

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1420
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 1 DP 585621, 24 - 26 Rayner Road WHALE BEACH NSW 2107 Lot 2 DP 585621, 24 - 26 Rayner Road WHALE BEACH NSW 2107
Proposed Development:	Demolition works and 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:	Jennifer Louise Hawkins Jake William Wall
Applicant:	Brooke Minto

Application Lodged:	10/11/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	19/11/2020 to 03/12/2020
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 3,037,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the demolition of an existing dwelling and ancillary structures followed by the construction of a new dwelling, swimming pool, half basketball court and ancillary works, including landscaping.

The proposed dwelling will consist of four (4) levels and comprise a contemporary design consisting of exposed concrete, sandstone cladding and a flat concrete roof.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

Pittwater 21 Development Control Plan - D12.5 Front building line

Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 1 DP 585621 , 24 - 26 Rayner Road WHALE BEACH NSW 2107 Lot 2 DP 585621 , 24 - 26 Rayner Road WHALE BEACH NSW 2107
Detailed Site Description:	The subject site consists of two adjoining lots located on the northern side of Rayner Road. The site has a combined area of 3073sqm and slopes steeply down towards the north. Existing on the site is a three storey dwelling, a detached carport, an inclinor, a swimming pool and a tennis court (the tennis court is overgrown and clearly has not been used for an extended period of time). Large parts of the site are vegetated. The surrounding development consists of detached residential dwellings. Coastal cliffs and the ocean adjoin the northern boundary of the site.

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:

- N0538/16 - On 22 June 2017, Council approved a DA for the construction of a single dwelling, swimming pool and tennis court.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
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>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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amendments made to the landscaping to address concerns raised in objections. <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>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <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 of consent. <u>Clause 143A</u> 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.
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

Section 4.15 Matters for Consideration'	Comments
	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 from 19/11/2020 to 03/12/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

Name:	Address:
Mr Malcolm Charles Steingold	32 Rayner Road WHALE BEACH NSW 2107
Mr Gavin William Kerr Mrs Tania Caroline Kerr	19 Rayner Road WHALE BEACH NSW 2107

There were a total of three (3) submissions which were received during the notification period. Following amended plans being provided, one submission was withdrawn.

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

- Restoration of bitumen adjacent to the boundary of 24-26 Rayner following the development of 24-26 Rayner Road.
- Does the proposal contain provision for curb side guttering along the road side boundary of 24-26 Rayner Road.
- Will there be lighting along the road side boundary of 24-26 Rayner Road.
- Impact of proposed planting along the southern boundary on views.

The matters raised within the submissions are addressed as follows:

- **Restoration of bitumen adjacent to the boundary of 24-26 Rayner following the**

development of 24-26 Rayner Road.

Comment:

The owner is required to make payment of a \$10,000 security bond and an inspection fee as security, to ensure rectification of any damage that occurs to Council infrastructure located within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the site,

- **Does the proposal contain provision for curb side guttering along the road side boundary of 24-26 Rayner Road**

Comment:

The proposal does not contain provision for curb side guttering along the road side boundary of 24-26 Rayner Road. This is a separate matter for consideration from this DA that the neighbour is advised to discuss with council separately.

- **Will there be lighting along the road side boundary of 24-26 Rayner Road.**

Comment:

No lighting is proposed as part of this DA. As above, this is a separate matter for consideration from this DA that the neighbour is advised to discuss with council separately.

- **Impact of proposed planting along the southern boundary on views.**

Comment:

The applicant has provided amended landscape plans and a response to this concern. Alternate plant species have been proposed measuring between 3m and 6m in height. Proposed planting within the development site will not have an unreasonable impact upon views currently enjoyed by neighbouring properties.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	This application is for the demolition of an existing residential dwelling and ancillary structures, and the construction of a new residential dwelling inclusive of a new driveway and garage, swimming pool, half basketball court and well as other structures and landscape works. Councils Landscape Referral section has considered the application against the Pittwater Local Environment Plan, and the follow Pittwater 21 DCP controls: • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D12.1 Character as Viewed from a Public Space • D12.10 Landscaped Area - Environmentally Sensitive Land A Landscape plan is provided with the application and the proposed works include in-ground planting of trees, shrubs, grasses and groundcovers, as well as on-slab planters with accent planting and spill-over groundcovers. The Statement of Environmental Effects provided with the application

Internal Referral Body	Comments
	notes the removal of forty nine trees within the site, and an additional eleven trees within the road reserve. This has been confirmed in the Arboricultural Impact Assessment, where it is noted that of the sixty trees proposed for removal, thirty seven are exempt species, and do not require Council's approval to be removed, unless they are located on Council land and within the road reserve. Of the remaining trees proposed to be removed, nineteen are of low landscape significance, one is of moderate landscape significance, and three are of high landscape significance. The forty nine trees proposed for removal within the site are located predominantly within the front of the site close to the southern boundary, as well as at the rear of the property adjacent to the northern boundary. Many of the proposed trees for removal do not fall directly within the proposed works footprint, however are often close to proposed work locations. Due to the slope of the site and the required walling and excavation, these trees will likely be impacted heavily, and as a result would need removal. The trees to be removed that are of moderate landscape significance, Tree No.39, and high landscape significance, Trees No. 51, 59 and 60 are all located towards the rear of the property. As a result of their landscape significance ratings, at minimum these four trees shall be replaced in order to compensate the loss of scenic value and amenity. The current landscape plans indicate that sufficient compensation planting has already been proposed, thus no additional tree planting in addition to that already proposed is needed to compensate tree loss. Concern has be raised regarding the proposed landscape treatment on the eastern boundary adjacent to the neighbouring property at 30 Rayner Road. The proposed relocation of Tree No. 63, <i>Ficus rubiginosa</i>, is likely to impact on neighbouring views and solar access in the future when this particular tree reaches maturity. It is therefore recommended that this tree be replaced with a more suitable tree species that is capable of a maximum mature height of 10m. Concern is also raised regarding the proposed planting of <i>Cupaniopsis anacardioides</i> and <i>Rhaphiolepis indica</i> 'Oriental Pearl'. These two tree and shrub species have been identified as either invasive or undesirable weed, and as a result will require substitution for a locally native plant species. The landscape component of the application is therefore acceptable subject to the protection of existing trees, and the completion of landscape works as proposed on the Landscape Plans, inclusive of tree and shrubs species changes. Amended Landscape Plans Amended Landscape Plans have been received in order to address concerns raised regarding view loss. Generally, these changes do not effect the previous landscape comments and conditions previously

Internal Referral Body	Comments
	provided, therefore the amended Landscape Plans are accepted.
NECC (Bushland and Biodiversity)	Council's Bushland and Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including: <i>Biodiversity Conservation Act 2016 (BC Act)</i> <i>State Environmental Planning Policy (Coastal Management)</i> <i>Pittwater Local Environmental Plan (PLEP)</i> - 7.6 Biodiversity Protection <i>Pittwater Development Control Plan (PDCP)</i> - B4.17 Littoral Rainforest - Endangered Ecological Community The proposal requests the removal of 60 trees, including 17 prescribed trees and 43 exempt trees. Of the prescribed trees (T.31, 34, 39, 51, 54, 59, 60, 64, 65, 66, 67, 68, 69, 70, 71, 72 & 73 ; Footprint Green 2020), only <i>Casuarina glauca</i> (Swamp Oak) are considered to be locally indigenous, however it is recognised that these trees have been likely planted, given the landscape context. The Bushland and Biodiversity referral team is supportive of the proposal, on the condition that environmental and priority weeds are removed, and Coastal Headland Heath is restored within the site. Subject to conditions the Biodiversity Referral team find the application to be consistent against relevant environmental controls.
NECC (Coast and Catchments)	The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP. <i>Coastal Management Act 2016</i> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>. <i>State Environmental Planning Policy (Coastal Management) 2018</i> The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.

Internal Referral Body	Comments
	Comment: On internal assessment and as assessed in the submitted Coastal Engineering Advice by Horton Coastal Engineering Pty. Ltd. dated 2 November 2020 and the Statement of Environmental Effects (SEE) report prepared by Minto Planning Services dated November 2020, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018. Pittwater LEP 2014 and Pittwater 21 DCP Coastline Bluff Hazard Management The subject site is also shown to be affected by Coastline Bluff/Cliff Instability Hazard on Council's Coastal Risk Planning Map in Pittwater LEP 2014. As such, the Geotechnical Risk Management Policy for Pittwater (Appendix 5, Pittwater 21 DCP) and the relevant B3.4 Coastline (Bluff) Hazard controls in P21 DCP will apply to new development of the site. A Report on Geotechnical Site Investigation by Crozier Geotechnical Consultants dated October 2020 assessing coastline (bluff)/ coastal cliff or slope instability has been submitted with the DA. An impact assessment of the long term coastal processes on the coastline (bluff)/ coastal cliff or slope instability, prepared by Horton Coastal Engineering Pty. Ltd. dated 2 November 2020 has also been submitted. . The report assessed that an allowance for erosion/weathering of 6 to 12mm/year of the cliff seaward should be considered and assessed by the geotechnical engineer. The geotechnical engineer should consider these rates in conjunction with an understanding of the particular nature of the cliff materials seaward of the subject property, their resistance to erosion, and potential failure planes related to geotechnical issues such as the joint spacing. Coastal inundation is not a significant risk for the proposed development over a planning period of well over 100 years. Given this, and assuming that the geotechnical engineer will find that the development is at an acceptably low risk of damage from erosion/recession over a 100 year design life. As such, it is considered that the application does comply, subject to conditions, with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.

Internal Referral Body	Comments
	Development on Foreshore Area A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area. The DA proposes no works on the foreshores area and hence, the DA does not require to satisfy the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.
NECC (Development Engineering)	31/03/2021: Elevated driveway is proposed over council's pit in the Rayner Road, and construction over Council's stormwater infrastructure is not supported. Applicant is advised to either relocate the driveway or relocate the Council pit. Council pit can be relocated around the elevated driveway via the road reserve and into the drainage easement. Amended plans are requested for further assessment. 19/04/2021: A sloping concrete driveway at the south eastern corner of the site provides access to a concrete garage and an elevated concrete car park. Concrete stairs adjacent to these structures adjoin a concrete path which leads to the western side of the site and the main entrance. Proposal is to construct a security gate to the stairs and sliding gate to the driveway. Both proposed gates are on the public reserve at the edge of the road carriageway, Council cannot allow the construction of these gates on public road reserve. A condition has been imposed in this regard.
Road Reserve	There is limited impact on existing road infrastructure assets. It appears from the survey plan the road embankment contains a series of landscaping, terraced gardens and retaining walls. These gardens and structures are considered to be for the private benefit of the property owner. There is no details of any proposed changes to these structures/works. The proposed works within the Council public road reserve will require a s138 Roads Act application showing details of the works for the driveway structure and maintenance of support to the road formation/retaining walls. There are no details of the "new safety barrier". These will need to be provided for Council consideration and approval as part of the Road Act application. Consent for such a

Internal Referral Body	Comments
	barrier may rest with Council's Local Traffic Committee. Conditions to be provided by Development Engineering Team. The proposed vehicle gate and pedestrian gate on the public road reserve at the edge of the road carriageway will not be permitted on the public road reserve and shall not for part of the development consent .They should be removed from the proposal. It is noted that Rayner Road is on Council's Scenic Streets Register for the protection of coastal views. The landscaping proposed on both public and private land should be evaluated and if necessary conditioned to ensure hedging plants are not used to obstruct views. https://www.northernbeaches.nsw.gov.au/services/roads-and-paths/scenic-streets-register

External Referral Body	Comments
Aboriginal Heritage Office	Council's Aboriginal Heritage Officer provided no objection to the development.

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. 1144430S dated 27 October 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0005336771 dated 27 October 2020).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	51

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 who responded confirming that no response or comment was required.

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:*
- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - coastal environmental values and natural coastal processes,*
 - 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,*
 - 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 proposed development will not impact on the integrity and resilience of the nature environment, while maintaining coastal values and natural coastal processes. Overall, the proposal will not impact on the provisions of clause 13(1) and ensure the integrity and values of the coastal environment area are upheld.

- (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 has been designed and sited to ensure the provisions of subclause (1) are not adversely affected.

14 Development on land within the coastal use area

- (1)
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed dwelling and associated structures will continue to provide sufficient access to and along

the foreshore, beach, headland or rock platform for all members of the public, while not impacting upon the visual amenity and scenic qualities of the coast, including coastal headlands. The environmental heritage, including Aboriginal heritage will not be affected.

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

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposal appropriately considers the coastal zone and will unlikely cause increased risk of coastal hazards on the land or any other land.

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/10m (under clause 2D)	9.43m	N/A	Yes (under clause 2D)

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.5 Coastal risk planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

In accordance with subclause (2D) of the under Clause 4.3 of the Pittwater LEP, the proposal provides a height of 9.43m and the following matters have been satisfied as follows:

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and

Comment:

The proposal involves a non-compliance of up to 0.93m for sections of the roof toward the rear of the site. These sections make up a small proportion of the total roof coverage and total built form.

(b) the objectives of this clause are achieved, and

Comment:

The proposal meets the objectives as follows:

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

The proposal will maintain a compliant presentation for building height at the front of the site, and will step down building bulk with the topography of the site to provide a height and scale that is consistent with the desired character of the locality.

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

The proposal steps down with the topography of the site to be generally in level with neighbouring and nearby dwellings. As such, the development will maintain compatibility with surrounding development.

(c) to minimise any overshadowing of neighbouring properties,

The proposal maintains articulation in the dwelling at the southern elevation to allow for appropriate access to sunlight. Furthermore, the proposal complies with rear setback control (to allow sunlight from the north) and the controls for Solar Access under the Pittwater DCP.

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

The proposed dwelling maintains a rear building line of more than 10 metres to the walls of dwelling to allow for adequate view corridors over the side boundaries of the subject site.

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

The proposed dwelling steps down with the topography and limits excavation to a single basement level. This provides an appropriate response to the topography of the land.

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

The proposal provides appropriate stepping, modulation and articulation to ensure there would be no unreasonable visual or any other impact on the natural environment.

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and

Comment:

The building footprint is situated on a slope that exceeds 16.7 degrees.

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

Comment:

The proposed dwelling steps down with the topography and limits excavation to a single basement level. This provides a limitation of cut and fill.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	1.55m	76.1%	No
Rear building line	6.5m (also foreshore building line applies)	9m-12m	N/A	N/A
Side building line	2.5m	8m	N/A	Yes
	1m	2m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	57.39%	4.35%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.4 Coastline (Bluff) Hazard	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

D12.5 Front building line

While the proposal largely complies with the setback control, the proposal seeks consent for a variation to the front setback control by providing a varying setback to Rayner Road, including a setback of 1.55m measured to the detached garage located in the south-east corner of the site.

Notwithstanding, the proposal is considered to be acceptable, subject to the following merit assessment:

Achieve the desired future character of the Locality.

The proposed variation is not dissimilar to other similar parking structures along Rayner Road, in particular those on the low-side where there is evidence of parking structures, including elevated structures within the front setback. The proposal will continue to provide a densely vegetated setback area, helping to screen the built form from the street. It is considered that the proposal will not detract from the character of the Palm Beach Locality.

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

The structure will not impede on any views or vistas from public/private places.

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

The amenity of residential development will not be impacted.

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

The application is supported by a detailed landscape plan, which proposes dense vegetation along all boundaries, which assist in visually reducing the built form, as viewed from adjoining properties, including from Rayner Road.

Vehicle manoeuvring in a forward direction is facilitated.

Vehicle manoeuvring will not be impacted. The proposal has demonstrate safe and convenient vehicle manoeuvring including facilitating the movement of vehicles in a forward direction.

To preserve and enhance the rural and bushland character of the locality.

The landscaped setting will be maintained through the provision of extensive, dense landscaping.

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

The existing streetscape will not be impacted by the encroachment of the built form into the setback and will ensure an appropriate scale and density is provided for and that is in keeping with the height of the natural environment.

To encourage attractive street frontages and improve pedestrian amenity.

The street frontage to Rayner Road will not be impacted by the non-compliance, as the majority built form will be situated below street level, while any remaining built form will be sufficient screened through proposed landscaping. As such, pedestrian amenity will not be impacted, but rather improved.

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

The proposal is considered to appropriately respond to the spatial characteristics of the existing environment.

In light of the above, the proposed variation is considered appropriate and supported on merit.

D12.10 Landscaped Area - Environmentally Sensitive Land

The proposal provides for a total landscaped area of 1765.9m² or 57.39%, resulting in a landscaped area shortfall of 80.3m². Notwithstanding, the proposal continues to provide for an extensive landscaped area and is supported subject to the following merit assessment:

Achieve the desired future character of the Locality.

The proposal will continue to provide for a high-quality landscape setting that will not detract from the desired future character of the Palm Beach Locality by continuing to provide for a development situated within a dense landscape setting.

The bulk and scale of the built form is minimised.

The bulk and scale of the built form will be minimised through a detailed, extensive landscape plan that will provide suitable plant species that will assist in minimising the built form. Further, the built form is considered proportionate to adjoining dwellings and those within the wider Palm Beach Locality.

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

The existing level of amenity and solar access provided to adjoining dwellings will not be impacted. The proposal will also provide for suitable amenity and solar access within the development site for occupants of the dwelling.

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

Vegetation will be enhanced across the site to help visually reduce the built form.

Conservation of natural vegetation and biodiversity.

Natural vegetation and biodiversity will be retained and managed.

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

The proposal is supported by stormwater drainage plans confirming that stormwater runoff can be suitably catered for through suitable stormwater measures. Sufficient landscaped area will be provided to address stormwater runoff.

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

The landscaped setting will be preserved and enhanced.

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

Sufficient soft surface will be provided for allowing for the infiltration of water to the water table, and minimise run-off and assist with general stormwater management.

In light of the above, the proposal is considered reasonable with regard to landscaped area.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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 \$30,370 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,037,000.

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 DA2020/1420 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 1 DP 585621, 24 - 26 Rayner Road, WHALE BEACH, Lot 2 DP 585621, 24 - 26 Rayner Road, WHALE BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Demolition Plan, Dwg No. A-030-DA, Rev A	30/10/2020	J Group Projects

Site Plan & Roof Plan, Dwg No. A-050-DA, Rev A	30/10/2020	J Group Projects
Proposed Level 3 Plan, Dwg No. A-100-DA, Rev A	30/10/2020	J Group Projects
Proposed Level 2 Plan, Dwg No. A-101-DA, Rev A	30/10/2020	J Group Projects
Proposed Level 1 Plan, Dwg No. A-102-DA, Rev A	30/10/2020	J Group Projects
Proposed Gym Level Plan, Dwg No. A-103-DA, Rev A	30/10/2020	J Group Projects
Elevation: North, Dwg No. A-200-DA, Rev A	30/10/2020	J Group Projects
Elevation: East, Dwg No. A-201-DA, Rev A	30/10/2020	J Group Projects
Elevation: West, Dwg No. A-202-DA, Rev A	30/10/2020	J Group Projects
Elevation: South, Dwg No. A-203-DA, Rev A	30/10/2020	J Group Projects
Long Section, Dwg No. A-300-DA, Rev A	30/10/2020	J Group Projects
Driveway Plan, Dwg No. A-310-DA, Rev A	30/10/2020	J Group Projects
Cut & Fill Diagram, Dwg No. A-410-DA, Rev A	30/10/2020	J Group Projects
External Material Sampleboard, Dwg No. A-600-DA, Rev A	30/10/2020	J Group Projects

Engineering Plans		
Drawing No.	Dated	Prepared By
Concept Soil and Water Management and Tree Removal Plan, Dwg No. DA02, Issue 3	16/10/2020	Novati Consulting Engineers Pty Ltd
Concept Stormwater Drainage Plan, Dwg No. DA03, Issue 3	16/10/2020	Novati Consulting Engineers Pty Ltd
Stormwater Quality and 'Music' Model Plan, Dwg No. DA04, Issue 3	16/10/2020	Novati Consulting Engineers Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate, 1144430S	27/10/2020	Damian O'Toole Planning Pty Ltd
Arboricultural Impact Assessment, Rev 0.2	29/10/2020	Footprint Green Pty Ltd
Coastal Engineering Advice	2/11/2020	Horton Coastal Engineering
Flora & Fauna Assessment, Project	27/10/2020	Ecoplanning

Number 2020-151		
Geotechnical Site Investigation, Issue No 1, Project: 2020-175	12/10/2020	Crozier Geotechnical Consultants
Vegetation Management Plan, Rev 0.1	28/10/2020	Footprint Green Pty Ltd

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
Existing Tree Plan	29/10/2020	Michael Cooke Garden Design
Planting Plan	17/02/2021	Michael Cooke Garden Design
Landscape Elevations	20/10/2020	Michael Cooke Garden Design

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	29/10/2020	Jake Wall

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 (Demolition):

(a) 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 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
- (ii) 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.

(b) 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.

(c) 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.

Reason: Legislative Requirement.

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.

4. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. 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) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's

footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(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.

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

5. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than

\$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (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

6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$30,370.00 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 \$3,037,000.00.

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.

7. Security Bond

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

8. Construction, Excavation and Associated Works Bond (Drainage works)

The applicant is to lodge a bond of \$15,000 as security against any damage or failure to complete the construction of stormwater drainage works approved in the S138A Roads Act approval as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

9. On slab landscape works

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: to ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

10. 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 Crozier Geotechnical Consultants dated October, 2020

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.

11. **Amendment of Vegetation Management Plan**

The submitted Vegetation Management Plan (VMP ; Footprint Green 2020) is to be amended in accordance with the following:

- The supplied VMP shall be amended cover the entirety of the site, and include detail on Priority and environmental weed management not currently included within the Landscape Plan (Michael Cooke 2020).
- The current focus of the VMP (northern portion of the site) is noted within the supplied Geotechnical Report (Crozier 2020) to be very steep (-35°). It is also noted that the majority of the existing vegetation within this area is to be removed and replaced. Given the steep gradient of this portion of the site, the current proposed stabilisation measures are likely to be inadequate. Additional stabilisation measures such as coir logs and coir mesh must be detailed within the VMP, and are to be established while vegetation establishes. The location of coir logs are to be mapped within the VMP to ensure adequate coverage.

Additionally, the following details are to be provided within the amended VMP:

- A photographic record at regular intervals (e.g. 6 monthly intervals) before, during and after works is to be provided with the final compliance certification
- Identification of deficiencies and corrective actions to be taken if inadequacies are identified with top soil stabilisation.

The amended Vegetation Management Plan is to be provided to the Certifying Authority prior to issue of the Construction Certificate.

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

12. **Amendment of Landscape Plans**

The submitted Landscape Plan (Michael Cooke 2020) is generally supported by Council's Bushland and Biodiversity referral team, however must be amended in accordance with the following:

- Removal of *Callistemon citrinus* from the area proposed to be restored to Coastal Heath in the supplied Vegetation Management Plan (Footprint Green 2020), and replacement with suitable, and characteristic species of Coastal Heath (e.g. *Banksia integrifolia*)
- Removal of *Raphiolepis spp.* (Indian Hawthorn) given this species former listing as Noxious within the former Pittwater LGA.
- Provision of additional locally-indigenous ground covers within the northern portion of the site to be managed under a Vegetation Management Plan (Footprint Green 2020) to assist with bank stabilisation and to maintain habitat for Long-nosed Bandicoot which were identified on site within the Flora and Fauna Assessment (EcoPlanning 2020).

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

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

13. Traffic Management and Control

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

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

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

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

Hydraulic design plans and an accompanying report detailing the Council drainage system upgrade are to be prepared by a Civil Engineer registered on the NER. The Hydraulic design plans are to be submitted with the Section 138A Application. Hydrological and Hydraulic technical guidelines as specified in Council's Engineering Design Specification – AUS-PEC ONE are to be used in the preparation of the Hydraulic design plans and report.

The application is to include four (4) copies of Civil Engineering plans for the design of the elevated driveway and new Council stormwater infrastructure which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC ONE. The design must include the following information:

As outlined in the Concept Stormwater Drainage Plan by Novati Consulting Engineers (NCE), Dated 12/04/2021, Issue 04 Drawing No. DA03 and the Driveway Section by J Group Drawing No. A-310-DA, Rev A, Dated 29/10/2020.

1. Structural Engineering details relating to the elevated driveway are to be submitted to Council prior to the release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practicing Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E) and has appropriate experience and competence in the related field.
2. At a minimum, the drawings must show the works in plan view, longitudinal sections and details at a relevant scale including all existing levels, any existing services/ infrastructure to be retained in the area of works.
3. All driveways gradients and safe sight distances etc. shall be designed comply with AS 2890.1:2004 (Off-street Parking Standards).
4. The decommissioning and removal of Council's existing DN375mm stormwater pipeline traversing across Rayner Road roadway and through the subject site;
5. Construction of grated inlet pit with class D butterfly / v-grate located within subject site driveway layback / dish drain;
6. Construction of new Rubber Ring Joint (RRJ) Reinforced Concrete Pipe (RCP) from

existing Council stormwater kerb inlet pit outside 21 Rayner Road to newly constructed grated inlet pit within driveway layback of subject site. Hydraulic plans and pipe class assessment report are to be submitted with S138A application confirming size and adequate class of pipeline required. Minimum pipe size is DN375mm and minimum Class 4 pipe is required below roadway.

7. Construction of new RRJ RCP from new grated inlet pit through Easement to Drain Water 2m wide along Western boundary of site. Details of pits and headwall within easement are to be provided with the Section 138A application.
8. The proposed development involves the construction of subsurface structures and excavation that has potential to adversely impact neighboring property if undertaken in an inappropriate manner. To ensure there are no adverse impacts arising from such works, the applicant must engage a suitably qualified and practicing Civil or Structural Engineer specialising in geotechnical and the hydrogeological field to design.
9. The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Crozier Geotechnical Consultants dated October, 2020 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.
10. For the matter of public safety, the elevated vehicle driveway access slab in public domain requires safety barriers on both side of the slab in accordance with AS2890.1-2004.
11. Details of new safety barriers along the frontage of the site in Rayner Road are to be provided.
12. Proposed piers to support elevated driveway in the public domain must not affect existing services in the area. Any adjustment of services are to be approved by the relevant service authority with all costs associated borne by the applicant.
13. Vehicle crossing to be 5.0 metres wide at the kerb and the driveway profile to be in accordance with Northern Beaches Council's standard Drawing No A4-3330/3.
14. Provision of any vehicle gate or pedestrian gate on the public road reserve is not permitted.
15. Details of pedestrian access (stairs) to site are to be provided.

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

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

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

15. **Vehicle Driveway Gradients**

A Civil Engineer shall certify that the proposed driveway design and gradients (from the road) to the proposed garages within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

16. 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.

17. Transplanting Methodology Plan

A Transplanting Methodology Plan, prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture, shall be documented to demonstrate the requirement for transplanting Tree No. 47, including:

- i) transportation to site, site delivery and access provisions,
- ii) preparation of the transplantation site,
- iii) preparation of the trees/palms to be transplanted,
- iv) transplanting methodology and installation works,
- v) post-transplanting care and duration,
- vi) ongoing maintenance program,
- vii) replacement strategy if transplanting fails in the long term.

The Transplanting Methodology is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate

Reason: tree protection.

18. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

19. **Coastal Bluff Engineering Assessment Implementation**

The advice and recommendations contained in the approved Coastal Engineering Assessment report prepared by Horton Coastal Engineering Pty. Ltd. dated 2 November 2020, must be addressed as necessary through the Geotechnical Risk Management Report prepared in support of the development application and must be incorporated as required into construction plans and structural specifications for the development.

Reason: To ensure potential hazards associated with development on a Coastal Bluff are minimised

20. **Coastal Bluff Engineering Assessment Implementation**

All development or activities must be designed and constructed such that they will not increase the level of risk from coastal processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect coastal processes; they will not be adversely affected by coastal processes.

Reason: To ensure potential hazards associated with development on a Coastal Bluff are minimised

21. **Design Impact on Coastal Processes and Public/Private Amenity**

All development and/or activities must be designed and constructed so that they will not adversely impact on surrounding properties, coastal processes or the amenity of public foreshore lands.

Reason: To ensure the development does not impact the coastal process and public/private

22. **Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

Reason: To ensure the development is constructed in accordance with appropriate standards.

23. **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.

24. **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

25. Tree removal within the property

This consent approves the removal of the following trees within the property (as recommended in the Arboricultural Impact Assessment):

- i) Tree No.31, *Duranta repens*, located at the front of the property within the proposed driveway footprint,
- ii) Tree No.32, *Callistemon salignus*, located at the front of the property within the proposed driveway footprint,
- iii) Tree No.33, *Pittosporum undulatum*, located at the front of the property within the proposed driveway footprint,
- iv) Tree No.34, *Cordyline australis*, located at the front of the property adjacent to the eastern boundary within the proposed garage footprint,
- v) Tree No.39, *Casuarina glauca*, located centrally within the site adjacent to the eastern boundary,
- vi) Tree No.40, *Pittosporum undulatum*, located centrally within the site adjacent to the eastern boundary,
- vii) Tree No.44, *Pittosporum undulatum*, located at the front of the property adjacent to the western boundary within the proposed side access path,
- viii) Tree No.45, *Pittosporum undulatum*, located at the front of the property adjacent to the western boundary within the proposed side access path,
- ix) Tree No.48, *Trachycarpus fortunei*, located towards the rear of the property within the proposed pool footprint,
- x) Tree No.51, *Araucaria columnaris*, located towards the rear of the property adjacent to the western boundary within close proximity to the proposed half basketball court,
- xi) Tree No.54, *Casuarina glauca*, located centrally between the east and west boundaries towards the rear of the property,
- xii) Tree No.59, *Araucaria columnaris*, located towards the rear of the property adjacent to the eastern boundary within proposed works area,
- xiii) Tree No.60, *Araucaria columnaris*, located towards the rear of the property adjacent to the eastern boundary within proposed works area,
- xiv) Tree No.64, *Casuarina glauca*, located towards the rear of the property adjacent to the eastern boundary,
- xv) Tree No.65, *Casuarina glauca*, located towards the rear of the property adjacent to the eastern boundary,
- xvi) Tree No.66, *Casuarina glauca*, located towards the north-east corner of the property,
- xvii) Tree No.67, *Casuarina glauca*, located towards the north-east corner of the property,
- xviii) Tree No.68, *Casuarina glauca*, located towards the north-east corner of the property,
- xix) Tree No.69, *Casuarina glauca*, located towards the north-east corner of the property,
- xx) Tree No.70, *Casuarina glauca*, located towards the north-east corner of the property,
- xxi) Tree No.71, *Casuarina glauca*, located towards the north-east corner of the property,
- xxii) Tree No.72, *Casuarina glauca*, located towards the north-east corner of the property,

xxiii) Tree No.73, *Casuarina glauca*, located towards the north-east corner of the property.

Note:

- i) Exempt Species as listed in the Arboricultural Impact Assessment or the Development Control Plan do not require Council consent for removal,
- ii) Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

Reason: to enable authorised building works.

26. Impacts to Protected Native Wildlife

Habitat for native wildlife including hollow-bearing trees, bird nests, and burrows are to be inspected for native wildlife prior to removal. If native wildlife is found within habitat 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.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be provided to the Principal Certifying Authority.

Reason: To protect native wildlife.

27. Temporary Protection Fencing – Exclusion Zones

Prior to the commencement of any works onsite, temporary mesh construction fencing is to be erected surrounding areas of retained native vegetation on the site as mapped in the Vegetation Management Plan and Arborist Report.

Details demonstrating compliance must be prepared by the Project Ecologist and submitted to the Principal Certifying Authority prior to any commencement.

Reason: To protect native vegetation.

28. 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.

29. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

i) all demolition, excavation and constructions works that occur within the TPZ's and SPZ's of existing trees to be retained.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: tree protection.

30. **Tree removal within the road reserve**

This consent approves the removal of the following trees within the road reserve (as recommended in the Arboricultural Impact Assessment):

- i) Tree No.4, *Pinus radiata*, located adjacent for the southern boundary in the road reserve,
- ii) Tree No.5, *Nerium oleander*, located adjacent for the southern boundary in the road reserve,
- iii) Tree No.6, *Erthrina sykesii indica*, located adjacent for the southern boundary in the road reserve,
- iv) Tree No.21, *Ligustrum lucidum*, located adjacent for the southern boundary in the road reserve within the proposed driveway footprint,
- v) Tree No.22, *Ligustrum lucidum*, located adjacent for the southern boundary in the road reserve within the proposed driveway footprint,
- vi) Tree No.23, *Ligustrum lucidum*, located adjacent for the southern boundary in the road reserve within the proposed driveway footprint,
- vii) Tree No.24, *Ligustrum lucidum*, located adjacent for the southern boundary in the road reserve within the proposed driveway footprint,
- viii) Tree No.25, *Ligustrum lucidum*, located adjacent for the southern boundary in the road reserve within the proposed driveway footprint,
- ix) Tree No.26, *Ligustrum lucidum*, located adjacent for the southern boundary in the road reserve within the proposed driveway footprint,
- x) Tree No.27, *Ligustrum lucidum*, located adjacent for the southern boundary in the road

reserve within the proposed driveway footprint,

xi) Tree No.28, *Olea europaea subsp. cuspidata*, located adjacent for the southern boundary in the road reserve within the proposed driveway footprint.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: public liability.

31. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

32. Road Reserve

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

Reason: Public safety.

33. Removing, Handling and Disposing of Asbestos

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

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

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

34. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

35. **Civil Works Supervision**

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

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

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

36. **Traffic Control During Road Works**

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

Reason: Public Safety.

37. **Protection of existing street trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum the tree protection fencing for the street tree fronting the development site shall consist of standard 2.4m panel length to four sides, located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: tree protection.

38. **Tree and vegetation protection**

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

i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,

- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation not approved for removal.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:

- i) Drawing titled: Tree Protection Measures

The Certifying Authority must ensure that:

- d) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: tree and vegetation protection.

39. **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.

40. **Aboriginal Heritage**

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

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

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

41. **Landscape completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

- i) Substitute the proposed *Cupaniopsis anacardioides* with an alternative native tree. Suggested alternatives include: *Banksia integrifolia* (as proposed elsewhere on site), *Banksia serrata* (as proposed elsewhere on site) or *Tristaniopsis laurina*,
- ii) Substitute the proposed *Rhapiolepis indica* 'Oriental Pearl' with a native alternative. Suggested alternatives include: *Banksia spinulosa* 'Birthday Candles', (as proposed elsewhere on site), *Hakea sericea* or *Westringia fruticosa* (as proposed elsewhere on site),
- iii) Substitute the proposed transplanting of *Ficus rubiginosa* with a smaller alternative capable of reaching a maximum mature height of 10m. Suggested alternatives include: *Banksia integrifolia*, *Banksia serrata* or *Elaeocarpus reticulatus* (all of which have been proposed elsewhere on site).

Tree planting shall be located within 9m² deep soil area within the site and be located a minimum 3 metres from existing and proposed buildings.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Native tree and shrub planting species shall be selected from Council's list, specifically the *Native plant Species Guide - Pittwater*

Ward: <https://www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide>

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the

landscape works have been completed in accordance with any conditions of consent.

Reason: environmental amenity.

42. **Condition of retained vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: tree protection.

43. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Northern Beaches Council's "Water Management for Development Policy" by a suitably qualified Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

44. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Michael Cooke 2020) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

45. **Priority Weed Removal and Management**

All Priority weeds within the site are to be removed and eradicated.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

46. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6). Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

47. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate.

Reason: Compliance with this consent.

48. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Final Occupation Certificate.

Reason: Public and Private Safety

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

50. **Certification of Civil Works and Works as Executed Data on Council Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

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

51. **Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets)**

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

52. Post Construction Coastal certificate

Prior to the issue of the Occupation Certificate, a Post Construction Coastal Certificate shall be submitted to the Principal Certifying Authority (Form No. 3 of the Coastline Risk Management Policy for Development in Pittwater - Appendix 6 of P21 DCP) that has been prepared and signed by a specialist coastal engineer who is a registered professional engineer with chartered professional status (CP Eng) and coastal engineering as a core competency and who has an appropriate level of professional indemnity insurance.

Reason: To ensure the development has been constructed to the engineers requirements

53. House / Building Number

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

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

Reason: Proper identification of buildings.

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

54. Landscape maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

For all new on slab landscape works, establish an on-going landscape maintenance plan that shall be submitted to the Certifying Authority that aims to monitor and replenish soil levels annually as a result of soil shrinkage over time.

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

Reason: to maintain local environmental amenity.

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

Signed



Thomas Prosser, Planner

The application is determined on 21/04/2021, under the delegated authority of:



Lashta Haidari, Acting Development Assessment Manager