworks
- Inconsistency with P21 DCP Clause D11.14 Construction, Retaining walls, terracing and undercroft areas

On 31 December 2018, a Class 1 application pursuant to sections 8.7 and 8.11 Environmental Planning and Assessment Act 1979 (Deemed Refusal) was lodged with the Land and Environment Court. Council was notified of the Appeal on 21 December 2018.

The development application assessed the

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the demolition of the existing dwelling and construction of a new single dwelling, driveway, excavated garage, swimming pool and internal passenger lift.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:
Mr Phillip Evan Greenow	41 Alleyne Avenue NORTH NARRABEEN NSW 2101
Ms Christine Castle	44 Alleyne Avenue NORTH NARRABEEN NSW 2101

Two submissions from neighbouring properties were received during the notification period, one in support of the application and one against. The following issues were raised in the submissions and each have been addressed below:

- Scenic protection
- Off-street vehicle parking
- View sharing
- Building envelope
- Density and scale

The matters raised within the submissions are addressed as follows:

- Scenic Protection
Comment:
The concerns raised within the submission relate to view sharing concerns due to the bulk and scale of the dwelling and positioning of the proposed landscaping, particularly the Lilly Pilly hedging located along the shared boundary between the subject site and neighbouring property at 44 Alleyne Avenue. A view loss assessment has been carried out within P21 DCP Clause C1.3 of this report.
- Off-Street Vehicle Parking
Comment:
The application proposes a double garage in addition to additional underground storage facilities including room for a trailer and bicycle storage. Clause B6.3 within P21 DCP requires for a minimum of two (2) off-street parking facilities for dwellings with two or more bedrooms. While it is recognised that the proposed dwelling does contain six bedrooms which may attract additional vehicles the development is technically compliant with the requirements of the control. The current dwelling does not contain any parking facilities or driveway and as such the proposed dwelling is seen as an improvement over the current arrangement in regards to parking.
- View sharing
Comment:
A full view sharing assessment has been carried out in accordance with the planning principle

for view sharing *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* under Clause C1.3 further within this report.

- Building Envelope

Comment:

The application is fully compliant with the building envelope. While it is recognised that the eaves do extend beyond the envelope parameters, eaves and other shading devices are exempt from this clause as per D11.9 of P21 DCP.

- Density and Scale

Comment:

The application will be inconsistent with the front setback control and landscaped area, although is consistent with all other built form requirements. The dwelling appears as a three storey structure when viewed from Alleyne Avenue and nearby public places, which although is inconsistent with the control requirements, which requires a maximum of two storeys, it is not inconsistent with similar development within the locality. See D11.1 for further discussion.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The landscape component of the proposal is acceptable subject to completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls:</p> <p>C1.1 Landscaping</p>
NECC (Bushland and Biodiversity)	<p>Council's Bushland & Biodiversity division has assessed the proposal against Pittwater LEP 2014 Control 7.6 Biodiversity Protection & Pittwater 21 DCP 2014 Control B1.4 Aboriginal Heritage Significance, B4.4 Flora & Fauna Enhancement Category 2 & Wildlife Corridors and believes the proposed development complies subject to conditions, as recommended.</p>
NECC (Development Engineering)	<p>The site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achieved in accordance with the geotechnical report provided by White geotechnical group. Access to the property requires excavation and must be designed by structural engineer. Appropriate conditions of approval have been recommended.</p>

Internal Referral Body	Comments
Road Reserve	No impact on existing road assets. Development Engineers to condition driveway and retaining walls. Adequate clearance from kerb to be maintained to ensure safety sight distance.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether the 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. 955863S, dated 23/08/2018).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

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

13 Development on land within the coastal environment area

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

Comment:

The subject site is located within the coastal environment area due to its proximity to Narrabeen Lagoon. Considering that the development does not impact upon coastal foreshore vegetation, the public amenity of the foreshore or the foreshore itself, the application is consistent with the relevant criteria for consideration.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The development is consistent with all requirements of the clause above.

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.9m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

7.7 Geotechnical hazards

In accordance with Clause 7.7 Geotechnical Hazards outlined in Pittwater DCP 21 2014, a Geotechnical Report dated 25/7/2018 was completed by White Geotechnical Group Pty Ltd and submitted as part of the development application. The Geotechnical Hazards and Risk Analysis section of the report outlined four (4) hazards associated with the proposed works. These are outlined below:

Hazard One - The moderately graded slope that rises across the property and continues below at steep angles failing and impacting on the existing house or the proposed works.

Comments: 'Acceptable' level of risk.

Hazard Two - The failed brick piers in the foundation space of the house affecting it's structural integrity.

Comments: 'Unacceptable' level of risk to life and property. To move risk to acceptable levels, the recommendations in Section 16 of the report are to be followed.

Hazard Three - The proposed excavations collapsing onto the work site before retaining walls are installed and impacting on the neighbouring properties to the E & W.

Comments: 'Unacceptable' level of risk to life and property. To move risk to acceptable levels, the recommendations in Section 13 of the report are to be followed.

Hazard Four - The vibrations from the proposed excavations impacting on the neighbouring houses to the E & W.

Comments: 'Unacceptable' level of risk to life and property. To move risk to acceptable levels, the recommendations in Section 12 of the report are to be followed.

The Geotechnical Report does support the proposed works and deems the development suitable for the site. No geotechnical hazards are anticipated at completion of the proposed works provided appropriate measures and practices are enforced in conjunction with the recommendations outlined in the report.

Council's Development Engineer provided a referral on 27 November 2018 supporting the proposed development and the recommendations outlined in the Geotechnical Report submitted with the subject development application. Appropriate conditions are recommended to be imposed on any consent granted.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	nil	100%	No
Rear building line	6.5m	12.4m	N/A	Yes
Side building line	2.5m	2.5m	N/A	Yes
	1m	1m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	55.8%%	N/A	No

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

95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.11 North Narrabeen 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
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
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	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D11.1 Character as viewed from a public place	No	Yes
D11.3 Building colours and materials	No	Yes
D11.6 Front building line	No	Yes
D11.7 Side and rear building line	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D11.9 Building envelope	Yes	Yes
D11.11 Landscaped Area - Environmentally Sensitive Land	No	Yes
D11.13 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D11.14 Construction, Retaining walls, terracing and undercroft areas	No	Yes
D11.15 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B3.1 Landslip Hazard

The proposed development complies with the requirements of the Geotechnical Risk Management Policy for Pittwater and therefore complies with Clause B3.1 Landslip Hazard contained within the Pittwater 21 DCP 2014.

B8.1 Construction and Demolition - Excavation and Landfill

The application proposes extensive excavation in close proximity of property boundaries, triggering the application of the *Geotechnical Risk Management Policy for Pittwater*. The application was supported by a geotechnical risk management report, and as such, consistency with the outcomes of this control can be confirmed. In order to meet the requirements of this control, appropriate conditions are imposed within the consent prior to the issue of a Construction Certificate and Occupational Certificate.

C1.3 View Sharing

A submission has been received from the neighbouring property at No. 44 Alleyne Avenue with concerns relating to the potential view loss associated with the proposed works. In regards to C1.3 of DCP P21 any concerns relating to view loss will consider the planning principle for view sharing *Tenacity Consulting v Warringah Council [2004] 140*. It is a requirement of the planning principle that a four-part test is to be undertaken to consider the extent of views potentially impacted by development. An assessment of view loss has also been undertaken with reference to the Views Principle established by the NSW Land and Environment Court as follows:

Step One

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example 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, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

44 Alleyne Avenue

This site was inspected on 15 November 2018 and 12 December 2018 with the owner present.

The occupants of this property currently enjoy extensive filtered and whole land and water views of Narrabeen Lagoon, Narrabeen Beach, North Narrabeen Beach and district views towards Warriewood

and Mona Vale. A significant amount of the view is unobstructed, with portions obscured by existing vegetation. These views have been identified in the images below.



Image 1: First floor decking looking north east



Image 2: First floor deck looking north east



Image 3: Western end of first floor deck looking east



Image 4: First floor deck looking east



Image 5: First floor deck looking east



Image 6: Living room looking north east



Image 7: Living room looking east



Image 8: Living room looking north/north east

Step Two

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.

44 Alleyne Avenue

The occupants obtain their views from multiple locations within the property, predominantly from the first floor living room and dining room and from the first floor balcony accessed from these room across a side boundary.

Step Three

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 percent 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.

44 Alleyne Avenue

The proposed demolition of the existing single storey dwelling and construction of a two (2) storey dwelling with basement level will result in minimal views being impacted when viewed from this neighbouring property. The view that will be impacted by the development is located across the side boundary along the eastern elevation of No. 44 Alleyne Avenue. As indicated by the certified height poles erected within the front setback of the subject site, the proposal will likely obstruct a small portion of the view of Narrabeen Beach. The views towards Narrabeen Lagoon, North Narrabeen Beach and the district views towards Warriewood and Mona Vale will be retained.

Considering the nature of the view impacted, the extent of the view loss best described in this instance is considered minor.

Step Four

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.

The development is recognised as resulting in some built form non-compliances. It is however considered that the proposed design of the new dwelling has allowed for a less obtrusive built form with the bulk of the build located further towards the rear of the site and therefore less impact on existing views experienced by adjoining properties. The compliant height and side and rear setbacks have resulted in a development which is designed consistently with the height of adjoining properties. The

development does maintain a predominant 2 storey character throughout the site by implementing a stepped building design and non-obtrusive roof forms. Whilst the development proposes a non-compliant (nil) front setback for the garage, the large level of excavation allows for the garage to remain an unobtrusive design element whilst providing adequate car parking, storage internal stair and a lift which is not visible from a public place. The location of the garage also retains an opportunity for extensive landscaping within the front setback. Given the majority of the extensive views towards Narrabeen Lagoon and Narrabeen Beach are obtained across the side boundary, the application is considered to achieve a reasonable level of view sharing.

The design of the proposed dwelling, given the moderate slope of the site and the location of the development will act to adequately preserve views.

The development has been considered against the underlying Outcomes and controls within C1.3 View Sharing of Pittwater 21 DCP as outlined below:

Outcomes

1. A reasonable sharing of views amongst dwellings

The proposed development will maintain a reasonable sharing of views amongst dwellings. The development application has provided adequate information to undertake a full and proper assessment of any view loss. The proposed development will result in a minor loss of view from No. 44 Alleyne Avenue towards North Narrabeen and Narrabeen Beach. The loss of views is not unreasonable and will maintain adequate view sharing between properties. Council received one (1) submission from surrounding residents in relation to view loss from the original plans submitted. The Pittwater DCP refers to the planning principal within *Tenacity Consulting v Warringah* [2004] NSWLEC 140 when considering the impacts on the views of the adjoining properties. The development has been assessed above with regard to the planning principles established by the Land and Environment Court and is considered acceptable.

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

The proposed development will not impact on views and vistas from roads and public places. The subject site is located above Alleyne Avenue and therefore all views and vistas impacted on are from within private space.

3. Canopy trees take priority over views

The proposed development will not result in the loss of canopy trees on site and will take priority over any views obtained by the subject site and neighbouring properties.

The development application has provided sufficient information to be able to accurately ascertain the level of view loss from the adjoining property at 44 Alleyne Avenue and is therefore satisfied that the development achieves consistency with the Outcomes of C1.3 View Sharing and with the Land and Environment Court's planning principle for view sharing *Tenacity Consulting v Warringah Council* [2004] 140. The application is therefore recommended for approval.

D11.1 Character as viewed from a public place

The subject site is located within the North Narrabeen Locality under Section D11 of the Pittwater 21

DCP 2014.

The site is located on a steeply sloping site and as a result proposes extensive excavation to achieve the proposed development. Currently the site does not provide off -street car parking. The development proposes a new driveway crossover and a garage providing relatively level access from Alleyne Avenue.

A control stipulated within D11 of Pittwater 21 DCP 2014 requires the following:

Garages, carports and other parking structures including hardstand areas must not be the don

The garage proposes a nil setback to Alleyne Avenue. Whilst this does not comply with the controls outlined for garages within the North Narrabeen Locality, previous advice (PLM2018/0151) issued to the applicant stated a nil setback for the garage would be considered on merit due to the slope of the site and provided all other built structures proposed a minimum setback of 6.5m in accordance with Clause D11.6 of the Pittwater 21 DCP 2014.

Whilst the carport proposes a nil front setback to Alleyne Avenue, the proposal ensure adequate landscaping is provided to the site whilst ensuring the width of the garage measures 5.2m in width which is both less than 50% of the lot frontage and 7.5m as prescribed within Clause D11.1 of the Pittwater 21 DCP 2014. The size and scale of the garage therefore does not detract from the overall appearance of the development when viewed from Alleyne Avenue.

The proposed development is considered to be consistent with the outcomes outlined in Clause D11.1 for the following reasons:

- Whilst the proposed garage does not comply with the minimum front setback controls stipulated for a garage, the garage will not present as a dominant site feature when viewed from a public place. The proposed garage is integrated within the existing topography of the site without disrupting the natural landform. The development is therefore considered to maintain a scale which is consistent with surrounding dwellings whilst taking into account the slope of the land.
- The proposed development responds positively to the slope of the site whilst preserving and enhancing district and local views from surrounding properties.
- The proposal has been designed and located as to ensure landscaping is integrated with the building design and form. This will alleviate the visual impact of the built form as viewed from Alleyne Avenue and surrounding public space.

The proposal is therefore considered acceptable and as achieving the desired future character of the North Narrabeen Locality.

D11.3 Building colours and materials

The submitted colour schedule is generally consistent with the required external finishes apart from the proposed weatherboard cladding and rendered blockwork to ground floor which are both intended to be finished in Colorbond 'Surfmist' which is not a supported colour. As the application is for the construction of a new dwelling, Council's external finishes should be complied with. Therefore, should the development be granted consent, a condition is required for the external finishes to be amended prior to the issuing of the Construction Certificate with the following wording:

Prior to the issue of the Construction Certificate all external finishes listed as being Colorbond 'Surfmist' as a colour are to be amended to Colorbond 'Shale Grey' or darker.

The development has been considered against the underlying Outcomes and Controls within D11.3 Building Colours and Materials of Pittwater 21 DCP. It is considered that the enforcement of the above condition will ensure consistency and compliance with the outcomes and controls.

D11.6 Front building line

The dwelling proposes a 6.5m front setback complying with front setback controls outlined in Clause D11.6 of the Pittwater 21 DCP 2014.

The proposed garage will provide a nil front setback. Whilst this does not comply with the controls outlined in Clause D11.6, the location of the garage is considered acceptable due to the steep slope of the site. The location of the garage will ensure the existing topographic features of the site are retained and will not dominate the site when viewed from Alleyne Avenue.

The development has been considered against the underlying Outcomes within D11.6 Front Building Line of Pittwater DCP as outlined below:

Outcomes

1. Achieve the desired future character of the Locality

The proposed development will achieve the desired future character of the Locality in the following way:

- The building will not dominate the Alleyne Avenue streetscape;
- The building has been designed taking into consideration the natural topography of the site, hence promoting a scale and density that is of a scale which will not dominate the natural environment; and
- the development will maintain district and local view from both the public and private space.

2. Equitable preservation of views and vistas to and/or from public/private spaces

The proposed development is located above Alleyne Avenue on the western side of the street and will therefore retain all existing views to and/or from public spaces. The development will result in a minor loss of views from the neighbouring property at No. 44 Alleyne Avenue towards Narrabeen Beach and North Narrabeen Beach. The view loss is not considered unreasonable and will maintain adequate view sharing between properties.

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

The proposed development is not located adjacent to or within close proximity to a main road.

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

Whilst the development results in a nil setback to Alleyne Avenue for the garage, the site retains a front setback which is predominately landscaped. The development proposes to excavate the site to allow for the garage and storage area being located below the dwelling, hence minimal disruption within the front setback allowing for the retention of vegetation and minimising the impact of the built form when viewed from Alleyne Avenue.

5. Vehicle manoeuvring in a forward direction is facilitated

The development will not facilitate vehicle manoeuvring in a forward direction. Alleyne Avenue is considered a quiet residential street where there are very few examples of sites being able to facilitate vehicle manoeuvring in a forward direction. The steeply sloping nature of the site has resulted in the nil setback of the garage hence reducing the ability to provide adequate space for a vehicle to exit the site in a forward direction. The location of the garage is unlikely to impact on the safety and functionality of the site and surrounding sites.

6. To enhance the existing streetscapes and promote pedestrian amenity

The proposed development will enhance the existing streetscape by retaining a generous level of landscaping. Currently the site does not provide off street parking for the residents. The proposed garage will provide parking for two (2) to three (3) cars which will reduce the number of cars parked along Alleyne Avenue hence increasing pedestrian safety.

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

The proposal is designed to be in keeping with the adjoining property which has a similar car parking arrangement. The proposed garage is of a scale which complements the natural fall of the site whilst not dominating the property when viewed from Alleyne Avenue.

D11.14 Construction, Retaining walls, terracing and undercroft areas

The application proposes a considerable volume of excavation (929m²) on a steeply sloping site. The proposed excavation will provide area for a large double garage forward of the front building line and additional area towards the rear of the site to accommodate a bin storage area, storage for a trailer and access to an internal lift.

As a result of the steeply sloping site, the proposed volume of excavation is considered acceptable and as proposed the development is considered to minimise site disturbance. The result will maintain and achieve a balance between the retention of the natural fall of the land and the development of the site.

The level of excavation will not result in an over development of the site when viewed from Alleyne Avenue.

The development has been considered against the underlying Outcomes within D11.14 Construction, Retaining walls, terracing and undercroft areas of Pittwater DCP as outlined below:

Outcomes

1. To achieve the desired future character of the Locality

The proposed development achieves the desired future character of the North Narrabeen Locality in that the building will maintain a predominant two storey dwelling form when viewed from Alleyne Avenue. The proposed dwelling complies with the maximum building height prescribed for the site and will ensure views and vistas from neighbouring properties are maintained. The development has been designed to step down the slope to ensure it is integrated with the natural landform and landscape and is consistent with the siting, bulk and scale of dwellings located along the western side of Alleyne Avenue.

2. To protect and minimise disturbance to natural landforms

The development does propose a considerable volume of excavation to the site. Whilst this will involve

disturbance to the natural landform of the site, the excavation will not be overly visible from a public space with the proposed garage level being accessed by a new driveway measuring 4.0m in width. This will significantly minimise the appearance of the level of excavation proposed on site. A Geotechnical Report was submitted alongside the development application which supports the proposed works to the site and does not envisage any geotechnical hazards subject to the Geotechnical Report recommendations being incorporated into the construction plans.

3. To encourage building design to respond sensitively to natural topography

The development has been designed to step down with the natural topography of the site. The development complies with the maximum building height controls, side setbacks and maintains the general appearance of a two storey dwelling when viewed from Alleyne Avenue. The proposed dwelling is consistent with surrounding developments that are located on similar steeply sloping sites and has been designed to ensure the bulk and scale will not dominate the natural topography of the site.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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

In consideration of the proposal and the merit consideration of the development, the proposal is

considered to be:

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1425 for Demolition works, construction of a dwelling house including a swimming pool on land at Lot 19 DP 7593, 46 Alleyne Avenue, NORTH NARRABEEN, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Dwg 02-18-ALL/ Garage Plan	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 2)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 3)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 4)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 5)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 6)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 7)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 8)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 9)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 10)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 11)	Aug 2018	J Wright
Dwg 02-18-ALL (Sheet 15)	Aug 2018	J Wright

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 955863S	23 August 2018	Loftus - BCC-PW

Geotechnical Investigation Report	25 July 2018	White Geotechnical Group
Schedule of External Finishes (see also Condition 16)	Undated, submitted with the application	Not Stated

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

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. **Amendments to the approved plans**

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

- The lower ground floor plan is to be amended to clearly indicate an interconnected access with the remainder of the dwelling.

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

Reason: To ensure the dwelling is used as a single occupancy. (DACPLB02)

3. **Prescribed Conditions**

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

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

- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative Requirement (DACPLB09)

4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety

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

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

5. **Security Bond**

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

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

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

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

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

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

6. **On slab landscape planting and associated works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate,

- i) indicating the proposed method of waterproofing to concrete slabs and planter walls to which soil and planting is provided,
- ii) indicating soil type, plant species, irrigation, services connections, maintenance activity schedule and soil depth compliant with iii) below:

iii) the following minimum soil depths are required to be provided in approved landscape on-slab areas:

- 300mm for lawn
- 600mm for shrubs
- 1m for small trees

iv) certification shall be provided by a structural engineer that the on-slab planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: to ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White geotechnical group (J1187B) dated 25 July, 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. On-site Stormwater Detention Compliance

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's Pittwater DCP21 and the concept drawing by NB consulting Engineers, drawing number DO1 -D10 Rev C dated 15/08/2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

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

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of the retaining walls through the nature strip and driveway crossing which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy. The plan shall be prepared by a qualified structural engineer. The design must include the following information:

- The provision of normal standard vehicle crossing 4.0 metres wide and splayed on both sides.
- Traffic Engineer shall submit plans to demonstrate that there are adequate site distances available when reversing into the road. The retaining walls are to be splayed in order to achieve the required sight distance for vehicles to safely reverse into the road.
- Submission of detail structural design plans prepared by a qualified structural engineer for the retaining wall.

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 Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To provide public and private safety.

10. **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.

11. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal 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.

12. **Construction Management Program**

An application for Traffic Management Plan is to be submitted to Council for approval for works within the public road. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community

13. **Provision of an Arboricultural Report**

An Arboricultural Impact Assessment is required to assess the impacts for the trees on neighbouring property and any prescribed trees on the subject site, this shall be prepared by a suitably experience arboriculturist with at minimum AQF Level 5. This assessment must identify the location, species, health and size of all trees within 5m of the proposed development (including trees within neighbouring properties) and meet the following requirements:

The report must include:

- who commissioned the report and why was the report commissioned,
- the address of the site containing the trees,
- a plan of the site showing the exact location of the trees and the trees numbered to correspond with the text,
- the methods or techniques used in the inspections,
- the scientific name, common name, height, canopy spread, trunk diameter at breast height, ULE, landscape significance, and form of each tree,
- discussion of the data collected, which may include information regarding wounds, cavities, cracks, splits, forking, root zone or diseases,
- supporting evidence such as photographs,
- a discussion of all options relating to tree retention or removal, including construction techniques to minimise impacts upon root systems,
- justification for tree removal,
- if required, a tree construction impact statement and recommendations for construction methodology,
- may include root mapping,
- a Tree Protection & Management Plan with general and/or specific tree protection measures to enable safe retention of all trees proposed for retention, this shall demonstrate compliance with the relevant Australian Standards.

The arborist is to review all architectural and engineering plans and shall take into account all above- and below-ground works and structures that are ancillary to the development.

Reason: Natural Environment Protection (DACNECPCC2)

14. Amend Landscape Drawings – To include Tree Protection and Alternative Tree Canopy Species

The Landscape drawings, submitted in conjunction with the approved Development Application and as amended by these conditions of consent, is to include the TPZ and SRZ as stated within the associated arborist report for the neighbouring trees and any existing prescribed site trees and to ensure the additional planting of at least two (2) canopy trees that reach a mature minimum height of 8.5m, either *Eucalyptus punctata*, *Eucalyptus haemastoma* or *Angophora costata* (as these species are appropriate on shallow soils above sandstone).

Plans are to be amended and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To enhance and retain the natural environment.

15. 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. (DACPLC02)

16. External Finishes

All external finishes are to be in accordance with the Schedule of Finishes submitted with the application, with the exception of the Colorbond 'Surfmist' colour being amended to Colorbond 'Shale Grey' or darker. This is to minimise solar reflections to neighbouring properties. Any roof

with a metallic steel finish is not permitted. The sandstone treatment of the garage facade and associated retaining walls is to be strictly in accordance with the schedule and any change is to be the subject of further approval.

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

Reason: To ensure that the external finishes are implemented as approved and that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

17. Sydney Water "Tap In"

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

Please refer to the website www.sydneywater.com.au for:

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

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

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

18. Revised Landscape Plan

A revised and comprehensive landscaping plan is to be provided by a suitably qualified Landscape Architect and be submitted with the Construction Certificate. All planting associated with the development will address the neighbour's views by retaining view sharing.

This landscaping is to then be maintained for the life of the development.

Reason: To ensure the built form is softened and complemented by landscaping, reflecting the scale and form of development. (DACPLCPCC1)

19. Flag Pole

The lower ground floor plan is to be amended to clearly indicate the deletion of the flag pole. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure a reasonable sharing of views from the neighbouring property.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. Public Liability Insurance - Works on Public Land

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

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

21. **Pre-Construction Dilapidation Report**

A Pre-Construction Dilapidation Report is required for this development. A photographic survey of the adjoining buildings at No. 44 and No. 48 Alleyne Avenue, North Narrabeen detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property/ies.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

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

22. **Protection Fencing**

Protection fencing measures (including sedimentation fences) are to be installed in accordance with all approved plans including those specified in the acquired Arboricultural Report. Protection measures are to be maintained for the duration of the works. Protection fencing that is no longer required is to be removed once all works are completed.

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

Reason: Environmental Protection

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

23. **Civil Works Supervision**

All civil works approved within the public road are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority

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

24. **Road Reserve**

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

Reason: Public Safety.

25. **Maintenance of Road Reserve**

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

Reason: Public Safety.

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

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

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.

27. **Fencing for Wildlife Passage**

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

Reason: Management of wildlife corridors

28. **Arborist Recommendations to be Implemented**

As there are existing trees to be retained within 5 metres of proposed development works, all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4 and with the recommendations as outlined in the Arborist Report (as per Conditions of Consent) are required to be complied with before and throughout the development period, particularly with regard to the following:

- a) Works, erection/demolition of structures, excavation or changes to soil levels within the calculated TPZ of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within the calculated TPZ of the trunk of a tree to be retained is not permitted;
- b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
- c) All works within the calculated TPZ of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
- d) Signage is to be erected advising all contractors and visitors to the site that no works or storage is to take place within the calculated Tree Protection Zone (TPZ) of existing trees.

Any changes or alterations made to the tree management recommendations as outlined by the

arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

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

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

29. Approved Landscape Plan

Landscaping is to be implemented in accordance with the detailed Landscape Plan required under Condition 18 and submitted with the Construction Certificate, and any associated condition. The new landscaping plan is to be approved as completed by the Certifying Authority upon the issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed.

This landscaping is to then be maintained for the life of the development.

Reason: To ensure the built form is softened and complemented by landscaping, reflecting the scale and form of development.

30. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

31. Positive Covenant and Restriction as to User for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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 the on-site detention and/or pump system is maintained to an appropriate operational standard.

32. Geotechnical Certification Prior to Occupation Certificate

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

33. Environmental and priority weed control

All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: preservation of environmental amenity.

34. 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.

35. 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.

36. 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.

37. Landscape Plan to be Implemented

Landscaping is to be implemented in accordance with the approved Landscape Plan authored by Network Design - Julie Wright, dated August 2018, Drawing no. 12-16-ALL, Front & Rear Yard Landscaping and as amended by these conditions of consent. The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.

Reason: To ensure the site is landscaped.

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

Signed



Penny Wood, Planner

The application is determined on 18/02/2019, under the delegated authority of:



Steven Findlay, Manager Development Assessments