

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2060
Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 163 DP 13457, 43 Herbert Avenue NEWPORT NSW 2106
Proposed Development:	Construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Alan George Harkins Elizabeth Carolyn Harkins
Applicant:	Alan George Harkins Elizabeth Carolyn Harkins
Application lodged:	27/12/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	07/01/2019 to 29/01/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 700,000.00

ASSESSMENT INTRODUCTION

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

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

Development Control Plan;

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - A4.10 Newport Locality

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

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

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

SITE DESCRIPTION

Property Description:	Lot 163 DP 13457 , 43 Herbert Avenue NEWPORT NSW 2106
Detailed Site Description:	The subject site consists of one allotment located on the southern side of Herbert Avenue NEWPORT. The site is irregular in shape with a slightly splayed front boundary. The site has a frontage of 13.7m along Herbert Avenue and a depth of 61.52m. The site has a surveyed area of 836.7m². The site is located within the E4 Environmental Living zone and accommodates a shed and access stairs. The site shares a common access driveway over the road reserve with the adjoining dwelling at no. 45 Herbert Avenue. A small portion of the current driveway within the private land is shared between the properties, with reciprocal rights of way between the properties to facilitate access to the current garage within no. 45 and the future parking area within the subject site. The site slopes steeply south to north with a northerly aspect and plateauing at the top. The site is densely vegetated with several endangered Pittwater Spotted Gums. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by low density residential development of typically one to three storey dwellings of a variety of styles and scales of

development.

Map:



SITE HISTORY

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

N0111/17

New single dwelling with detached garage.

Determined - 09/06/2017

The application was approved with the removal of the garage due to unresolved natural environment and access issues.

N0271/16

Construction of a new dwelling house and garage

Withdrawn- 13/09/2016

The application was withdrawn due to the following issues - Impact of the development on the Pittwater Spotted Gum, building height, significant and excessive impact to the existing natural environment, excessive level of bulk and scale that dominates the surrounding natural environment, privacy impacts, is inconsistent with the desired character of low density residential development within the Newport Locality, the selected colour for the external walls of the dwelling, being Colorbond 'Surfmist', is inconsistent with the control as Council's desired external colours and materials, building envelope non-compliance along eastern and western elevations, did not meet the landscaped Open Space requirement of 60%, and The development results in an undercroft area that has been measured at approximately 4.3m above the existing ground level.

Building Approval - A223/77

Approved - 14/03/1977

Two Storey residential dwelling, driveway and hardstand parking area.

The land has been used for residential use and has been a vacant lot for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is seeking approval for the construction of a new split level dwelling. The proposal includes the following:

Driveway level:

- Access stairs to the upper levels.

First Floor Level (separately accessible structure)

- Proposed new bedroom with ensuite and studio,
- Small attached external deck,

Second Floor Level

- Four bedrooms (main with walk in robe and ensuite), rumpus room and bathroom with separate WC,
- Small deck off main bedroom,
- Internal access stairs to upper levels.

Third Floor Level

- Open plan kitchen, living, dining area,
- Laundry,
- Internal access stairs.

Fourth Floor Level

- Loft living/storage space and home office,
- Internal access stairs,
- Planter box.

The external finishes will comprise colourbond steel sheet cladding and a colourbond steel roofing. A condition will be included in the consent requiring the external finishes to be mid to dark earthy tones.

Note: The application, as lodged, include a new double carport with an angled driveway access and a retaining wall at the front of the site. The application also proposed a 1m setback to both side boundaries and a secondary dwelling at the front of the site.

Councils Bushland and Biodiversity officer was unable to support the carport and retaining wall due to the potential impact to several trees in the vicinity. The referral comments also raised concern with the proximity of the deck located in front of tree T19 and the removal of tree T21. As a result of the referral comment, the applicant requested the carport, retaining wall and deck in front of tree T19 be removed from the assessment of the application and that tree T21 to be retained. A condition will be included in the consent removing the carport, retaining wall and deck from the construction certificate plans and the retention of tree T21. The existing approved car parking at the front of the site will be retained and used until the issues raised by Councils Bushland and Biodiversity can be addressed.

As a result of the double carport not being removed the secondary dwelling could no longer be supported as the site would not meeting parking requirements of the P21 DCP. The applicant requested that the secondary dwelling be changed to a separately accessible structure. The applicant provided an amended Statement of Environmental Effects removing mention of the secondary dwelling. A condition

will be included in the consent restricting cooking facilities from the studio and bedroom.

The applicant also provided amended plans dated 22 May 2019 increasing the set back of the eastern boundary to 2.0m.

The assessment of the application is based on the above works relating to the amended plans from Ezy Homes Australia Pty. Ltd.

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)(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)	<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. <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. The supplementary information provided does not require re-notification for the purposes of the assessment and consideration has been made in the assessment of relevant environmental impacts. <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. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition

Section 4.15 Matters for Consideration'	Comments
	of consent.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 1 submission/s from:

Name:	Address:
Mr Michael Cunningham Edwards	39 Herbert Avenue NEWPORT NSW 2106

The following issues were raised in two submissions recieved from no. 41 Herbert Street, Newport and each of the issues raised have been addressed below:

- Building footprint and non-compliance P21 DCP controls
- Carport and impact on Tree T1

The matters raised within the submissions are addressed as follows:

- **Building footprint and non-compliance with P21 DCP controls**

The submission raised concern regarding the bulk and scale of the proposed development, stating the extent of the built form non-compliance, being the side boundary envelopes, side boundary setback and the number of stories attributes to an unacceptable built form.

Comment:

Each of the specific areas of non-compliance raised have been addressed in detail below, in summary, the proposed development is considered to be an appropriate design solution in response to the constrained nature of the site being narrow, steep and densely vegetated. The bulk and scale of the two storey dwelling proposed is not considered to present as overly bulky or out of scale the broader area, however immediate impacts are addressed by minor change to the side setback and provide improved wall plane articulation.

- **Carport and protection of Tree T1**

The submission raised concern with the excavation and location of the carport and the impact that this and proposed drainage would have on Tree T1 located on the adjoining property at no. 41 Herbert Avenue.

Comment:

Due to issues raised by Council's Biodiversity team, the applicant has requested the carport and retaining wall to be removed from the assessment of the proposal. A condition will be included in consent removing the carport, retaining wall from the plans.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component is assessed and satisfactorily covered within the Natural Environment - Biodiversity referral. No further assessment is provided by Council's Landscape section over and beyond NECC imposed conditions.
NECC (Bushland and Biodiversity)	Updated comments 27/06/2019 The applicant has indicated that they will not pursue the unsupported proposed double carport and associated proposed retaining wall adjacent T2 at this time. Trees 1 and 2 must be retained and specifically protected throughout construction of the dwelling, particularly trunk and exposed root protection as per the Arborist Report and AS4970-2009. The applicant is strongly advised to seek expert Arborist advice when designing any future parking structures to ensure the safe long-term retention and protection of T1 and T2. The applicant has also indicated that they intend to amend plans to retain T21 and remove the deck adjacent to T19, although these plans have not been submitted or reviewed by Council's Natural Environment - Biodiversity section. Any changes to rear proposed landscaping should be as per Arborist recommendations in the

Internal Referral Body	Comments
	Addendum and must be reviewed and approved by the Project Arborist prior to issue of Construction Certificate. No further impacts to any trees not already assessed for this referral are supported by Council's Natural Environment - Biodiversity section. An Addendum to the Arborist report (Margot Blues, 26/06/2019) has been submitted which addresses the original referral comments. As stated in the addendum, and considering the removal of the double carport from the plans, the proposal will remove 11 of the 16 prescribed trees within the property. Trees to be retained and protected within the property are T2, T19, T21, T23, and T24, and neighbouring trees, T1, T18 and T22. Some trees to be removed contain hollows. As such a Project Ecologist must appointed to undertake pre-clearance surveys and direct tree removal supervision. The Landscape Plan (Serenescapes, rev A, 20/06/2018) indicates that 19 replace local native canopy trees will be planted to replace trees to be removed, this includes 5 <i>Corymbia maculata</i> and 2 <i>Eucalyptus punctata</i>. The planting schedule indicates species plantings chosen from the PSG EEC species list and Council's 'Native plants for your garden' publication, which complies with controls. Council's Natural Environment - Biodiversity section supports the application, subject to conditions. Original comments 27/02/2019 This application has been assessed under Pittwater LEP Clause 7.6 Biodiversity, and Pittwater 21 DCP Clause B4.7 Pittwater Spotted Gum (PSG) EEC and B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor. The whole of the property is mapped as Pittwater Spotted Gum EEC (NSW PCT 1214) within the SMCMA V3 mapping (OEH 2016) and there are threatened species records nearby. The proposal is for a new dwelling with 5 bedrooms, studio, rumpus, home-office and loft areas, double carport, outdoor entertaining area and landscaping of the whole property. The site currently contains unapproved structures and native remnant vegetation consistent with Pittwater Spotted Gum EEC with some disturbed areas including exotic palms and ground covers. There is insufficient information to assess the proposal against relevant biodiversity controls. The proposal does not appear to comply with biodiversity controls. Council's Natural Environment – Biodiversity section cannot complete the assessment until further information is provided. <i>Detailed comments</i> Inconsistent information regarding native tree impacts The Statement of Environmental Effects (Vaughan Milligan

Internal Referral Body	Comments
	Development Consulting Pty Ltd, December 2018) states that, <i>"The proposal seeks to remove seven trees to facilitate the proposed development."</i> - page 15 <i>"The proposal seeks to remove thirteen trees to facilitate the proposed development. The Landscape Plans prepared by Serenscapes notes the manages replanting of the site, which together with ground covers and shrubs, will provide for an additional 20 trees which will have a mature height of 7m or greater."</i> - page 19 The Landscape Site Plan (Serenscapes 20/06/2018) shows fourteen trees proposed for removal, and the "existing tree schedule" table reports thirteen trees proposed for removal. The Arboricultural Assessment Report (12/06/2018) states that the, <i>"The provided landscape plan indicates the removal of sixteen trees across the site due to proximity to the proposed development."</i> - page 6 There are also other large native trees that are within 5m of the proposed works/landscaping that have not been included in the Arborist Report. These native trees, including trees within the adjacent property, must be included in the required updated Arborist Report. Proposed double garage and tree impacts The proposed garage design was previously refused (N0111/17) due to unresolved impacts to a neighbouring tree, T1, a large <i>Corymbia maculata</i> (Spotted Gum). This issue has not be addressed in the current application. Council does not support the proposed garage in its current form. It is suggested that the applicant explore design alternatives such as utilising the existing leveled area, reduced garage footprint or a tandem parking scheme. Alternatively, the applicant could follow the Arborist's advice and undertake root mapping investigations, however any significant impacts to large native trees in this area are unlikely to be supported by Council. Any submitted garage design alternatives will require a support letter/updated report from a qualified Arborist, including recommendations to ensure the safe retention and protection (construction and long-term operation) of trees proposed to be retained including T1, T2 and T3. Unacceptable impacts to native trees diagnostic of PSG EEC The SEE does not address B4.7 Pittwater Spotted Gum EEC. The proposed development will impact more than two native trees and has not provided any information regarding PSG EEC assessment. The previously approved dwelling N0111/17 provided a design which has less impacts to native trees T19, T20, T21. The Pittwater LEP Clause 7.6 states that the consent authority must consider "any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.". The previous design provided for a 3m setback from T19, and further setback from neighbouring tree T18. The opportunity exists for re-design of the dwelling to restrict any incursion into the structural root zone (SRZ) and the tree protection zone (TPZ) of these trees.
NECC (Development	

Internal Referral Body	Comments
Engineering)	An acceptable risk can be achieved for the proposed development as per the report prepared by White geotechnical group. The existing driveway is steep, non standard driveway and requires widening to 3.0 meters. Appropriate conditions have been recommended requiring a positive covenant for future maintenance of driveway and a structural design prior to issue of C.C. The development requires provision for OSD for stormwater management of the site. No Development Engineering objection subject to conditions.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 940307M_02 dated Thursday, 20 December 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 consent) for any development carried out:

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

Comment:

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	6m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes

Clause	Compliance with Requirements
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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	10m	10.13m	N/A	Yes
Rear building line	6.5m	32.4m	N/A	Yes
Side building line	East - 2.5m	1m	60%	No
	West - 1m	1m	N/A	Yes
Building envelope	East - 3.5m	Outside envelope	N/A	No
	West - 3.5m	Outside envelope	N/A	No
Landscaped area	60%	64.15%	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.10 Newport Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	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
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D10.15 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.10 Newport Locality

The desired future character of the Newport Locality requires dwellings houses to be a maximum of two storeys in any one place. Due to the topography of the site, and the design of the dwelling which steps down with the slope the proposal will present as a three storey dwelling to the streetscape. However, the proposal is a maximum of two storeys internally.

The proposal involves minimal environmental impact, is set below the general tree canopy height, includes building modulation to minimise bulk, does not involve significant earthworks, and provides an appropriate balance between respecting the landform and encouraging development. As such, the proposed development achieves the desired character of the area and is acceptable in this regard.

B6.3 Off-Street Vehicle Parking Requirements

Description of non-compliance

The proposal included a double carport. However, as a result of issues with the excavation of the carport and the impact this would have on several surrounding trees, the carport and retaining wall could not be supported.

The applicant requested for the carport and retaining wall be removed from the assessment of the application. The control requires two car parking spaces for a dwelling with two or more bedrooms.

Whilst technically not compliant with the minimum two off street vehicle parking requirements of the P21 DCP, there currently exists an approved hardstand car parking area on the site, which can be used by the occupants of the site, and which has been used up until this point. While the garage cannot be supported, the dwelling can be.

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

Description of non-compliance

The control requires development located in the E4 Environmental Living zone to be setback 2.5m to at least one side and 1m for other side. The proposal is setback 1m to the western side boundary and 2m to the eastern side boundary.

Due to the non-compliance with the side boundary setbacks and the side boundary envelope a condition will be included in the consent requiring the third and fourth floor to be set back a minimum of 2m from the western boundary shared with no. 41 Herbert Avenue.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying objectives of the Control as follows:

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

Comment:

The desired future character statement is quite broad and does not specifically relate to setbacks or spatial separation between buildings. The proposal has been designed to step down with the slope of the site to integrate with the landform. The proposal is also on raised piers to minimise site disturbance and protect trees on the site. The proposal is considered to be consistent with the desired future character of the Newport Locality, as the bulk and scale of the proposal has been reasonably minimised, and the proposal presents as a contemporary building within a landscaped setting that is appropriately modulated.

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

Comment:

The site of the proposal is a steep, narrow and densely vegetated lot. The proposed and conditioned setbacks to the side boundaries are appropriate to allow sufficient space between adjoining dwellings. The building is stepped and articulated appropriately to minimise the bulk and scale of the development.

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

Comment:

No views or vistas to and/or from public/private places will be unreasonably hindered as a result of the proposal, given the built form remains below the building height requirement of the PLEP and has been sited centrally within the property.

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

Comment:

The proposal is consistent with the principle of view sharing. The height and location of the proposal will have no unreasonable impact on views.

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

Comment:

The proposed development ensures adequate light, solar access and privacy is obtained between dwellings. The proposal complies with the requirements of the C1.4 - Solar Access and has been designed so that there are no unreasonable impacts on the adjoining neighbours.

Adequate physical separation between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.

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

Comment:

The existing vacant lot is well vegetated and for any development to take place on the site requires the removal of some trees. Seventeen trees are to be removed as part of the development. However, the proposal will retained many large mature trees at the front and rear of the site as well as proposing substantial landscaping around the dwelling. The retention of trees and proposed landscaping will enhance the site and provide an attractive streetscape.

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

Comment:

Due to the narrow and steep nature of the site, the proposed dwelling is considered to be located in an appropriate way on the site and in relation to the site constraints.

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

Comment:

The building has been appropriately sited and designed so to ensure amenity is protected in addition to providing for maximum retention of significant vegetation. Additional landscaping has been proposed which will contribute to the softening of the built form.

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

Comment:

Not applicable, as the subject site does not adjoin a commercial zone.

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.

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of works

The proposal includes the following envelope breaches:

East Elevation - Encroachment for the entire length of the proposal for a height of 0.3 - 2.1m.

West Elevation - Encroachment for the entire length of the elevation with a height of 0.6 - 2.3m.

The control states that the building must be sited within the building envelope determined by projection planes at 45 degrees from a height above the ground at the side boundaries of 3.5m.

The control provides variations for these numerical requirements where the building footprint has a slope in excess of 30%. The proposal has a slope of 57% or 30 degrees. The variation is considered on a merits basis, with the proposal required to demonstrate consistency with the outcomes of the control. A condition is recommended in the consent to increase the set back of the third and fourth floor 2m from the western boundary. While the western boundary will still encroach into the side boundary envelope, the reduced encroachment is considered acceptable and has been detailed below. With regard to the below, the proposed non-compliance is considered to be supportable on merit.

Merit consideration:

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

Comment:

The development is consistent with the desired future character of the locality, with the proposed dwelling being 2 storeys along its length. While the development will appear to be three storeys when viewed from the street, the proposal incorporates a stepped design to spread the massing of the built form across the site. The design also uses modulation in the design of the roofs to reduce the height, bulk and scale of the development.

- *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 building promotes a building scale and density that is below the height of the trees of the natural environment, specifically the trees located at the front of the subject site and adjoining properties. The site is also setback 10m from the front boundary and due to the wide and steep road reserve will be partially screened from the street below.

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

Comment:

The site is a narrow, steep lot which is well vegetated with large trees, shrubs and other vegetation. The proposal has been designed to step down with the slope of the site on piers to reduce the disturbance to the natural environment and minimise the need for excavation. The proposal involves the retention of large trees on the site and additional landscaping that ensures that the proposed sensitively relates to spatial characteristics of the existing natural environment.

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

Comment:

The proposed low roof form assists in reducing the apparent bulk of the building, with the design

providing for good articulation in the wall and roof lines. The recommended condition requiring the third and fourth floor to be setback 2m from the western side boundary will further reduce the bulk and scale of the proposal. The proposal is also well below the 8.5m height requirement of the PLEP.

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

Comment:

The proposed building will not obscure views to and/or from public/private places. No view loss to the Pittwater will result from the proposal.

- *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 development ensures adequate light, solar access and privacy is obtained between dwellings. The proposal complies with the requirements of the C1.4 - Solar Access and has been designed so that there are no unreasonable impacts on the adjoining neighbours. Adequate physical separation between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.

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

Comment:

The building has been appropriately sited and designed so to ensure amenity is protected in addition to providing for maximum retention of significant vegetation. Seventeen trees are to be removed as part of the development. However, the proposal will retained many large mature trees at the front and rear of the site as well as proposing substantial landscaping around the dwelling. The retention of the existing trees and additional landscaping will contribute to the softening of the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

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 \$7,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$700,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/2060 for Construction of a dwelling house on land at Lot 163 DP 13457, 43 Herbert Avenue, NEWPORT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By

1 - Site Plan	22.05.19	Ezy Homes Australia Pty. Ltd.
2 - Floor Plan	22.05.19	Ezy Homes Australia Pty. Ltd.
3 - Floor Plan	22.05.19	Ezy Homes Australia Pty. Ltd.
4 - Floor Plan	22.05.19	Ezy Homes Australia Pty. Ltd.
5 - Floor Plan	22.05.19	Ezy Homes Australia Pty. Ltd.
6 - Elevations	22.05.19	Ezy Homes Australia Pty. Ltd.
7 - Elevations	22.05.19	Ezy Homes Australia Pty. Ltd.
8 - Elevations	21.12.18	Ezy Homes Australia Pty. Ltd.
9 - Elevations	22.05.19	Ezy Homes Australia Pty. Ltd.
10 - Section	15.08.18	Ezy Homes Australia Pty. Ltd.

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate Certificate number: 940307M_02	Thursday, 20 December 2018	Red Road Engineers Pty Ltd
GEOTECHNICAL INVESTIGATION: New House & Carport at 43 Herbert Avenue, Newport J0673A	3rd May 2018	White Geotechnical Group
43 Herbert Avenue, Newport Comments on updates to Plans J0673B	26th June, 2018	White Geotechnical Group
Arboricultural Assessment Report	12th June 2018	Margot Blues Consulting Arborist
Addendum V2 to Arborist Report – Development Application Property 43 Herbert Avenue Newport	26th June, 2019	Margot Blues Consulting Arborist

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By

L-01 of 5 - Landscape Site Plan	20/06/18	Serenescapes Landscape Designs
L-02 of 5 - Zone A Landscape Plan	20/06/18	Serenescapes Landscape Designs
L-03 of 5 - Zone B Landscape Plan	20/06/18	Serenescapes Landscape Designs
L-04 of 5 - Zone B Planting Plan	20/06/18	Serenescapes Landscape Designs
L-05 of 5 - Landscape Details & Specifications	20/06/18	Serenescapes Landscape Designs

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
28 - Erosion & Sediment Control Plan	22.05.19	Ezy Homes Australia Pty. Ltd.

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

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

2. **Prescribed Conditions**

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

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

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

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

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

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

Reason: Legislative Requirement

3. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$7,000.00 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 \$700,000.00.

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

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

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

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

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

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. 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 (J0673B) dated 26th June, 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.

7. Amendments to the approved plans

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

- The double carport (RL66.655) and associated retaining wall for the carport is to be deleted from all plans for the Construction Certificate.
- The third level (RL79.73) and fourth level (RL82.39) is to be setback a minimum of 2.0 metres from the western boundary shared with no. 41 Herbert Avenue.

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. 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 clause 5.7. 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 common driveway 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:

1. Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. the driveway profiles available on council web page must be incorporated into the design plans for the access driveway and internal driveway clause B6.1 and B6.2 of Pittwater 21 Development Control Plan 2004. Where the design profiles can not work a traffic engineers report must be provided.
2. Details of demonstrating how the existing driveway access is to be widened to 3.0 meters, including construction details. Structural evaluation must be undertaken, demonstrating it's stability.
3. The proposed road works are to include safety measures and slope stability treatments required and certified by the project Geo-technical and structural engineer for the proposed works.
4. Provision of safe pedestrian access to the property.
5. The creation and registration with NSW Land Registry Services a positive covenant on title for the on-going maintenance of access driveway and pathways across the public road verge. The terms must be prepared by the applicant solicitors for Council approval. The terms must also indemnify Council against any claims demands of expenses whatsoever which may be taken or made against the Council or received aforesaid or in any way arising out of or by reason of anything done or omitted to be done in respect of the construction/renewed repair and maintenance of footpath/vehicular crossing/driveway aforesaid or of the existence or use thereof or by reason of the Council having approved the driveway. All cost associated with the creation of the covenant is to be borne by the applicant.

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. **Engage a Project Arborist**

A Project Arborist with a minimum of AQF Level 5 is to be appointed for the duration of the works. The Project Arborist is to implement pre-construction tree protection measures and supervise all works within 5m of significant trees.

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

Reason: Tree protection in accordance with relevant Natural Environment LEP/DCP controls (DACNECPCC1)

13. **Amended Proposal Plans to be certified by Project Arborist**

Amended Proposal Plans are required which complies with the following:

- All proposed works within the SRZ of T1 and T2 are to be removed from the plans, any works proposed within the outside of the SRZ but within the TPZ of T1 and T2 must be approved by the Project Arborist
- The removal/amendment of all proposed works and changes to soil levels within the TPZ of T21, as per Arborist Addendum (Margot Blues, 26/06/2019)
- The removal of the proposed deck north of T19, and demonstrated flexibility of piers within the TPZ of T19 as per Arborist Addendum (Margot Blues, 26/06/2019)
- Any changes to rear proposed landscaping should be as per Arborist recommendations in the Addendum and must be reviewed and approved by the Project Arborist prior to issue of Construction Certificate. No further impacts to any trees not already assessed for this referral are supported by Council's Natural Environment - Biodiversity section.

Amended Proposal Plans, with a letter of support provided by the Project Arborist referencing the amended plans, must be submitted to the Principal Certifying Authority prior to the issue of construction certificate.

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

14. **Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland protection measures are carried out according to the conditions of consent.

The Project Ecologist will ensure that all conditions relating to the biodiversity management of the property are fully implemented.

The Project Ecologist must have one of the following memberships/accreditation

- Practising member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016

Evidence of engagement of a Project Ecologist must be provided to the Principal Certifying Authority prior to issue of Construction Certificate.

Reason: To ensure bushland management.

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

All pre-construction tree protection measures specified in the submitted arborist report (Margot Blues, 12/06/2018) and as amended by the Arborist Addendum (Margot Blues, 26/06/2019) and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with pre-construction measures is to be certified by the project arborist prior to issue of the Construction Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNECPCC2)

16. **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.

17. **External Finishes to Roof**

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

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

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

18. **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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. 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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. 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.

21. Implementation of Landscape Plan

Landscaping is to be implemented in accordance with the approved Landscape Plans (Serenescapes, rev A, 20/06/2018) and these conditions of consent. The new landscaping is to be certified in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of the Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNEEDW1)

22. Compliance with Arborist's Recommendations – During Construction

All tree protection measures to be implemented during construction, as specified in submitted arborist report (Margot Blues, 12/06/2018) and as amended by the Arborist Addendum (Margot Blues, 26/06/2019) and these conditions of consent are to be implemented at the appropriate stage of development.

Direct Project Arborist supervision is required for any approved works within the Structural Root Zone (SRZ) or Tree Protection Zone (TPZ) of trees to be retained.

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

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNEEDW2)

23. Impact to Protected Native Wildlife

Habitat for native wildlife including any trees approved to be removed which containing hollows (including T3), must be directly inspected for native wildlife prior to removal by the project ecologist. If native wildlife is found within habitat required to be removed, a registered wildlife rescue and rehabilitation organisation must be contacted for advice. Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response. If no such incidents occur during works, a statement to that effect is to be prepared.

Any trees to be retained which may be subject to dead wood pruning (potentially T2, T19) must also be directly inspected by the Project Ecologist prior to any pruning.

The project ecologist is to prepare a record of any incidents or a statement that no such incidents occurred, including dates and photographic evidence of tree removal and attendance onsite, and provide this to the Principal Certifying Authority for certification prior to commencement of tree removals.

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

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

- 24. Application for Authorisation of Legal Documentation Required for Onsite Detention**
The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

- 25. 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.

- 26. 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.

27. **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.

28. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Serenscapes, rev A, 20/06/2018) and these conditions of consent.

The new landscaping is to be certified as complete and in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of any Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

29. **Protection of Habitat Features**

All natural landscape features, including rock outcrops, native vegetation, and soil, are to remain undisturbed except where affected by necessary works detailed on approved plans. Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

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

30. **Compliance with Arborist's Recommendations – Post-construction**

All tree protection measures to be implemented, as specified in submitted arborist report (Margot Blues, 12/06/2018) and as amended by the Arborist Addendum (Margot Blues, 26/06/2019) and these conditions of consent are to be implemented at the appropriate stage of development.

Direct Project Arborist supervision is required for any approved works within the Structural Root Zone (SRZ) or Tree Protection Zone (TPZ) of trees to be retained.

All measures to be implemented during construction and satisfactory establishment/initiation of post-construction measures is to be certified by the consulting arborist prior to issue of the Occupation Certificate.

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

31. Replacement of Canopy Trees

At least 19 locally native canopy trees are to be planted on site to replace trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with B4.7 and approved Landscape Plan (Serenescapes, rev A, 20/06/2018). Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as complete and in accordance with these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of any Occupation Certificate.

Reason: To establish appropriate landscaping in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC2)

32. External Building Colours and Materials

External building colours and materials shall be of dark and earthy tones.

Details demonstrating compliance are to be submitted to the certifying authority prior to the issue of any interim / final Occupation Certificate.

Reason: To minimise visual glare and ensure the development compliments the natural environment.

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

33. Control of Weeds

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

Reason: Weed management.

34. Replacement of Canopy Trees

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees in accordance with relevant Natural Environment LEP/DCP controls. (DACNEGOG1)

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. **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.

38. **Separately Accessible Structure**

The use of cooking facilities, including an oven and stove within the first floor studio and bedroom is prohibited.

Reason: To ensure compliance with the development consent.

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

Signed



Julie Edwards, Planner

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



Alexander Keller, Acting Development Assessment Manager