

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0317
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 2 DP 833902, 141 Riverview Road AVALON BEACH NSW 2107
Proposed Development:	Construction of a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Uday Bhaskar Bonu Kavitha Bonu
Applicant:	Key Urban Planning

Application Lodged:	06/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	26/07/2021 to 09/08/2021
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,800,000.00
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EXECUTIVE SUMMARY

The subject development application is for the construction of a three (3) level dwelling house on a vacant residential parcel of land. The subject site has approved (however, not yet constructed) car parking in the form of an elevated carport with access to Riverview Road which was approved under a separate development consent DA2019/1449. The application is referred to the Northern Beaches Development Determination Panel for determination (DDP) due to the estimated cost of construction being over \$1 million and with more than three (3) unresolved objections being received.

Following notification and preliminary assessment of the proposal, concerns with the proposal were raised with the applicant, including; tree removal & biodiversity protection; landscaping; front & side setbacks; building colours & materials; and insufficient/inconsistent documentation. Amended plans and

additional information were submitted in response. The assessment of this application is based on the amended plans.

A total of six (6) submissions were made in response to the original notification and three (3) were made to the notification of the amended plans, with one submission being withdrawn. These submissions raised numerous concerns with the proposal. The principle issues that were raised in the submissions were concerned that the proposal was an overdevelopment of the site and does not meet the character of the area; the impacts of the development on flora/fauna, biodiversity and Spotted Gum Community; amenity issues regarding solar access, privacy and views; non-compliance with required landscaped area controls and potential impacts to site access via the right of carriageway.

Overall, it is considered that the design and appearance of the proposed dwelling would be consistent with the sloping topography and the surrounding residential dwelling houses located on Riverview Road and wider locale. The application is accompanied by an Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan which address the proposed tree removal and associated impact on biodiversity. These reports have been reviewed by the relevant experts in Council who are satisfied each of the issues can be managed in an appropriate way, subject to their recommended conditions and compliance with the relevant expert reports which include replacement planting and vegetation regeneration. Potential amenity issues to surrounding neighbours have been reviewed under Council's Policies and have been determined to be reasonable within a residential environment.

The site is an irregular shaped lot, has a very steep gradient, a high number of locally native canopy trees scattered throughout the site and is constrained by large right of carriageway and associated driveway (135sqm or 18.2% of the site area) which benefits adjoining properties to the north-eastern corner of the site. The proposed development would have the appearance of being single storey and below average eye level as viewed from Riverview Road and would step with the fall of the land and would be predominantly below the required 8.5m height requirement (with the exception of a minor portion of the roof form). The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport) and includes building modulation to minimise bulk. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. The proposed variations to the Built Form controls under the Pittwater 21 DCP are supported for the reasons discussed in detail in the report.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that, on balance the proposal is a suitable and appropriate development for the subject site, for the reasons outlined in this report.

Accordingly, it is recommended that the application be approved subject to the attached conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for the construction of a new three level dwelling. Specifically, the proposed development consists of:

Lower Ground Floor

- Guest Bedroom with associated WIR and ensuite
- Associated outdoor patio area with BBQ

Ground Floor "Living Level"

- Open plan kitchen, dining and living room
- Associated Balcony
- Laundry
- WC
- Bedroom 3 and ensuite
- Cinema
- Lift

Upper Floor "Entry Level"

- Master Bedroom with WIR and ensuite
- Study
- Bedroom 2 with ensuite
- Lift
- Entry porch
- Balcony

External

- Landscaping and tree removal
- Associated excavation, fill and retaining walls
- Stairs and entry walkway

NOTE: Car parking relies upon an elevated carport with access to Riverview Road approved under development consent DA2019/1449. Car parking is provided for two vehicles.

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 - 1.9A Suspension of covenants, agreements and instruments
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality
Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community
Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation
Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve
Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management
Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
Pittwater 21 Development Control Plan - C1.1 Landscaping
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.13 Pollution Control
Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures
Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure
Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place
Pittwater 21 Development Control Plan - D1.5 Building colours and materials
Pittwater 21 Development Control Plan - D1.8 Front building line
Pittwater 21 Development Control Plan - D1.11 Building envelope
Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land
Pittwater 21 Development Control Plan - D1.17 Construction, Retaining walls, terracing and undercroft areas
Pittwater 21 Development Control Plan - D1.20 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	Lot 2 DP 833902 , 141 Riverview Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Riverview Road.</p> <p>The site is irregular in shape with a frontage of 25.33m along Riverview Road and a maximum depth of 33.52m.</p> <p>The site has a surveyed area of 740.4m² with a right of carriageway located along the north-western corner of the lot.</p> <p>The site is located within the E4 Environmental Living zone and the lot is currently vacant.</p> <p>The site slopes down from the eastern (street frontage) boundary to the western (rear) boundary by approximately 13.5m.</p>

Numerous native and non-native trees are located on the site including Pittwater and Wagstaffe Spotted Gum Forest, which is listed as an Endangered Ecological Community (EEC).

Detailed Description of Adjoining/Surrounding Development

Surrounding development is characterised by two (2) and three (3) storey residential dwelling houses of varying architectural styles within a landscaped setting. Filtered views of Pittwater Waterway are available to the west 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:

- **SD051/91** - Subdivision Application for the subdivision of 1 lot into 2 - Approved 1992
- **DA2019/1449** - Development Application for the construction of a covered two car parking platform - Approved 22 May 2020

APPLICATION HISTORY

10 June 2021

Council wrote to the applicant, raising concerns in relation to:

- Tree removal and biodiversity protection
- Landscaping

- Front and side setbacks
- Building colours and material
- Landscaped area
- Insufficient documentation

16 July 2021

Amended plans and additional information were submitted to address Council's concerns.

21 July 2021

Amended plans were re-notified to the original list of residents and those who made a submission.

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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans and a Biodiversity Report.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	<p><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.</p> <p><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.</p> <p><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.</p> <p><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.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 26/07/2021 to 09/08/2021 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 5 submission/s from:

Name:	Address:
Mr David Henry Lyall Mrs Phyllis Margaret Lyall	54 Trappers Way AVALON BEACH NSW 2107
Mr Samuel David Littlemore	128 Riverview Road AVALON BEACH NSW 2107
Ms Carolyn Eileen Harris	139 Riverview Road AVALON BEACH NSW 2107
Mrs Helen Betty Shaw	143 Riverview Road AVALON BEACH NSW 2107
Mr Gregory John O'Neill Mrs Bernadette Mary O'Neill	137 Riverview Road AVALON BEACH NSW 2107

The application was initially notified for a period of 14 days and six (6) submissions were received during the notification period.

Following these submissions, amended plans and additional information was received and the application was formally re-notified. Three (3) submissions were received and one (1) submission was withdrawn following this re-notification.

The matters raised within the submissions are addressed as follows:

- **Building Bulk, Overdevelopment and does not meet the character of Avalon Beach Locality or intent of E4 Zoning.**

Comment:

Concern has been raised that the proposal is an overdevelopment of the site and the resulting building bulk and scale would not meet the character of Avalon Beach Locality or intent of E4 Environmental Living Zoning. These issues have been addressed throughout the report. In summary, it is considered that the design and appearance of the proposed dwelling would be consistent with the sloping topography and the surrounding residential dwelling houses located on Riverview Road and wider locale. The proposed dwelling would step with the fall of the land and would be predominantly below the required 8.5m height requirement (with the exception of a minor portion of the roof form) and would be well within the required 10.0m height variation for sloping sites. The proposed development would comply with required side and rear setbacks and would have minor non-compliances with the required front building line and building envelope (the variation to which are considered acceptable in this instance). The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport) and includes building modulation to minimise bulk. Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions contained within this report), will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. Overall, it is considered that the bulk and scale of the proposal would not be out of character with the existing streetscape and wider locale and the development would comply with the objectives of the E4 Zone.

- **Impacts on Flora/Fauna, Biodiversity and Spotted Gum Community**

Comment:

Concerns have been raised by multiple residents with regards to the proposed tree removal associated with the development and the potential impact to flora and fauna and the biodiversity of the site.

The application is accompanied by an Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan which address the proposed tree removal and associated impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Furthermore, the submitted a Biodiversity Development Assessment Report concludes that:

"The proposed development has been purposefully designed to minimise impacts on biodiversity values as much as possible. Due to the vegetated nature of the property, there are limited alternate locations for the proposed development."

It is noted that the site has a number of Pittwater Spotted Gums, along with other native and exempt species throughout the site. The site is a vacant parcel of land and any development for a new dwelling would require some level of tree removal, even with careful and skillful design. Furthermore, the existing right of carriageway which burdens the subject site restricts development to the area where existing trees exist.

Whilst the removal of the identified Spotted Gums is regrettable, the proposed development has been designed to retain and protect other significant trees on the site (and adjoining the site). Furthermore, in order to avoid and minimise potential impacts of the proposal on local biodiversity values, a series of mitigation and management measures have been identified, which are to be implemented as part of any Construction Environmental Management Plan (CEMP) produced for the site. Additionally, a Vegetation Management Plan (VMP) has been produced to guide the rehabilitation and revegetation of Pittwater Spotted Gums within the subject property.

Council's Landscape Officer and Biodiversity Officer support the proposal subject to conditions including replanting and adherence to the submitted Arboricultural and Biodiversity assessment which requires tree protection and rehabilitation measures.

- **Non-compliance with DCP Controls - Landscaped Area**

Comment:

A merit assessment has been carried out against the objectives of Clause *D1.14 Landscaped Area - Environmentally Sensitive Land* of P21DCP in this report. The assessment has found the proposed non-compliance to be reasonable in this instance (subject to conditions).

- **Concern undercroft area has been used to calculate landscaped area**

Comment:

For the purposes of assessment, Council has not included undercroft areas within the landscaped area calculations.

- **Privacy Impacts**

Comment:

The proposed development is acceptable in relation to privacy for the reasons detailed in the section of this report relating to Section C1.5 Visual Privacy of the P21 DCP. In summary, given the orientation and topography, level of spatial separation and screen planting proposed it is considered a reasonable level of privacy would be maintained.

- **Visual impact from adjoining properties and Pittwater Waterway**

Comment:

Concern has been raised regarding the visual impact of the proposed development as seen from adjoining properties and Pittwater Waterway. In order to minimise the visual impact of the development, a condition is to be imposed to ensure the proposed external colours and materials are of dark and earthy tone of low reflectivity. Furthermore, the proposal is supported by a landscape plan which details the retention and provision of canopy trees and screen planting to surround the proposed dwelling. Furthermore, conditions are to be imposed requiring replacement canopy tree planting and bushland revegetation and rehabilitation as specified by Council's Landscape and Biodiversity Officers. This will provide a situation where the visual impact of the proposal is adequately minimised.

- **The dwelling does not respond to the site topography**

Comment:

As discussed throughout this report, it is considered that the design and appearance of the proposed dwelling would be consistent with the sloping topography and the surrounding residential dwellings located on Riverview Road. The proposed dwelling would step with the fall of the land and would be predominantly below the required 8.5m height requirement (with the exception of a minor portion of the roof form) and would be well within the required 10.0m height variation for sloping sites. The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport). Furthermore, the proposed development would have the appearance of being single storey and below average eye level as viewed from Riverview Road.

- **Inaccurate/misleading documentation - Height of Building**

Comment:

Concern was raised that the Reduced Levels of the submitted plans did not appropriately correspond to the survey plan for the site and that this would have an implication to the height of the proposal. Following this submission, amended plans were received which updated the levels on the plans to be in accordance with the submitted survey plan. The height of the proposal has been measured in accordance with these updated levels. A detailed assessment of building height can be found in section 4.3 *Height of buildings* of this report. The proposal is considered to comply with the objectives of the Height of Buildings Development Standard.

- **Inaccurate/misleading documentation - Arborist Report**

Comment:

Concern was raised regarding inaccuracies and inconsistencies within the submitted arborist report. Following this submission, an updated arborist report was submitted with the application. The updated arborist report has been reviewed and supported by Council's Landscape Officer.

- **Retention of trees along the southern boundary**

Comment:

Concern was raised in regards to the location of proposed stairs along the southern boundary and how these stairs would impact the retention of trees along this boundary. Following this submission, amended plans, a landscape plan and an updated arborist report was submitted which deleted these proposed stairs and confirmed the retention and protection of the majority of these trees along the southern boundary.

Following the re-notification of amended plans, further concern was raised over the excavation proposed adjoining these trees along the southern boundary. An excerpt of the submission is provided below:

The trees to be retained along the south-eastern corner of the site, as shown on the proposed cut and fill plan, are immediately adjacent to where the deepest excavations are required. This plan indicates that the excavations are to be battered resulting in excavation being significantly within the SRZ and TRZ of trees numbered 25,26,28,32 and 33. The excavation intrusions are of such a magnitude the chances of these trees surviving must be absolutely minimal, particularly for trees 28,32 and 33.

When assessing these trees in their report, Abacus Tree Services have for each of them nominated a distance within which no excavation works are to occur. The cut and fill plan clearly indicates that none of the nominated distances will be complied with. The Abacus report, when stating the distance each of these trees is "to the proposed development" appear to be stating the distance to the new dwelling, not the distance to where the excavation for the new dwelling is to occur. Consequently in our view, all the TPZ loss calculations they have provided are questionable. It is also contrary to their statement that "The SRZ/TPZ is an area where no to minimal activities listed above should occur". One of the activities listed is "Excavating within the drip line and damaging the structural root system."

For trees 32 and 33, Abacus mention the use of bearers and joists having the potential to retain these trees, state that no excavation works are to occur with the SRZ and no strip footing be allowed on this side of the development. The submitted planning documents provide no indication that this is being achieved.

This submission, along with the amended plans and updated arborist report was sent to Council's Landscape Officer for review. Council's Landscape Officer determined that the proposal was acceptable, subject to strict conditions which would ensure the protection of these trees. Such conditions include:

- Supervision by a Project Arborist during excavation works
- Ensuring Tree protection shall specifically be undertaken in accordance with the recommendations in the submitted Arboricultural Impact Assessment.

Council's Landscape Officer also recommended the imposition the following condition to ensure the protection of these trees through the amendment of the structural design of the proposal within tree protection areas:

Structural Plans and Pier Footing Design near trees to be retained:

Pier footing structural layout plans for the construction works near existing trees 4, 6, 11 to 14, 18 to 26, 28, 32 to 34 and 36 shall be developed in coordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture and a qualified Structural Engineer, to satisfy the design and construction requirements of the Arboricultural Impact Assessment as listed in section 7. Recommendations.

The Structural Plans and Pier Footing Design shall comply to the following requirements:

- *no change in the soil profile shall occur between the development and the trunk of existing trees 4, 6, 20 to 24, 26, 28, 32 to 34, and 36. This includes no excavation works or underground services in this zone,*
- *no strip footings are allowed in the tree protection zone of retained trees to the extent as advised by a Project Arborist,*
- *all retaining walls if required will need to be constructed using a lintel system to avoid strip footings, It is recommended that no structural roots greater than 90mm in diameter be pruned.,*
- *any roots found greater than 90mm will require the pier to be dug to an alternative location.*
- *all pilot holes / piers are to be dug by non-mechanised methods to the required depth within the tree protection zone of existing trees 4, 6, 11 to 14, 18 to 26, 28, 32 to 34, and 36.*
- *final pier placement be a minimum of 100mm to all structural roots to allow for spatial separation and expansion of the root plate.*

The Arborist shall review, comment, recommend design revision as required and approve the pier footing layout to ensure the locations of piers will be manageable in terms of tree protection measures.

The Arborist shall submit certification to the Certifying Authority that the locations of the pier footings are accepted via the agreed pier footing structural layout plans prior to the issue of a Construction Certificate.

Reason: Tree protection.

- **Boundary fencing**

Comment:

A submission was raised by an adjoining neighbour concerned that the proposed development would contain boundary fencing which would not be characteristic of the area. The proposed plans do not indicate the provision of boundary fencing as part of this application. This is also to be conditioned within any consent. A condition of consent is also to be imposed to ensure the removal of all sediment and temporary fence on the completion of construction.

- **Solar Access**

Comment:

Concern was raised that the submitted solar access diagrams did not accurately depict the proposed overshadowing impacts to adjoining properties. Following this submission, updated solar access diagrams were submitted to support the proposal. These diagrams depict that the proposal would comply Pittwater 21 Development Control Plan requirements for solar access and would not result in unreasonable impact to solar access for adjoining neighbours.

- **View loss from replacement canopy tree planting**

Comment:

Concern was raised by an adjoining neighbour to the north-east (No.128 Riverview Road) with regards to the proposed location of proposed replacement tree planting and impacts on views. This neighbour raised concerns with the proposed location of three (3) replacement Spotted Gum canopy trees proposed within the front setback. A detailed assessment of view loss can be found in section C1.3 *View Sharing* of this report. In summary, in consideration of the location of existing canopy trees within the existing view corridor (on the subject site, adjoining road reserve and neighboring sites); the relative elevation of No.128 Riverview Road above the subject site as well as the requirements and objectives of P21DCP, the replacement tree planting within the front setback is supported and any associated view loss is considered reasonable in this instance.

- **Impact on Right of Carriageway**

Comment:

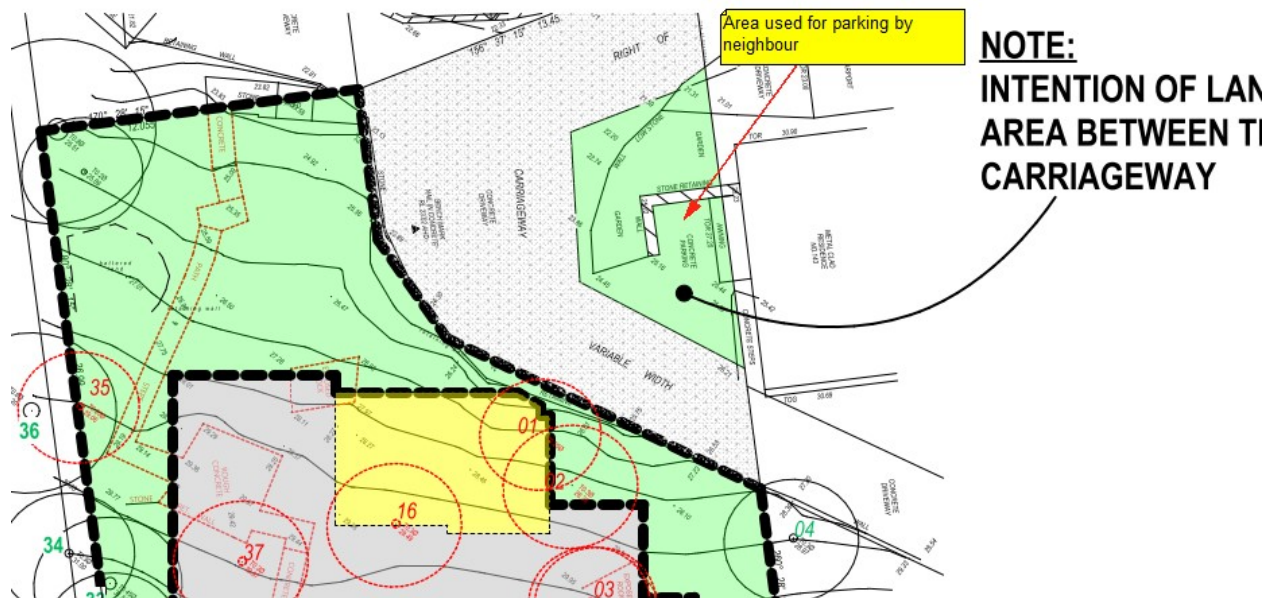
Concern was raised by an adjoining neighbour to the north (No.143 Riverview Road) with regards to the proposed location of landscaping works and associated impacts to parking access from the right of carriageway which burdens the subject site. An excerpt of the submission is provided below:

We have a shared driveway with our neighbours and the legal right of carriageway to access our property 143 Riverview Rd. To access our car park under the house we currently cross a small area of land which is actually part of the property of 141 Riverview Rd. This has been like this since 1970 when the house on 143 was built.

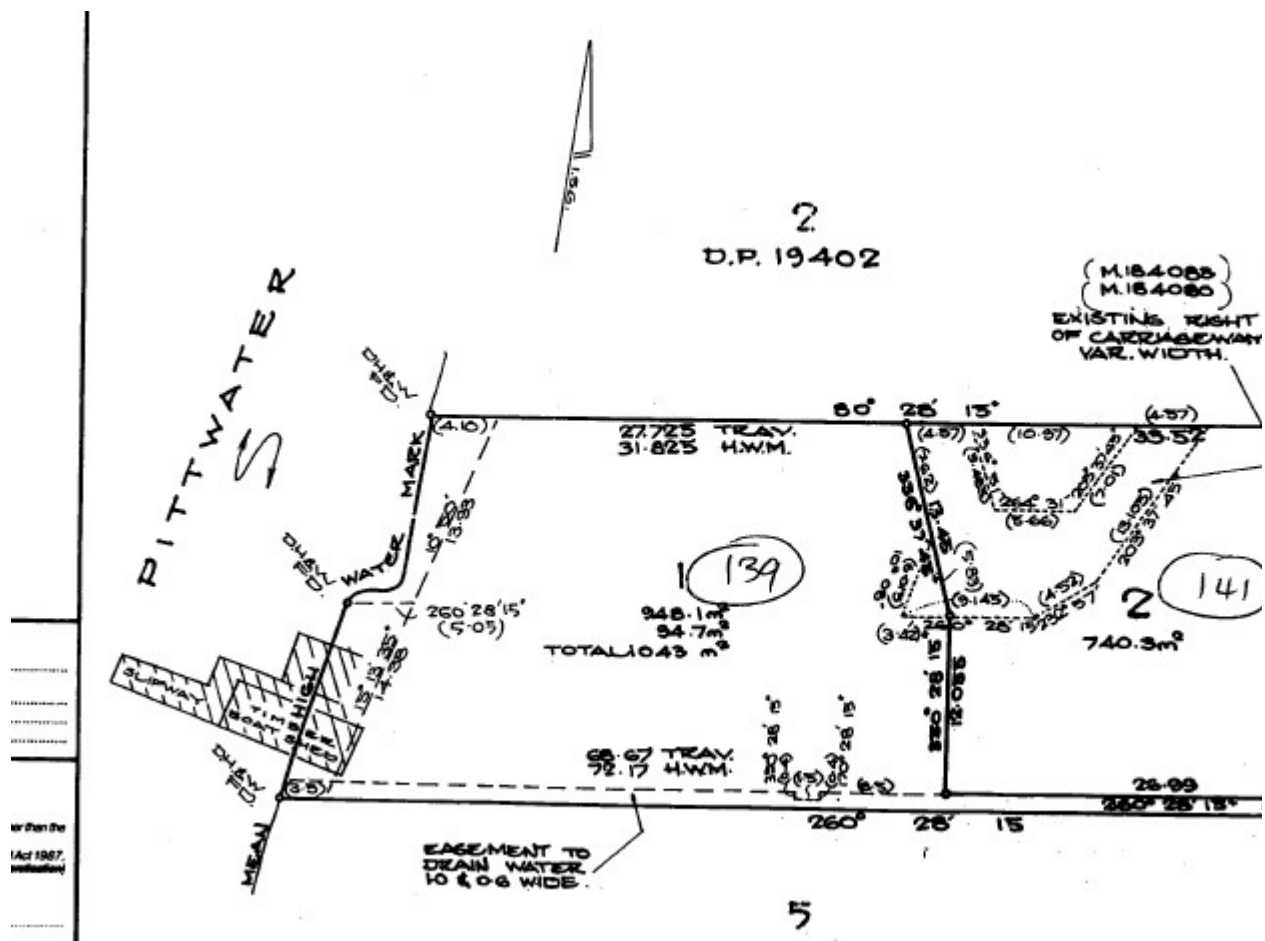
The amended plans show this access turned into a green landscaped area resulting in the loss of access to our parking. There is already some greenery on this corner but increasing it will block our only access which we have had for over 50 years.

The image below indicate the area of concern which is located between the curved right of

carriageway and the northern boundary of the subject site (adjoining No.143 Riverview Road)



The applicant contends that this area of the subject site occupied by the neighbour's car parking space is an unauthorised construction. A review of the survey plan and Council's records do not appear to permit right of use (parking) or access on this specific portion of land of the subject site (i.e between the right of carriageway and No.143 Riverview Road southern boundary). This is shown historical tile documents below:



Council's Planner wrote to the objector (No.143 Riverview Road) requesting proof of right of use and access on this portion of the subject site; however, this was not provided. Site access will still be afforded to this neighbour via the western most portion of right of carriageway (located on the north-western boundary of the subject site).

As such, the proposed landscaping works within this area of the site are considered acceptable. Conditions are recommended to ensure that no works are to be undertaken on the right of carriageway and that any damage during construction is restored. Conditions will also be imposed to ensure that the right of way is not impeded and that access is maintained at all times for properties which benefit from this right of way.

- **Roof Reflectivity**

Comment:

Concern has been raised in regard to potential issues with roof reflectivity. In order to minimise potential reflectivity impacts, a condition is to be imposed to ensure that the external finish to the proposed roof shall have a medium to dark range and prohibit metallic steel finish.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The development application is for the construction of a new dwelling

Internal Referral Body	Comments
	<p>on a vacant lot, including tree removal.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 Environmental Living zone, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D1 Avalon Beach Locality <p>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees.</p> <p>A Landscape Plan is provided with the development application indicating landscape works and planting, and a Arboricultural Impact Assessment is provided with recommendations for tree removal based on the proposed development footprint. A previous application for a car parking platform under development consent DA2019/1449 included tree removal approval of existing trees identified as T1 and T2 within the site (condition 10) and T5, T6, T7, T8, and T9 within the road verge (condition 11). The current development application for a new dwelling and carport now requests additional tree removal for consideration.</p> <p>The area for residential building is limited to the proposed footprint that supports various native vegetation. Existing right of ways for vehicle access are used to access adjoining properties over the subject land that restricts development to the area where existing trees exist. Should this development proposal be approved, multiple existing Pittwater Spotted Gum Forest native trees located within the development footprint are impacted without design alternatives for retention including: six Spotted Gums, eight Black She Oak, three Sweet Pittosporums, 1 Ironbark and 1 Cabbage Tree Palm.</p> <p>Tree replacement planting is required in order to satisfy the intent of the E4 zone and these are shown on the Landscape Plan in consideration of the landscape controls of C1.1.</p> <p>Should this application be approved, conditions of consent are included by Landscape Referral.</p> <p>The development application includes proposed encroachment by walling, stairs and ramps onto road reserve land and this is not approved as part of this application and shall be subject to formal approval or otherwise of a proposed encroachment under a Minor Encroachments/Constructions within Road Reserve 20/21 application.</p>
NECC (Bushland and Biodiversity)	<p>Updated Biodiversity Comments (19th July 2021)</p> <p>The applicant has provided the following additional reports/plans to</p>

Internal Referral Body	Comments
	<p>support the application:</p> <ul style="list-style-type: none"> • Biodiversity Development Assessment Report (BDAR) (Narla Environmental, July 2021) • Vegetation Management Plan (VMP) (Narla Environmental, July 2021) • Landscape Plan (Aspect Design, June 2021) • Arboricultural Impact Assessment (Abacus Tree Services, July 2021) <p>The BDAR confirms the presence of Pittwater and Wagstaffe Spotted Gum Forest, which is listed as an Endangered Ecological Community (EEC) under the NSW Biodiversity Conservation (BC) Act 2016. In accordance with the BDAR, the proposed impacts to biodiversity include the removal of a total of 0.03ha of PWSGF EEC, including the removal of 15 native trees as identified by the Arboricultural Report.</p> <p>It is acknowledged that the applicant has amended the design of the dwelling such that it is now able to retain seven (7) native trees previously proposed for removal, including one (1) <i>Corymbia maculata</i>, the largest on site.</p> <p>Assessment of the BDAR has confirmed that the BDAR satisfies the minimum requirements set out by the Biodiversity Offsets Scheme (BC Act and associated regulation as well as the BAM (DPIE 2020) and BAM Operational Manual – Stage 1 (DPIE 2020)).</p> <p>The assessed residual impacts of the development result in the following offset requirements under the Biodiversity Offset Scheme:</p> <ul style="list-style-type: none"> • Retirement of one (1) ecosystem credit for Pittwater and Wagstaffe Spotted Gum Forest EEC (PCT 1214) • Retirement of one (1) species credit for <i>Genoplesium baueri</i> • Retirement of one (1) species credit for <i>Hygrocybe aurantipes</i> <p>The retirement of offsets will be conditioned as part of the consent.</p> <p>Council's Biodiversity referrals team support the application, subject to conditions.</p> <p>Original Biodiversity Comments (20th April 2021)</p> <p>Council's biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • Coastal Management SEPP 2018 cl. 13 Development on land

Internal Referral Body	Comments
	<p>within the coastal environment area</p> <ul style="list-style-type: none"> • Pittwater LEP cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p>The Development Application seeks consent for the construction of a dwelling on a vacant block. The Arborist Report (Abacus Tree Services 2021) submitted with the Application identified that 24 trees will require removal, most of which are considered to be Prescribed trees.</p> <p>The property is located within the Biodiversity Values Map designated by the NSW State Government (Department of Planning, Industry and Environment), making it subject to the provisions of the NSW Biodiversity Conservation Act 2016. The removal of native vegetation from within an area mapped on the Biodiversity Values Map triggers the Biodiversity Offset Scheme (BOS) and the subsequent requirement for a Biodiversity Development Assessment Report (BDAR) to be prepared by an accredited assessor and submitted with the application.</p> <p>The BDAR should take into account any direct and prescribed impacts to Pittwater Spotted Gum Forest EEC, which is listed as a Serious and Irreversible Impact (SAIL) entity under the BOS. Any impacts which are considered to be serious and irreversible to Pittwater Spotted Gum Forest EEC as a result of the development will not be supported by Council.</p> <p>Furthermore, the site is located within the Coastal Environment Area designated under the Coastal Management SEPP (2018), and is therefore required to meet the objectives of cl.13, which includes avoiding adverse impact to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. This is to be discussed and assessed within the BDAR.</p> <p>The BDAR must identify how impacts have been avoided/minimised and address compliance with LEP/DCP controls, including objectives for no net loss of native canopy trees. The applicant is encouraged to consider measures to improve compliance with DCP B4.7 by reducing the footprint to retain additional Spotted Gums, reducing the impact of the entry way or potentially redesigning so that entry is from the rear of the already approved carport.</p> <p>The BDAR is to be accompanied by a Vegetation Management Plan (VMP) to guide weed removal and replanting of Pittwater Spotted Gum Forest Endangered Ecological Community within the site. The VMP is to be prepared by a suitably qualified person experienced in restoration ecology.</p> <p>At this stage, Council's biodiversity referrals team are unable to provide a referral for this Development Application. Upon receipt of</p>

Internal Referral Body	Comments
	requested documentation, assessment will recommence.
NECC (Coast and Catchments)	<p>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.</p> <p>Coastal Management Act 2016 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.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 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.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
NECC (Development Engineering)	<p><i>Note to Planner: The plans propose access stairs on the southern side of the driveway, located in the road reserve. This requires assessment and concurrence from the Road Assets Team.</i></p> <p>No objections to approval subject to conditions as recommended.</p>

Internal Referral Body	Comments
	Additional Information Provided on 28/06/2021 Amended plans have been reviewed. No objections to approval subject to conditions as recommended.
NECC (Water Management)	The proposal must include a sediment filter pit to reduce the impact of the development on the Pittwater waterway. Sediment and erosion controls during construction apply.
Road Reserve	No objection to proposed stairs subject to Road Act being obtained consent.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

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.1184535S dated 19/03/2021). The BASIX Certificate is supported by an NatHERS Certificate (see Certificate No.0005762463-02).

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

Commitment	Required Target	Proposed
Water	40	46
Thermal Comfort	Pass	Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory

period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

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

13 Development on land within the coastal environment area

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

Comment:

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. The proposed works do not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes. Council's Coastal and Biodiversity Officer have reviewed the proposal and have raised no objection to the proposal.

- (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:

Council is satisfied the proposed works are designed, and can be managed, to avoid adverse impacts based upon the matters identified in this clause.

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 development is not likely to cause an impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind tunnelling or unreasonable impact on the loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. The proposed development will also not have an adverse impact on the cultural and built environment heritage.

It is considered that the proposed development has satisfied the requirement to be designed, sited and will be managed to avoid an adverse impact to the aforementioned cultural and environmental aspects.

Furthermore, the proposed development is considered to be of an acceptable bulk, scale and size that is generally compatible with the surrounding coastal and built environment, which consist of low-density residential dwellings. The proposed works are not likely to cause an adverse impact upon the matters identified in this clause.

A condition of consent has been placed to stop works and report the findings to the AHO if any Aboriginal Engravings or Relics are unearthed.

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:

Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

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

Coastal Management Act 2016

The subject site identified as Coastal use area under the Coastal Management Act 2016. The management objectives for the coastal use area are as follows:

"(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:

(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and

(ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and

(iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and

(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and

(v) the use of the surf zone is considered,

(b) to accommodate both urbanised and natural stretches of coastline."

Comment

The proposal is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected. In addition, the surrounding area consists of examples of similar developments.

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:	10.0m	8.9m	N/A	Yes

Compliance Assessment

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

Detailed Assessment

1.9A Suspension of covenants, agreements and instruments

Clause 1.9A of Pittwater Local Environmental Plan 2014 states that for the purpose of enabling development on land in any zone, covenants that restrict the carrying out of that development do not apply to the extent necessary to serve that purpose. However, this does not apply in the case of a covenant imposed by Council (as in this case). As such, the covenant applies for the purpose of assessment, but may be modified at Council's discretion. An assessment of the relevant easements/covenants is as follows:

Upon subdivision of the subject site within SD051/91 (approved 1991), a restriction on the use of land was imposed which required any future structures erected on those lots to be designed, located and constructed so as to minimise any adverse impact they might have on trees and vegetation on the site. As discussed in detail throughout this report, the proposed development seeks to remove a number of trees in order to facilitate the development. Hence, this application seeks to vary the terms of the restrictive covenant imposed on the land. The application is accompanied by an Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan which address the proposed tree removal and associated impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Given the approval by Council's Landscape Officer and Biodiversity Team and the proposed rehabilitation and revegetation of vegetation Pittwater Spotted Gums within the subject property, the proposed variation to the restrictive covenant is supported in this instance.

4.3 Height of buildings

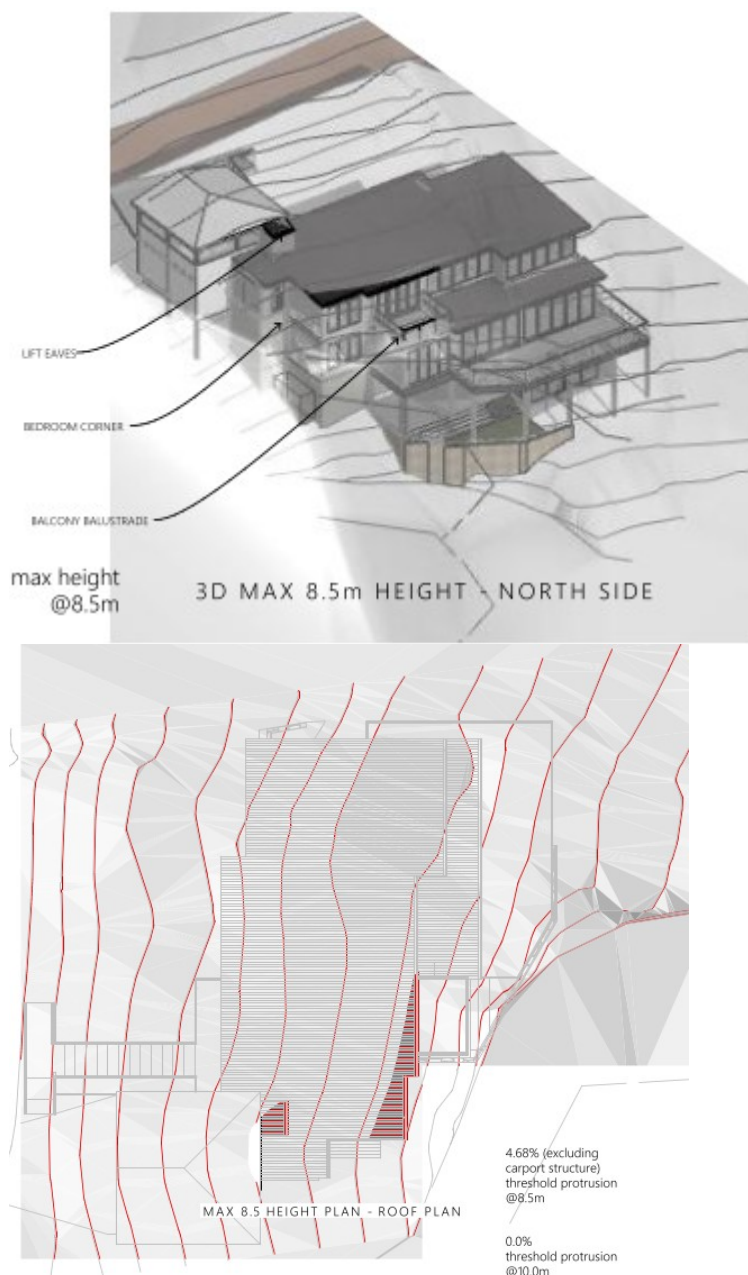
The proposed dwelling has a maximum building height of 8.9 m which does not comply with the 8.5m requirement.

Clause 2D of the of the height of building control within PLEP 2014 identifies the height of buildings may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

(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 variation to the 8.5m height limit is not excessive and is demonstrated in Figure 1 bellow. As shown the extent of the variation is predominantly limited to the roof form.



Figures 1 & 2: Height of building variation

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

Comment

The objectives of 4.3 Height of Building are achieved as follows:

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

Comment

The proposed dwelling is comparable with that of the built form of surrounding newer dwellings located on Riverview Road. The dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey and below average eye level as viewed from Riverview Road. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this

report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. Overall, the height, design and scale of the new dwelling would not be inconsistent with surrounding properties or the desired character of the locality.

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

Comment

The proposed height non-compliance of is contained to the new roof form. As above, the dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey and below average eye level as viewed from Riverview Road. The proposal presents a compatible height and scale with that of surrounding and nearby development (Noting that multiple properties and structures on the low side of Riverview Road are built in close proximity to Riverview Road with similar overall ridge heights). Furthermore, the site has an existing approved Development Application (DA2019/1449) for a carport which has approved ridge height above that proposed. Overall, the height, design and scale of the new dwelling would be compatible with approved and nearby development.

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

Comment

The solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms of the adjoining properties and private open spaces.

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

Comment

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. Due to the slope away from Riverview Road the proposed development is not prominently viewed from the public roadway and road reserve, with views past and over the dwelling to be maintained for the public and the surrounding properties.

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

Comment

The proposed development would not require excessive excavation and would be stepped with the fall of the land.

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

Comment

The proposal would not require excessive excavation. Whilst there is some tree removal required as part of the development, the proposed development has been designed to retain and protect other significant trees on the site (and adjoining the site). Furthermore, in order to avoid and minimise

potential impacts of the proposal on local biodiversity values, a series of mitigation and management measures have been identified, which are to be implemented as part of any Construction Environmental Management Plan (CEMP) produced for the site. Additionally, a Vegetation Management Plan (VMP) has been produced to guide the rehabilitation and revegetation of Pittwater Spotted Gums within the subject property, along with replacement planting as proposed on the landscape plan and required as development consent conditions. The proposal has been supported by a Biodiversity Development Assessment Report and has been reviewed by Council's Biodiversity Officer who have raised no objection to the proposal subject to recommended conditions. There are no heritage items in the vicinity of the subject site.

(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 which exceeds the 30% requirement.

(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 extent of excavation for the proposed dwelling house will be minimised due to the design of the proposed dwelling house 'stepping up' the natural topography of the site. The proposed development is supported by a geotechnical risk assessment, that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

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

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be

of an suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of an suitable quality.

(f) the likelihood of disturbing relics

Comment:

The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The development has been assessed by Council's Coastal Engineers, Water Management Officer and Biodiversity Officers, who have raised no objection to the proposal subject to conditions.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of*

the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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 assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

(a) site layout, including access,

(b) the development's design and construction methods,

(c) the amount of cut and fill that will be required for the development,

(d) waste water management, stormwater and drainage across the land,

(e) the geotechnical constraints of the site,

(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The proposed development is supported by a geotechnical risk assessment, architectural plans, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:
(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitable managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

(i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or

(ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or

(iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	3.6m (entry) 5.05 (dwelling)	44.6%	No
Rear building line	6.5m	7.3m	N/A	Yes
Side building line	2.5m (N)	2.9m	N/A	Yes
	1m (S)	2.0m (balcony) 2.5m (dwelling)	N/A	Yes
Building envelope	3.5m (N)	Outside envelope	N/A	No
	3.5m (S)	Outside envelope	N/A	No
Landscaped area	60% (444.24sqm)	43.5% (321.8sqm)	27.6%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh 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	No	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	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
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	No	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	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
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The Avalon Beach Locality statement notes as follows:

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

"Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses".

"Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards".

Comment

The proposed development consists of part a two/part three storey dwelling house, where the locality calls for two storey development. Furthermore, the proposal would result in the removal of canopy trees in order to facilitate the development

The proposed dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being single storey and below average eye level as viewed from Riverview Road. The design and appearance of the proposed dwelling would be consistent with the sloping topography and the surrounding residential dwelling houses located on Riverview Road. The proposed dwelling would step with the fall of the land and would be predominantly below the required 8.5m height requirement (with the exception of a minor portion of the roof form) and would be well within the required 10.0m height variation for sloping sites. The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport) and includes building modulation to minimise bulk. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

The proposed tree removal has been reviewed by Council's Bushland & Biodiversity and Landscape Officers who have raised no objection subject to replacement planting. The proposal is also supported by a Biodiversity Development Assessment Report which concludes that:

"The proposed development has been purposefully designed to minimise impacts on biodiversity values as much as possible. Due to the vegetated nature of the property, there are limited alternate locations for the proposed development."

A number of canopy trees are proposed to be retained and protected to surround the proposed dwelling.

On balance, subject to recommended conditions, the proposal is considered consistent with the

desired future character of the Avalon Beach locality.

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

The proposal seeks the removal of five (5) spotted gum trees (trees 2; 15; 30; 35 & 37) to facilitate the development. The proposal is supported with a Biodiversity Development Assessment Report and Vegetation Management Plan (Narla 2021) which recommends a series of mitigation and management measures in order to avoid, minimise and offset potential impacts of the proposal on Pittwater Spotted Gum Endangered Ecological Community (EEC). The proposal and supporting documentation has been reviewed by Council's Bushland & Biodiversity Officer and Landscape Officer who support the proposal subject to conditions including replanting and adherence to the submitted Aboricultural Impact Assessment, Biodiversity Development Assessment Report and Vegetation Management Plan measures.

Please refer to the comments prepared by Council's Landscape Officer and Biodiversity Officer for further information related to the tree removal.

In summary, subject to compliance with recommended conditions, the application is seen to meet the outcomes of this clause and is supported on merit.

B4.22 Preservation of Trees and Bushland Vegetation

The application is accompanied by an Aboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan to address the proposed tree removal and impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

Subject to compliance with recommended tree planting conditions, the application is seen to meet the outcomes of this clause and is supported on merit.

B6.1 Access driveways and Works on the Public Road Reserve

The proposal seeks the construction of access stairs and landscaping works on the road reserve. Council's Road Assets Officer, Development Engineer and Landscape Officer have reviewed the proposed works on the Road Reserve and have raised no objection subject to conditions. Such conditions ensure appropriate approval under the provisions of the Roads Act 1993 and ensure the works structurally adequate and meet appropriate engineering standards. Given the steep topography of the sites and the location of approved works of the road reserve the proposed works are considered acceptable subject to conditions.

The access driveway and elevated carport on the proposed plans do not form part of this application. These works form part of DA2019/1449 which was approved by Council on 22 May 2020. If approved, a condition of consent is to be imposed on the subject application requiring the new driveway and parking structure and carport (within DA2019/1449) be completed prior to receiving the Occupation Certificate

B6.3 Off-Street Vehicle Parking Requirements

As above, the elevated carport on the proposed plans does not form part of this application. These works form part of DA2019/1449 which was approved by Council on 22 May 2020. If approved, a condition of consent is to be imposed on the subject application requiring the new driveway and parking structure

and carport (within DA2019/1449) be completed prior to receiving the Occupation Certificate. Subject to compliance with this condition, the proposal would meet the specified parking requirements.

B6.7 Transport and Traffic Management

A condition has been imposed requiring the Applicant 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 and further conditions ensure this will be implemented during works.

B8.1 Construction and Demolition - Excavation and Landfill

The proposal seeks to excavate portions of the land and redistribute over the site to facilitate the development. Council's Development Engineers have reviewed the proposal and submitted Geotechnical Report and have raised no objection subject to recommended conditions.

Given the proposed location of these works, the proposal is not considered to have an adverse impact on the streetscape. In order to ensure that there are no adverse impacts on the adjoining neighbours, conditions have been imposed which:

- Ensure structural adequacy of landfill and excavation work;
- Ensure the preparation and adherence of a Waste Management Plan;
- Ensure the recommendations of the Geotechnical report is adhered to;
- Ensure the proper installation and maintenance of sediment and erosion control;
- Ensure topsoil is stockpiled on site and stabilised during construction works;

The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer and Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

B8.6 Construction and Demolition - Traffic Management Plan

A condition requiring the provision of a construction management plan has been included in the recommendation of this report.

C1.1 Landscaping

Please refer to the referral comments prepared by Council's Landscape Officer. The proposal would meet the requirements of this control subject to recommended conditions.

C1.3 View Sharing

Filtered water views are available across the subject site towards the west. No view loss concerns have been raised by adjoining neighbours in relation to view loss from the proposed dwelling. Nevertheless, consideration is given to potential view loss created from the proposal.

Given the relative position of the adjoining neighbours to the north and the south, positioned to further to the west than that proposed dwelling, the proposal is not anticipated to unreasonably impact these neighbours views.

Due to the slope of the site, the properties on the eastern side of Riverview Road are elevated well above (approximately 10m - 20m) the proposed dwelling and are expected to maintain equitable

preservation of existing views over the proposed dwelling. Due to the significant slope of the site, the proposed dwelling would be predominantly below street level and average eye level as viewed from the street. Views are expected to be retained over the new dwelling. Any view loss associated with the proposal is considered to be minor. The proposal is considered to be satisfactory and not considered to have an unreasonable impact to views and vistas from surrounding properties of Riverview Road.

Following the submission of the Landscape Plan (which was submitted with the amended plans) an objection was received by an adjoining neighbour to the north-east (No.128 Riverview Road) with regards to the proposed location of proposed replacement tree planting and impacts on views. This neighbour raised concerns with the proposed location of three (3) replacement Spotted Gum canopy trees proposed within the front setback. Given COVID-19 restrictions, Council's Planner was unable to enter this neighbouring property in order to take photos of the view corridor of concern, however, the following photos were provided by the objector on request by Council.



Photo 1 - View from No.128 Riverview Road from the main living room on the upper floor - *Photo taken by the resident of No.128 Riverview Road due to COVID-19 restrictions



Photo 2 - View from No.128 Riverview Road from the main living room on the upper floor - *Photo taken by the resident of No.128 Riverview Road due to COVID-19 restrictions



Photo 3 - Photo taken from the front of the subject site looking north-east towards No.128 Riverview Road demonstrating the high number of existing canopy trees.

Photos 1, 2 and 3 above demonstrate the view corridor through the subject site, as well as the high number of canopy tree which currently exist within this view corridor. The replacement spotted gum

trees proposed within the front setback would be replacing existing canopy trees proposed for removal on the subject site, many of which would be in similar positions on the site.

The inclusion of replacement tree planting is reasonable to satisfy the objectives of E4 zone, B4.7, C1.1 and D1.1, that can be summarised as follows:

- Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.
- Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.
- To provide for residential development of a low density and scale integrated with the landform and landscape.
- At least 2 canopy trees in the front yard are to be provided on site.

Furthermore, the objectives of clause *C1.3 View Sharing* of P21 DCP specifies that canopy trees take priority over views.

In consideration of the location of existing canopy trees within the existing view corridor (on the subject site, adjoining road reserve and neighboring sites); the relative elevation of No.128 Riverview Road above the subject site as well as the requirements and objectives of P21DCP, the replacement tree planting within the front setback is supported and any associated view loss is considered reasonable in this instance.

C1.5 Visual Privacy

Clause C1.5 of the P21DCP stipulates that private open space areas and windows of adjoining properties are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation. The proposed development contains elevated balconies, private open space and side facing windows which are within 9.0m from both the northern (No.143 Riverview Road), southern (No.137 Riverview Road) and western (No.139 Riverview Road) neighbours.

Merit Assessment

The proposed development is considered against the underlying outcomes of the control as follows:

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

No.137 Riverview Road

The proposed dwelling would be located greater than 9.0m from the existing dwelling and principle private open space of the southern neighbour (No.137 Riverview Road). Additionally the proposed Landscape Plan details the retention and provision of canopy trees and screen planting along the southern side boundary which would assist in mitigating potential privacy impacts. The proposed dwelling would be within 9.0m of this neighbours carport and inclinator, however, given that these structures are non-habitable and would be used for momentary access, any associated privacy impacts are considered reasonable within a residential environment.

Overall, given the level of spatial separation and screen planting proposed it is considered a

reasonable level of privacy would be maintained.

No.143 Riverview Road

The proposed dwelling would be suitably offset and separated from the adjoining northern neighbour (No.137 Riverview Road). This neighbour does not contain any prominent south facing windows and the proposal would be separated from this neighbour's principle private open space by greater than 9.0m. The proposed Landscape Plan details the provision of screen planting along the northern side boundary and along the northern perimeter of the proposed private open space which would assist in mitigating potential privacy impacts. Additionally, no objections have been received by this neighbour in relation to privacy.

Overall, given the level of spatial separation and screen planting proposed it is considered a reasonable level of privacy would be maintained.

No.139 Riverview Road

The proposed dwelling would be located greater than 9.0m from the existing dwelling and principle private open space of the western neighbour (No.139 Riverview Road). The primary windows and principle private open space of this neighbour faces away (west) from the proposed dwelling and is at a lower elevation. As such the proposed dwelling would primarily look over the roof, driveway and garage of this neighbour. The proposed Landscape Plan details the provision of screen planting western perimeter of the proposed private open space which would also assist in mitigating potential privacy impacts.

Overall, given the orientation and topography, level of spatial separation and screen planting proposed it is considered a reasonable level of privacy would be maintained.

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

Comment:

The proposed development is considered capable of providing a sense of territory and safety for residents on the subject site and adjoining properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

C1.13 Pollution Control

The proposed development includes a fireplace in the first floor lounge room. No details of the fireplace are included with the application. As such, Council cannot be satisfied that the development is designed to prevent air pollution, or that the development complies with the *Protection of the Environment Operations Act 1997*, and other relevant legislation. As such, a condition of consent has been included to ensure that no solid fuel heaters are approved under this consent. Subject to compliance with this condition the proposal is considered to meet the requirements of this control.

C1.14 Separately Accessible Structures

The Pittwater 21 DCP stipulates within Clause C1.14 that separately accessible structures may be permitted provided that they are not designed for separate habitation and do not contain any cooking facilities. The application proposes a separately accessible lower ground floor level. In order to achieve compliance with this control, the development will be conditioned over the life of the development so to

ensure the lower ground floor level will not be used for the purposes of separate habitation including a secondary dwelling or dual occupancy. An additional condition will be applied over the life of the development to remove and prohibit the installation of cooking facilities.

C1.24 Public Road Reserve - Landscaping and Infrastructure

As discussed by Council's Landscape Officer and Roads Assets Officer, the proposed works within the road reserve are considered to be appropriate given the gradient of the site (subject to recommended conditions).

D1.1 Character as viewed from a public place

The proposed dwelling would comply with the requirements of this control. The carport indicated on the submitted plans has been previously approved within DA2019/1449. The assessment of the proposed carport within DA2019/1449 concluded that the parking structure referenced within submitted plans is consistent the relevant objectives of this control.

D1.5 Building colours and materials

The submitted colour schedule is generally consistent with the required external finishes. In order to ensure consistency with this control, a condition is to be imposed requiring the external colours and finishes to the external walls and roof to have a medium to dark range and specifying that light colours such as off white, cream, silver or light grey colours are not permitted.

D1.8 Front building line

Description of Variation

Clause D1.8 of the P21DCP requires development (other than driveways, fences or retaining walls) to be setback at least 6.5m from the front boundary or the established building line, whichever is greater.

The proposed access stairs would have a nil setback from the front boundary representing a 100% variation to the 6.5 metre requirement.

The proposed entry platform would have a setback of 3.6m from the front boundary representing a 44.6% variation to the 6.5 metre requirement.

A portion of the proposed dwelling would have a setback 5.05m setback from the front boundary representing a 22.3% variation to the 6.5 metre requirement. The remainder of the dwelling façade would be located behind the 6.5m requirement.

As previously discussed in this report, the elevated carport on the proposed plans does not form part of this application. These works form part of DA2019/1449 which was approved by Council on 22 May 2020. The variation to the front setback has been discussed in this assessment and was deemed to meet the objectives of the control.

Merit consideration

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

To achieve the desired future character of the Locality. (S)

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Beach Locality of the Pittwater 21 DCP.

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

Comment:

The subject site adjoins a local road, therefore, this outcome is not applicable.

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

Comment:

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

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

Comment:

The approved parking arrangement will not be altered as part of this proposal.

To encourage attractive street frontages and improve pedestrian amenity.

Comment:

The development is sited well below the established tree canopy and average eye level when viewed from the street. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Riverview Road. Notwithstanding the non-compliance, sufficient space remains within the front setback area for additional vegetation planting to provide an attractive street frontage and improve pedestrian amenity.

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

Comment:

The western side of Riverview Road accommodates examples of structures located forward of the front building line. In this regard, the location of the structures will not be out of context with the established streetscape character. Furthermore, given the significant slope of the site, the proposed stairs, entry platform and dwelling and would be below street level and would not dominate the streetscape. Additionally, the proposed access stairs and entry platform would be open structures of minimal bulk

and scale. The facade of the proposed dwelling would be modulated, with the majority meeting the required 6.5m setback. Existing and proposed vegetation and landscaping will further alleviate the visual impacts when viewed from the street and surrounding properties. Based on the above, it is concluded that the development responds to the spatial characteristics of the existing built and natural environment.

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

D1.11 Building envelope

Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries.

The proposed dwelling has a minor encroachment into the prescribed building envelope along the northern and southern elevations. This variation is represented in figure 1 and 2 below.

This building envelope non-compliance is largely attributed to the slope of the site, which exceeds 30%. P21DCP allows for a variation to the prescribed building envelope for development on steep sites, subject to consistency with the outcomes of this Clause.

As previously discussed in this report, the elevated carport on the proposed plans does not form part of this application. These works form part of DA2019/1449 which was approved by Council on 22 May 2020. The variation to the building envelope has been discussed in this assessment and was deemed to meet the objectives of the control.

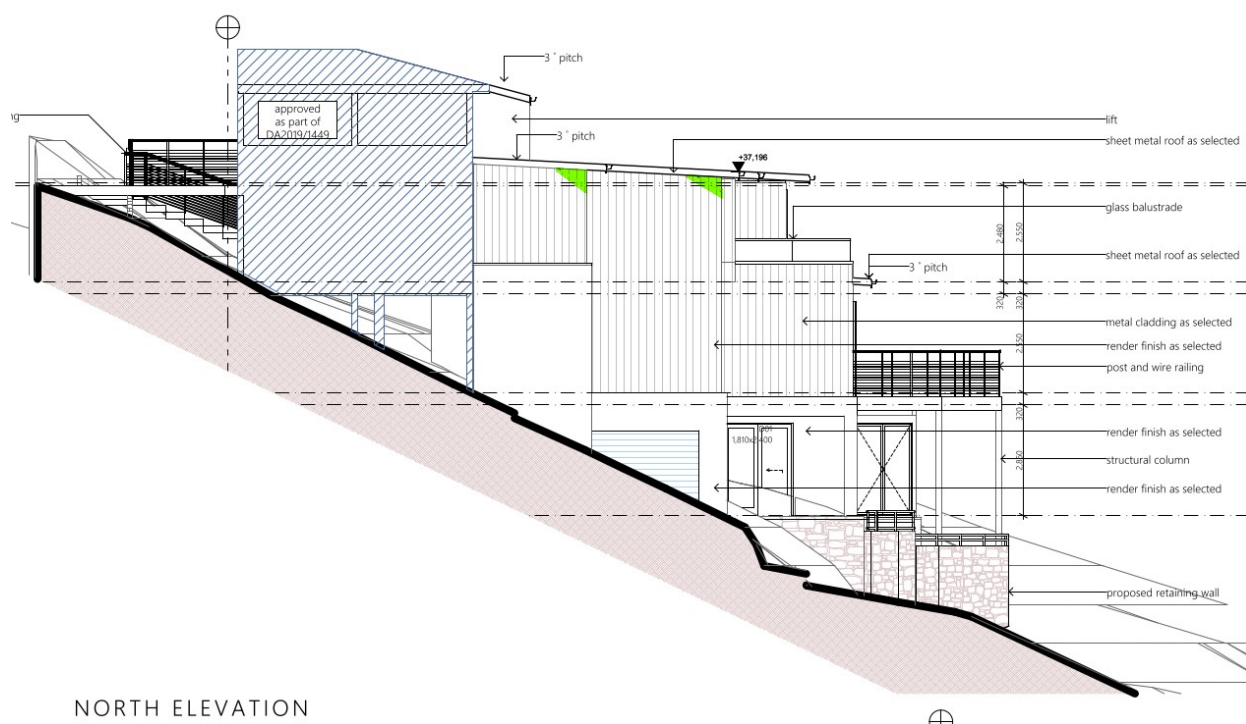


Figure 1 - Proposed building envelope non-compliance on the northern elevation (highlighted in green).

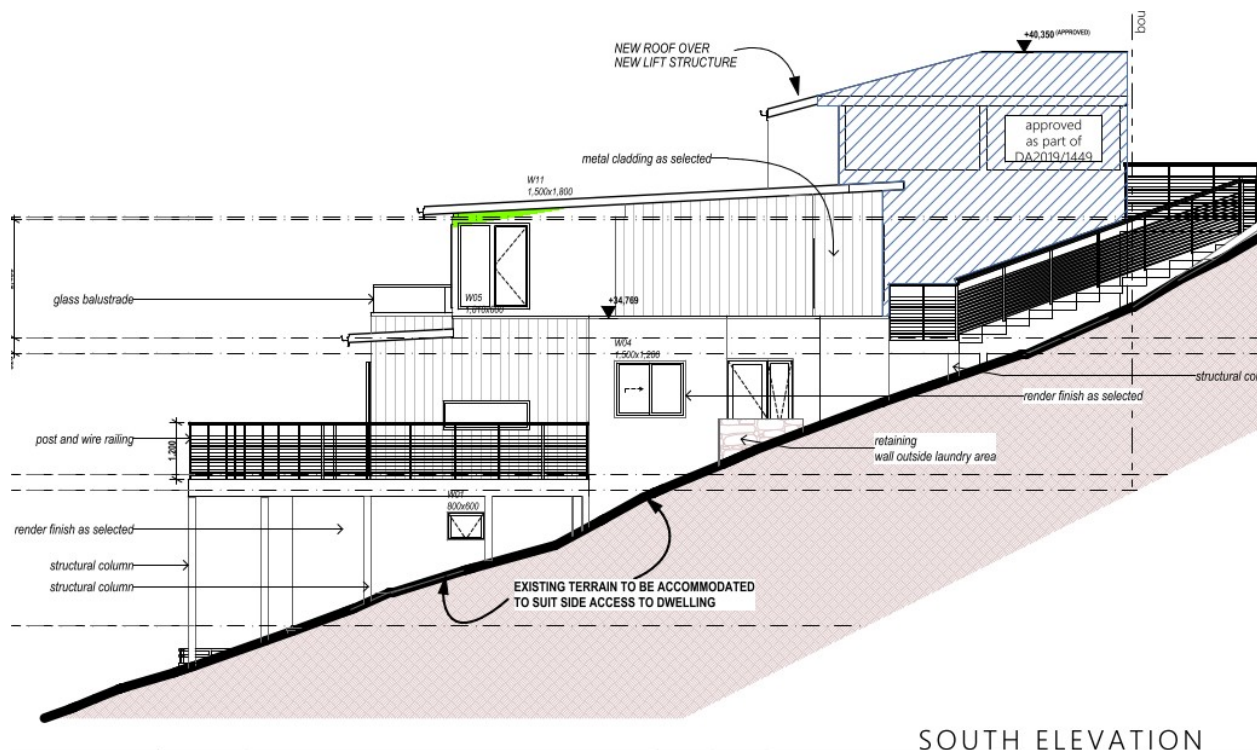


Figure 2- Proposed building envelope non-compliance on southern elevation (highlighted in green).

Merit consideration

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

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

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Locality of the Pittwater 21 DCP.

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

Comment:

The development is sited well below the established tree canopy and average eye level when viewed from the street. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Riverview Road. The proposal includes adequate landscaping in order to screen the built form of the proposed development when viewed from Riverview Road and the adjoining properties. It is considered that the bulk and scale of the proposal would not be out of character with the existing streetscape and wider locale.

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

Comment:

The site has a steep gradient and it is not uncommon for the building envelope to be encroached due to the slope of the site, as recognised by the variation clause contained in the control. The building is well articulated and modulated to break up the bulk and scale, and responds to the slope of the site through the stepping of levels. The proposed development involves modest excavation works, is set below the general tree canopy height, is lower than the existing approved ridge height (of the approved carport). Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

The proposed tree removal has been reviewed by Council's Bushland & Biodiversity and Landscape Officers who have raised no objection subject to replacement planting. The proposal is also supported by a Biodiversity Development Assessment Report which concludes that:

"The proposed development has been purposefully designed to minimise impacts on biodiversity values as much as possible. Due to the vegetated nature of the property, there are limited alternate locations for the proposed development."

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

Comment:

The proposal involves compliance with the development standard for building height and is well set back from side and rear boundaries. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Riverview Road. Furthermore, the proposal would introduce suitable landscaping along the side boundaries to minimise the visual impact of the development to the adjoining neighbours. The proposal would step with the fall of the land and incorporate open balconies with variable setbacks. This provides a situation in which presentation of bulk and scale is adequately minimised.

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

Comment:

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

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

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development. Furthermore, the proposal would retain suitable landscaping along the side and rear boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

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

Comment:

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has

been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

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

D1.14 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The Control requires a minimum of 60% (444.24sqm) of the total site to be landscaped area.

The proposed development provides 43.5% (321.8sqm) of the total site area as landscaped area, which represents a variation of 27.6%

Upon achievement of the objectives of the Control, the variations provision allows for up to 6% of the site to be impervious landscape treatment provided such areas are used for outdoor recreational purposes only. Upon achievement of the aforementioned variation, the landscape area total would increase to 49.5% (366.2sqm).

It should also be noted that the site is burdened by a large right of carriageway and associated driveway which benefits adjoining properties. The impervious hard surface area resulting from this right of carriageway is approximately 135sqm or 18.2% of the site area. If this impervious hard surface (resulting from the right of carriageway) were removed from the calculation, the proposal would comply with the required landscaped area.

Merit consideration

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

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

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to A4.1 Avalon Locality of the Pittwater 21 DCP.

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

Comment:

The site will retain a landscaped setting surrounding a built structure, which is compatible with the surrounding developments in the immediate vicinity, and within the wider community of Avalon Beach. The proposal involves compliance with the development standard for building height and is well set back from side and rear boundaries. Further, the development will appear as single storey when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Riverview Road. Furthermore, the proposal would introduce suitable landscaping along the side boundaries to minimise the visual impact of the development to the adjoining neighbours. The proposal would step with the fall of the land and incorporate open balconies with variable setbacks. This provides a situation in which presentation of bulk and scale is adequately minimised. The submitted landscape plan details new and existing trees and vegetation to assist in reducing the perceived bulk and scale of the development from the public domain and adjacent properties. In this instance, the proposed development is considered to achieve compliance with this outcome.

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

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development. Furthermore, the proposal would retain suitable landscaping along the side and rear boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

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

Comment:

Whilst there is tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal.

- *Conservation of natural vegetation and biodiversity.*

Comment:

As above, the proposal involves tree removal to facilitate the development. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained natural vegetation and biodiversity. The proposal is also supported by a Biodiversity Development Assessment Report which concludes that: "The proposed development has been purposefully designed to minimise impacts on

biodiversity values as much as possible. Due to the vegetated nature of the property, there are limited alternate locations for the proposed development."

The application is also supported by a landscape plan, which demonstrates an enhancement of natural vegetation. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting as well as mitigation and rehabilitation techniques, ensure that this objective is achieved.

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

Comment:

The proposal has been reviewed by Council's Development Engineer, having regard to provisions for stormwater management and has raised no objection subject to conditions included in the recommendation of this report. It is considered the pervious surface within the property is capable of reducing stormwater runoff, preventing soil erosion and siltation of natural drainage channels.

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

Comment:

As above, whilst there is tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form and maintain the bushland character of the site. An Arboricultural Impact Assessment; Biodiversity Development Assessment Report and Vegetation Management Plan has been submitted as part of the application which recommend a series of mitigation and management measures to guide the revegetation and rehabilitation of the retained vegetation. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately preserve the bushland character of the area.

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

Comment:

The on-site capacity of pervious surface is considered capable of providing infiltration of water to the water table, minimising run-off and assisting with stormwater management.

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

D1.17 Construction, Retaining walls, terracing and undercroft areas

As discussed previously in this report, the level of excavation and fill is considered acceptable subject to recommended conditions. The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer; Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions. Conditions are to be imposed that new retaining walls be constructed of sandstone or

sandstone like materials.

D1.20 Scenic Protection Category One Areas

Subject to conditions to ensure the proposed external colours and materials are of dark and earthy tone of low reflectivity and replacement canopy tree planting as specified by Council's Landscape and Biodiversity Officers, the proposal would meet the requirements of this clause.

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$18,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,800,000.

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

In summary, the application has been assessed with regard to the relevant Pittwater LEP and DCP controls which guide the future desired character of the area, along with the public submission received during the notification period.

The issues raised in the public submissions are considered to be addressed by way of the amended plans and conditions of consent. The issues regarding impact to the vegetation and biodiversity associated with the development have been addressed by the submitted expert reports, the recommendations of these reports forming conditions of development consent.

Subject to the recommended conditions of consent, it is considered that the amended design of the proposal would result in a development that displays reasonable scale and density compatible with the surrounding development on Riverview Road and would not result in unreasonable amenity impacts to surrounding properties. Overall, the proposal is considered a reasonable response to the site constraints and relevant planning controls

Accordingly, the application is referred to the DDP with a recommendation for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0317 for Construction of a dwelling house on land at Lot 2 DP 833902, 141 Riverview Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02 Issue.9 - SITE PLAN	09/07/2021	FYFFE Designs
DA05 Issue.9 - CUT & FILL PLAN	09/07/2021	FYFFE Designs
DA06 Issue.9 - LOWER GROUND FLOOR PLAN	09/07/2021	FYFFE Designs
DA07 Issue.9 - LIVING LEVEL FLOOR PLAN	09/07/2021	FYFFE Designs
DA08 Issue.9 - ENTRY LEVEL FLOOR PLAN	09/07/2021	FYFFE Designs
DA09 Issue.9 - ROOF PLAN	09/07/2021	FYFFE Designs
DA10 Issue.9 - EAST & WEST ELEVATION PLAN	09/07/2021	FYFFE Designs
DA11 Issue.9 - NORTH & SOUTH	09/07/2021	FYFFE Designs

ELEVATION PLAN		
DA12 Issue.9 - A SECTION PLAN	09/07/2021	FYFFE Designs
DA19 Issue.9 - INDICATIVE MATERIALS SCHEDULE	09/07/2021	FYFFE Designs

Engineering Plans		
Drawing No.	Dated	Prepared By
C1 Rev.A - COVERSHEET & NOTES	12/03/2021	NASTASI & ASSOCIATES
C2 Rev.A - DRAINAGE PLAN	12/03/2021	NASTASI & ASSOCIATES
C3 Rev.A - STORMWATER DETAILS	12/03/2021	NASTASI & ASSOCIATES

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (1184535S)	19/03/2021	Frys Energywise
NatHERS Certificate (0005762463-02)	18/03/2021	Frys Energywise
Waste Management Report	-	FYFFE Designs
Geotechnical Report (J2986A)	24/06/2021	White Geotechnical Group
Geotechnical Report (J2986)	23/02/2021	White Geotechnical Group
Vegetation Management Plan	July 2021	Narla Environmental Pty Ltd
Biodiversity Development Assessment Report v2.0	16 July 2021	Narla Environmental Pty Ltd
Arborist Report	15 July 2021	Abacus Tree Services

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

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L/01 - Landscape Plan - Ground Floor	18/06/2021	Aspect Designs
L/02 - Landscape Plan - Lower Ground Floor	18/06/2021	Aspect Designs
L/03 - Landscape Details Sheet	18/06/2021	Aspect Designs
DA04 Rev.9 - LANDSCAPE PLAN	02/07/2021	FYFFE Designs

Waste Management Plan		

Drawing No/Title.	Dated	Prepared By
Waste Management Report	-	FYFFE Designs

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling."

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

3. **Installation of solid/fuel burning heaters**

No approval is granted for the installation of a solid/fuel burning heater.

Reason: To preserve the amenity and environmental health of adjoining properties.

4. **No works on adjoining land or right of carriageway**

No Approval is granted under this consent for any works on adjoining land or on the right of carriageway which burdens the subject site.

Reason: To ensure compliance with the terms of this consent.

5. **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.

6. **No approval for fencing**

No Approval is granted under this consent for any boundary fencing.

Reason: To ensure compliance with the terms of this consent.

7. **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

8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$18,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$1,800,000.00.

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 2021 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.

9. 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.

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

10. Structural Plans and Pier Footing Design near trees to be retained

Pier footing structural layout plans for the construction works near existing trees 4, 6, 11 to 14, 18 to 26, 28, 32 to 34 and 36 shall be developed in coordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture and a qualified Structural Engineer, to satisfy the design and construction requirements of the Arboricultural Impact Assessment as listed in section 7. Recommendations.

The Structural Plans and Pier Footing Design shall comply to the following requirements:

- no change in the soil profile shall occur between the development and the trunk of existing trees 4, 6, 20 to 24, 26, 28, 32 to 34, and 36. This includes no excavation works or underground services in this zone,
- no strip footings are allowed in the tree protection zone of retained trees to the extent as advised by a Project Arborist,
- all retaining walls if required will need to be constructed using a lintel system to avoid strip footings, It is recommended that no structural roots greater than 90mm in diameter be pruned.,
- any roots found greater than 90mm will require the pier to be dug to an alternative location.
- all pilot holes / piers are to be dug by non-mechanised methods to the required depth within the tree protection zone of existing trees 4, 6, 11 to 14, 18 to 26, 28, 32 to 34, and 36.
- final pier placement be a minimum of 100mm to all structural roots to allow for spatial separation and expansion of the root plate.

The Arborist shall review, comment, recommend design revision as required and approve the pier footing layout to ensure the locations of piers will be manageable in terms of tree protection measures.

The Arborist shall submit certification to the Certifying Authority that the locations of the pier footings are accepted via the agreed pier footing structural layout plans prior to the issue of a Construction Certificate.

Reason: Tree protection.

11. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 23/2/2021 and letter dated 24/6/2021 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.

13. **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in the BDAR and VMP (Narla Environmental, July 2021) and these conditions of consent are to be implemented at the

appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

14. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

15. **Like for like credit retirement conditions - Ecosystem credit retirement conditions**

Prior to issue of the relevant Construction Certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and to the Certifying Authority prior to release of construction certification.

Table 1 Ecosystem credits required to be retired – like for like

Impacted Plant Community Type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
PCT 1214: Spotted Gum - Grey Ironbark open forest in the Pittwater	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	1	N	Pittwater	1214, 1589

and Wagstaffe area, Sydney Basin Bioregion					
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Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

16. **Variation rule credit retirement conditions - Ecosystem credit retirement conditions**
Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 2 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 2 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	Contains
PCT 1214 Pittwater Spotted Gum forest	1	No

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

17. **Like for like credit retirement conditions - Species credit retirement conditions**
Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 3 must be retired to offset the impacts of development.

The requirement to retire credits outlined in Table 3 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 3 requirements must be provided to the Manager Bushland and Biodiversity

of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 3 Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA sub-region
Genoplesium baueri (Bauer's Midge Orchid)	1	Any in NSW
Hygrocybe aurantipes	1	Any in NSW

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

18. **Variation rule credit retirement conditions - Species credit retirement conditions**

Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 4 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 4 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 4 Species credits required to be retired – variation rules

Impacted species credit species	Number of species credits	IBRA sub-region	Approved variation species credit species that can be used to offset the impacts from development
Genoplesium baueri (Bauer's Midge Orchid)	1	Any in NSW	Endangered Flora
Hygrocybe aurantipes	1	Any in NSW	Vulnerable Fungi

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

19. **Compliance with approved BDAR impact mitigation table to minimise impacts – Prior to Construction**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Certifying Authority and Council prior to issue of Construction Certificate.

Reason: To - compliance with the approved BDAR.

20. **Implementation of the Vegetation Management Plan**

All requirements in the Vegetation Management Plan (Narla Environmental, July 2021) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

21. **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.

22. **Stormwater Treatment Measures – Minor**

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

23. **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 referenced in Condition 1 of this consent 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.

24. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

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

The Applicant is to submit an application for approval for infrastructure works on Council's 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.

The application is to include four (4) copies of Civil Engineering plans for the design of access stairs which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. Structural details of the new access stairs and safety barriers from the southern end of the driveway to the dwelling.

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

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

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

26. 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.

27. Engagement of Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the BDAR and VMP (Narla Environmental, July 2021).

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

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

28. **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.

29. **External Colours and Finishes**

The external colours and finishes to the external walls and roof shall have a medium to dark range. Light colours such as off white, cream, silver or light grey colours are not permitted. Proposed new retaining walls shall be constructed of sandstone or sandstone like materials. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure building colours and materials compliment and enhance the natural landscapes and to ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

30. **External Finishes to Roof**

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

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

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

31. **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.

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

All pre-construction tree-related measures specified in the Arboricultural Impact Assessment Report (Abacus Tree Services July 2021) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To protect trees proposed for retention.

33. **Construction Traffic Management Plan**

A Construction Traffic Management Plan is to be prepared for the development given its unusual access arrangements.

The Construction Traffic Management Plan shall include (but not be limited to) the following:

- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Details for maintaining access to adjacent properties and properties which benefit from the right of carriageway easement
- Details regarding the proposed method of access to and egress from the site for construction vehicles, and demonstration these vehicle will manoeuvre the right of way safely – i.e enter and leave in a forward direction.
- Details for storage of materials
- Provision of parking for workers
- Details for loading and unloading of materials
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- The location and operation of any on site crane

The Construction Traffic Management Plan shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

34. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The plan must comply with the Northern Beaches Council Waste Management guidelines. Details demonstrating compliance must be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure that any demolition and construction of waste, including excavated material,

is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

35. **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, including:

- i) excavation and construction works within the tree protection area of existing street trees (T11, T12, T20, and T21) within the road verge,
- ii) excavation and construction works within the tree protection area of existing trees (T13, T14, T18, T19, T25, T26, T28, and T33) within the site,
- iii) excavation and construction works within the tree protection area of existing trees (T4, T6, T22, T23, T24, T32, T34, and T36) located in adjoining properties.

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.

36. **Tree Removal within the Property**

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

- i) T1, T2, T3, T5, T7, T10, T15, T16, T17, T27, T29, T30, T35 and T37.

Note: Exempt Species (T8 and T31) as listed in the Development Control Plan or the

Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised building works.

37. **Tree Removal within the Road Reserve**

This consent approves the removal of the following tree(s) within the road reserve (as recommended in the Arboricultural Impact Assessment): T9 and T10 - both Black She Oak.

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.

38. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with the BDAR and VMP (Narla Environmental, July 2021)

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

39. **Impacts to Protected Native Wildlife**

Habitat for native wildlife is to be inspected for native wildlife by the Project Ecologist during a pre-clearing inspection prior to removal. If native wildlife is found within habitat to be removed, the wildlife is to be safely relocated by the Project Ecologist.

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 prepared by the Project Ecologist and provided to the Principal Certifying Authority

Reason: To protect native wildlife.

40. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

41. **Compliance with approved BDAR impact mitigation table to minimise impacts – During Construction**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented during construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to keep details of compliance, including written and

photographic evidence.

Reason: To ensure compliance with the approved BDAR.

42. Notification of determination to which the Biodiversity Offset Scheme applies

The applicant or Project Ecologist, on behalf of the applicant, must download and complete the "Biodiversity Offsets Scheme – Notification of Determination" form.

The completed form and attachments, including a copy of the determination and any conditions of approval, must be emailed to the LMBC Service Centre <bam.support@environment.nsw.gov.au>. The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council's Manager Bushland and Biodiversity and the Principal Certifying Authority must be copied into the notification email to confirm compliance.

Reason: To ensure the NSW Department of Planning, Industry and Environment are notified of determinations where the Biodiversity Offsets Scheme applies and Council are notified for compliance.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

43. 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 (these are identified as T4, T6, T11 to T14, T18 to T26, T28, T32 to T34, and T36, 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.

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.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) 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.

44. 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.

45. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

46. 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.

47. 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.

48. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

49. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, 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.

50. **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.

51. **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.

52. **Stockpiling of Topsoil**

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

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

53. **Protection of Landscape Features and Sites of Significance**

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

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

54. **Right of Carriageway Access**

Construction vehicles and material are not to impede access for the properties that benefit from the right of way and turning area throughout the construction phase. The applicant must provide neighbours who use the right of way and turning area with contact details of the contractor in the event that access to the right of way is blocked.

Reason: To ensure access is available to all property owners who benefit from the right of carriageway during the construction phase.

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

55. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- i) the three (3) locally native trees (Spotted Gum - *Corymbia maculata*) shall be planted within the site in accordance with the following: a) tree planting at a minimum 75 litre container size shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 4 metres from existing and proposed buildings and other trees; b) 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; c) tree planting shall be maintained until establishment including fertilising and watering, and thereafter for their safe useful life expectancy, and replaced should the trees fail due to lack of maintenance,
- ii) all other tree planting shall be located a minimum of 3metres from existing and proposed buildings and other trees.

Prior to the issue of an Occupation Certificate, details (from 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.

Note: Please consider registering your new tree through the link below to be counted as part of the NSW State Governments 5 Million trees initiative

<https://5milliontrees.nsw.gov.au/>

56. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and 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 interim / final Occupation Certificate.

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

57. Compliance with Ecologist's Recommendations – Post Construction

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the BDAR and VMP (Narla Environmental, July 2021).

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of any

Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

58. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Aspect Designs, June 2021) 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.

59. **Replacement of Canopy Trees**

At least 3 locally native canopy trees (*Corymbia maculata*) are to be planted on site as per the Landscape Plan (Aspect Designs, June 2021) to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with species selected from the Pittwater Spotted Gum Forest EEC.

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

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

60. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) are to be imported on to the site prior to or during construction works.

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 and environmental weeds.

61. **Priority Weed Removal and Management**

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) and those outlined in the VMP (Narla Environmental, July 2021) are to be removed from the property.

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.

62. **Compliance with approved BDAR impact mitigation table to minimise impacts – Occupation Construction**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented

before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented immediately after construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Principal Certifying Authority and Councils Bushland Manager prior to issue of Occupation Certificate.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

63. Works as Executed Drawings - Stormwater Treatment Measures

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

64. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

65. Completion of parking platform as approved within DA2019/1449

Prior to the issue of any Occupation Certificate, the covered two car parking platform as approved within DA2019/1449 (approved 22 May 2020) and as shown on the approved plans must be fully constructed. Evidence of an Occupation Certificate for DA2019/1449 must be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To ensure the site has adequate parking.

66. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of any 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.

67. **Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

Reason: To protect reserve amenity and public safety.

68. **Waste Management Confirmation**

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

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

69. **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

70. **Access Stairs**

The access stairs works within the road reserve 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

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

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy

(Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

72. 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.

73. Damage to the right of way

Any damage to the right of way, caused by the construction of the development, is to be repaired prior to the issue of the occupation certificate.

Reason: To ensure the site is left in an acceptable state and that access is maintained for adjoining neighbours.

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

74. 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.

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

Reason: To maintain local environmental amenity.

75. Compliance with Ecologist's Recommendations – Ongoing

All ongoing biodiversity-related measures are to be implemented in accordance with the BDAR and VMP (Narla Environmental, July 2021) and these conditions of consent.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

76. Replacement of Canopy Trees

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

77. Compliance with approved BDAR impact mitigation table to minimise impacts – Post Construction/Ongoing

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to Councils Manger of Bushland as per the mitigation table.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

78. **Maintenance of Stormwater Treatment Measures - Minor**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

79. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

80. **Lift noise control**

The passenger lift must be installed and operated at times so as not to cause 'offensive noise'. It must be demonstrated that the noise level will not exceed 5dBA above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

81. **Use of "Lower ground floor level"**

The proposed "Lower ground floor level" is not to be used for the purpose of separate habitation (including a secondary dwelling or dual occupancy) and is not to contain any cooking facilities.

Reason: To ensure that the ground floor remains ancillary to the dwelling house.

82. **Retention of Natural Features**

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

Reason: To ensure the retention of natural features.

