

SUBJECT: N0380/16 - 44 BYNYA ROAD, PALM BEACH NSW 2108 Alterations and additions to an existing dwelling house

Determination Level:

Development Unit

SUMMARY OF RECOMMENDATION:

CONSENT WITH CONDITIONS

REPORT PREPARED BY:

Christopher Nguyen

APPLICATION SUBMITTED ON:

29 August 2016

APPLICATION SUBMITTED BY:

EMILY SANDSTROM
WALTER BARDA DESIGN
PO BOX 398
DARLINGHURST NSW 1300

OWNER(S):

THEODORE STEVEN CHAMBERS

1.0 SITE DETAILS

The site is known as 44 Bynya Road, Palm Beach and legally referred to as Lot 127 DP 14961. The site is rectangular in shape and the total area of the site is listed as 627m². The site contains a single two storey dwelling and swimming pool. Adjoining the site are low density dwellings and a Council reserve to the west.

2.0 PROPOSAL IN DETAIL

The proposal seeks consent for alterations and additions. In particular, the proposal seeks consent for a first floor addition, various alterations and additions to the lower ground and ground floor, and an extension of the elevated pool terrace area to the rear of the site.

3.0 STATUTORY AND POLICY CONSIDERATIONS

The site is zoned E4 Environmental Living under Pittwater Local Environmental Plan 2014. Pursuant to the land use table in Part 2 of this instrument, alterations and additions are permissible with consent.

The following relevant state, regional and local policies and instruments apply:

- Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- 10/50 Vegetation Clearing Code of Practice
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Class 5
 - Biodiversity Map
 - Geotechnical Hazard Map
 - Height of Buildings Map - 8.5m
 - Lot Size Map - 700sqm
- Pittwater 21 Development Control Plan (P21 DCP)
 - Palm Beach Locality
 - Areas of Habitat Mapped as Flora and Fauna Conservation Areas
 - Bush Fire Prone Property
 - Geotechnical Risk Management Policy for Pittwater
 - Landscaped Area Map: Area 1
 - OSD Required

Variation to development standards:

A Clause 4.6 Statement is not required. See *4.3 Height of Buildings* for more details.

4.0 BACKGROUND

N0380/16 was lodged at council at 29/08/2016 and referred to Council's Development Engineer and Natural Resources Officer. The application was also referred to the NSW Rural Fire Service.

A search of council's records revealed the following information:

A Building Certificate (BC0069/16) for an unauthorised masonry block boundary wall between 42 and 44 Bynya Road, Palm Beach, is currently under assessment.

5.0 NOTIFICATION

N0380/16 was notified from 01/09/2016 to 05/09/2016 to adjoining property owners in accordance with council's notification policy. The site inspection on 15/09/2016 confirmed the placement of the notification sign. During the notification period, two (2) submissions were received from the following:

- 42 Bynya Road, Palm Beach
- 46 Bynya Road, Palm Beach

6.0 ISSUES

- 4.3 Height of buildings
- 5.10 Heritage conservation
- B3.2 Bushfire Hazard
- B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor
- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.6 Acoustic Privacy
- C1.13 Pollution Control
- C1.14 Separately Accessible Structures
- D12.1 Character as viewed from a public place
- D12.3 Building colours and materials
- D12.5 Front building line
- D12.6 Side and rear building line
- D12.8 Building envelope
- D12.10 Landscaped Area - Environmentally Sensitive Land

7.0 COMPLIANCE TABLE

- T - Can the proposal satisfy the technical requirements of the control?
- O - Can the proposal achieve the control outcomes?
- N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
1.9A Suspension of covenants, agreements and instruments			Y	Y	Y
2.7 Demolition requires development consent			Y	Y	Y
Zone E4 Environmental Living			Y	Y	Y
4.3 Height of buildings		See 8.0 Discussion of Issues	Y	Y	N
4.6 Exceptions to development standards		A Clause 4.6 Statement is not required. See <i>4.3 Height of Buildings</i> for more details.	Y	Y	Y
5.9 Preservation of trees or vegetation			Y	Y	Y
5.9AA Trees or vegetation not prescribed by development control plan			Y	Y	Y
5.10 Heritage conservation		See 8.0 Discussion of Issues	Y	Y	Y
7.1 Acid sulfate soils		<i>Acid Sulphate Region 5.</i>	Y	Y	Y

Control	Standard	Proposal	T	O	N
7.2 Earthworks			Y	Y	Y
7.6 Biodiversity protection			Y	Y	Y
7.7 Geotechnical hazards			Y	Y	Y
7.10 Essential services			Y	Y	Y
Pittwater 21 Development Control Plan 2014					
3.1 Submission of a Development Application and payment of appropriate fee			Y	Y	Y
3.2 Submission of a Statement of Environmental Effects			Y	Y	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings			Y	Y	Y
3.4 Notification			Y	Y	Y
3.5 Building Code of Australia			Y	Y	Y
A1.7 Considerations before consent is granted			Y	Y	Y
A4.12 Palm Beach Locality			Y	Y	Y
B1.3 Heritage Conservation - General			Y	Y	Y
B1.4 Aboriginal Heritage Significance		<i>No apparent issues.</i>	Y	Y	Y
B3.1 Landslip Hazard			Y	Y	Y
B3.2 Bushfire Hazard		See 8.0 Discussion of Issues	Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor		See 8.0 Discussion of Issues	Y	Y	Y
B4.22 Preservation of Trees or Bushland Vegetation			Y	Y	Y
B5.4 Stormwater Harvesting			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System			Y	Y	Y
B6.1 Access driveways and Works on the Public Road Reserve			Y	Y	Y
B6.2 Internal Driveways			Y	Y	Y
B6.3 Off-Street Vehicle Parking Requirements			Y	Y	Y
B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
C1.1 Landscaping		<i>Comment in B4.4</i>	Y	Y	Y
C1.2 Safety and Security			Y	Y	Y
C1.3 View Sharing		See 8.0 Discussion of Issues	Y	Y	N
C1.4 Solar Access		See 8.0 Discussion of Issues	Y	Y	N

Control	Standard	Proposal	T	O	N
C1.5 Visual Privacy		See 8.0 Discussion of Issues	Y	Y	N
C1.6 Acoustic Privacy		See 8.0 Discussion of Issues	Y	Y	N
C1.7 Private Open Space			Y	Y	Y
C1.9 Adaptable Housing and Accessibility			Y	Y	Y
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control		See 8.0 Discussion of Issues	Y	Y	N
C1.14 Separately Accessible Structures		See 8.0 Discussion of Issues	Y	Y	N
C1.17 Swimming Pool Safety			Y	Y	Y
C1.19 Incline Passenger Lifts and Stairways			Y	Y	Y
C1.23 Eaves			Y	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure			Y	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run			Y	Y	Y
D12.1 Character as viewed from a public place		See 8.0 Discussion of Issues	Y	Y	N
D12.3 Building colours and materials		See 8.0 Discussion of Issues	Y	Y	Y
D12.5 Front building line	6.5 or established building line, whichever is the greater	See 8.0 Discussion of Issues	N	Y	N
D12.6 Side and rear building line	2.5 to at least one side; 1.0 for other side 6.5 (rear)	See 8.0 Discussion of Issues	N	Y	N
D12.8 Building envelope		See 8.0 Discussion of Issues	N	Y	N
D12.10 Landscaped Area - Environmentally Sensitive Land	Minimum 60% landscaped area	See 8.0 Discussion of Issues	N	Y	N
D12.12 Fences - Flora and Fauna Conservation Areas		The existing boundary fences are maintained and no alterations to be made	Y	Y	Y
D12.13 Construction, Retaining walls, terracing and undercroft areas			Y	Y	Y
D12.14 Scenic Protection Category One Areas			Y	Y	Y
State Environmental Planning Policies and other					
SEPP (Building Sustainability Index: BASIX) 2004			Y	Y	Y
EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts			Y	Y	Y

8.0 DISCUSSION OF ISSUES

- 4.3 Height of buildings

The proposal seeks consent for a first floor addition. The Statement of Environmental Effects states the height of the dwelling extends towards a maximum of 10.0 metres. Measurements taken from the section drawings (A320 Issue B) show a height of approximately 9.9m at its highest point. Two submissions were received raising concerns regarding the height of the first floor addition. The objectors consider the height of the dwelling to be excessive in scale, out of character with the surrounding area and contributing to view loss and a loss of visual privacy.

Clause 4.3 *Height of Buildings (2D)* states the following:

(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map 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*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (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.*

The Statement of Environmental Effects states the building footprint falls approximately 19 degrees (34.43%). The slope of the building footprint was found to exceed 30% when measured from the eastern side of the garage to the rear of the dwelling. As the proposal meets this technical requirement, the maximum height of a structure is permitted to extend beyond 8.5m to a maximum of 10.0m and therefore a Cause 4.6 Statement is not required.

An assessment was conducted to determine whether the proposal meets the objectives of Clause 4.3 Height of Buildings listed below:

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Upon reviewing the plans and conducting a site inspection at the subject site and objector locations, the proposal is considered to meet the objectives of this clause. The first floor addition is not considered excessively high due to the steep sloping nature of the site. As the slope of the building footprint exceeds 30%, the slope of the site contributes to the height breach. The objector at 46 Bynya Road raised concern the master bedroom section of the first floor is excessively high and will lead to view loss. When comparing the ridge height of the roof over the master bedroom and the objector's approved application (N0192/13), the proposal is viewed to be compatible and consistent with the adjoining dwellings. The ridge height of the roof over the master bedroom is approximately RL 96920 at its highest point. The ridge height of the objector's roof at the rear of the property is indicated to be RL 98460 (indicated within DA N0192/13). This difference in height shows the first floor addition is not excessively high in comparison to 46 Bynya Road.

The proposal does not have an adverse overshadowing impact (see C1.4 Solar Access). The proposal was found to achieve a reasonable sharing of views (see C1.3 View Sharing). The first floor addition is situated within the existing building footprint and does not require extensive excavation or fill, therefore responding appropriately to the surrounding natural topography. The height breach does not result in an adverse visual impact on the natural environment or surrounding heritage items. Therefore it is concluded the proposal does not have an unreasonable adverse impact on the adjoining sites and is supported.

- **5.10 Heritage conservation**

The objector located at 42 Bynya Road indicated their dwelling to have heritage value. Council's records do not indicate this property to contain heritage items and is not under consideration to be a heritage item in the future. In these circumstances, a heritage referral was not requested. Although the property is not listed as a heritage item, consideration was given to the proposal's impact on the amenity of the objector's site within this assessment report.

- **B3.2 Bushfire Hazard**

An objector is concerned the architectural drawings displaying materials that would not comply with the bushfire construction requirements for dwellings within flame zones. The application is supported by a Bushfire Risk Assessment Report and the applicant has submitted a Bushfire Risk Assessment Certificate. The report and certificate both identify that the subject site has a BAL rating of BAL-FZ. The application was referred to the NSW Rural Fire Service (NSW RFS). The NSW RFS has responded with a set of conditions to be imposed in order for the dwelling to be compliant with bushfire regulations for dwellings within flame zones. Conditions requiring compliance with the recommendations from the Bushfire Assessment Report and NSW RFS letter will be imposed.

- **B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor**

Council's Natural Resources Officer provided the following comments:

The property contains a modified landscape which slopes down from the road and contains native shrubs at the rear of the block. The proposed works include extensive alterations and additions to the existing dwelling with a new driveway and garage.

An arborist report has been submitted (TALC, 21 June 2016) which assesses four (4) trees potentially impacted by the proposed works. Two (2) trees are proposed for removal with one (1) in the subject property and one (1) in the Council road reserve in front of 42 Bynya Road (Tree 3). The tree proposed for removal in the property was assessed as being subject to failure and in poor condition. The arborist states it would be recommended for removal regardless of proposed works. Therefore removal of Tree 1 is approved subject to replacement planting of three (3) locally native canopy trees which will mature at a height no less than 8.5 metres. Species are to be chosen from the list provided in the Native Gardening booklet on the Council website.

Tree 3 is located in the Council road reserve therefore this application was referred to Council's Tree Preservation Officer for comment. 15/9/16

Tree 2 and 4 can be safely retained (both are in neighbouring properties) provided the tree protection recommendations provided are adopted.

The site plan (Walter Barda Design, A100 B, 15/8/16) and landscape plan (Walter Barda Design, A101 B, 15/8/16) indicate construction of a terrace area west of the existing pool. This area currently contains numerous native shrubs and ground covers and connects to a Council bushland reserve. Retention of this native bushland area provides a buffer between the reserve and modified private property and habitat for local wildlife. Therefore amended site plans are required to be submitted which show removal of the proposed lawn area and retention of the native bushland area on the west side of the existing pool.

*The landscape plan has proposed new plantings and works within the Council road reserve. This plan was also referred to Council's Tree Preservation Officer and they have requested the removal of the proposed *Angophora costata* in the Council road reserve. All other proposed species are appropriate. The proposed landscaped area on the western side of the pool is to remain untouched with no further development or landscaping except for regular removal of weeds. No amended plans have been submitted. The proposed works on the west side of the pool are not supported.*

- **C1.3 View Sharing**

An objector located at 46 Bynya Road is concerned of view loss as a result of the first floor addition. A site inspection at 46 Bynya Road was conducted to determine the extent of view loss as a result of the proposed development. An assessment of view loss was conducted by utilising the four step assessment as outlined within *Tenacity Consulting v Warringah [2004] NSW LEC 1046*.

Step one assessed the views available to 46 Bynya Road

The occupants of 46 Bynya Road currently enjoy views of bushland to the south-west, Careel Bay and Stokes Point to the south-west, Pittwater and Kuringai National Park to the west and bushland to the north-west.

Step two is to determine the locations from which the views are obtained

The occupants presently obtain the views from the upper level rear deck. The objector has an approved Development Application (N0192/13) which has not commenced but has been issued a Construction Certificate. In the dwelling's existing state, the views are primarily obtained from the upper rear deck in a sitting or standing position. The view loss in concern is shown in the picture below:



This photo shows the view loss in concern and the height poles installed to reflect the built form of the development

The Development Application (N0192/13) shows the existing deck area will be a bedroom and dining room with an adjoining deck. Views of the bushland to the south-west are obtained from the deck area, bedroom and dining room. Regardless of the Development Application, it is reasonable to assume the view of the bushland to the south-west will be obstructed from view in the dwelling's present or future state by examining the height poles installed at 44 Bynya Road.

Step three is to assess the extent of the impact on the entire property and not just the view that is affected

As mentioned in step two, the view of the bushland to the south-west will be obstructed by the first floor addition. However the objector's existing dwelling and proposed future dwelling will still possess the views of Careel Bay, Stokes Point, Pittwater, Kuringai National Park and bushland to the north-west from the upper level deck areas. These views would not be obstructed from the objector's bedroom and dining room if the plans within N0192/13 were to be constructed. Considering the expanse of views the objector currently obtains in the present and future, the view loss is assessed as minor.



Step four is to determine the reasonableness of the proposal based on compliance with relevant planning controls and whether a more skillful design is available

The fourth step is to determine the reasonableness of the proposal. The view loss resulting from the first floor addition is technically compliant with the height limit, however not compliant with the building envelope and side setback controls. The non-compliance with the envelope and side setback control may give a view of the proposal being unreasonable, however the breach of the envelope and side setback is not the cause of the view loss in concern. The northern facade of the dwelling is set back approximately 1.8m from the northern boundary, except for the first floor bathroom which is set back 900mm from the northern boundary. To have the bathroom set back 1.0m from the northern boundary would not improve view sharing.

The section drawing (A320) shows the dwelling to extend beyond the maximum building envelope allowance. This section drawing shows the breach of the envelope on the northern side of the dwelling to be minimal as only the chimney and a small portion of the roof over the first floor bathroom is outside the building envelope parameters. Removing the chimney and reducing the roof over the bathroom would have no impact on improving view loss.

As the breach in envelope and side setback can be concluded to not have a significant impact on view loss, it can be determined the view loss is a result of the height of the first floor addition. The height is technically complying as it is situated on a slope of over 30%. As the height is the main determining factor for view loss and is found to be technically compliant with the controls within *Clause 4.3 Height of Buildings*, the proposal is considered to be reasonable.

A more skillful design is not available in this case. *Clause 4.3 Height of Buildings* allows for the possibility for a dwelling to extend to a maximum of 10.0m on a slope of 30% or over and therefore a first floor addition is permitted with consent. As previously discussed, reducing the first floor bathroom to comply with a 1.0m setback and be within the building envelope will have no impact on the view loss in concern. The proposal is considered to be acceptable and the view sharing reasonable.

- **C1.4 Solar Access**

Overshadowing impact on 46 Bynya Road

As the dwelling at 44 Bynya Road is situated south of 46 Bynya Road, it will not have an overshadowing impact on 46 Bynya Road.

Overshadowing impact on 42 Bynya Road

The objector located at 42 Bynya Road raised concerns regarding the first floor addition and its overshadowing impact on their dwelling. A site inspection on 19/01/2017 was conducted at 42 Bynya Road to assess the overshadowing impact. The site inspection found the overshadowing impact from the first floor addition towards 42 Bynya Road is not unreasonable. The rooms affected by overshadowing are those closest to the northern boundary, particularly the bedroom. This bedroom contains a high window which obtains sunlight and an open view of daylight. This bedroom and its adjoining entry room most likely will be overshadowed during the afternoon and early evening, however this portion of the dwelling cannot be considered principal living areas. The dwelling contains living room located centrally within the dwelling which are considered the principal living areas of the dwelling. This space is unaffected by overshadowing from the proposed dwelling at 44 Bynya Road and therefore the overshadowing is considered to have a minimal impact.

- **C1.5 Visual Privacy**

Both objectors located at 42 and 46 Bynya Road raised concerns regarding the impact on visual privacy as a result of the proposal.

Visual Privacy Impact on 42 Bynya Road

There is currently a large brick wall along the boundary between 42 and 44 Bynya Road. This brick wall is currently subject to a Building Certificate approval (BC0069/16). Both the objector and applicant have expressed their intention for the brick wall to remain. This brick wall effectively eliminates most of the visual privacy concern between the two neighbours, however there are still visual privacy concerns for 42 Bynya Road.



A site inspection conducted from the objector's location at 42 Bynya Road found a bedroom located in close proximity to the northern boundary contains high windows which will have a view into the southern windows of the living room. When inspecting the relevant elevation plans (A310) and floor plans (A210), it is important to note the southern windows within the living room are not floor to roof windows as there is a void between the lower ground and ground floor within the living room. This eliminates the possibility of the occupants directly overlooking 42 Bynya Road from this room.

There is concern of overlooking from the first floor walkway over the balustrade when looking south through windows W2.14 and W2.15. Due to the objector's pool area and bedroom being located in close proximity to the northern boundary, the brick wall along this boundary does obstruct these areas from view. The sight angle from this walkway area would not have a direct line of sight into this bedroom and pool area. This space is also a transient area and not a living area or bedroom where the occupants will spend significant time.

There is concern of overlooking into the objector's bedroom from the staircase window (W2.12) on the southern facade. There is a possibility of overlooking into the objector's bedroom through the high window and therefore a condition shall be imposed for this particular window to be a high window with a minimum sill height of 1.8m.

Visual Privacy Impact on 46 Bynya Road

It is considered there are no visual privacy concerns towards 46 Bynya Road. The objector's existing rear deck contains a privacy screen along the southern side, obstructing views from the proposed dwelling to the objector. This objector currently has an approved Development Application (N0192/13) which shows the rear terrace to contain a privacy screen and the southern facade contains a high window with a sill height of 2.0m. These elements effectively eliminate any visual privacy concern.

The objector is concerned of overlooking from the master bedroom window (W2.01) towards their existing and future pool area. The distance between this particular window and the pool is more than 9.0m and therefore the distance is adequate to ensure a reasonable level of privacy. The bedroom is also not a principal living area, therefore it is reasonable to assume the occupants would not spend significant active hours within this room.

- **C1.6 Acoustic Privacy**

The objector located at 46 Bynya Road raised concerns regarding the rear ground level deck and the acoustic impact it may have as it is not enclosed. This deck is not considered to not have an acoustic impact concern, despite the deck not being enclosed. The deck is set back from the northern side boundary by 1.8m and the occupants would most likely use the central space of this deck as an open space.

- **C1.13 Pollution Control**

Both objectors from 42 and 46 Bynya Road are concerned of the proposed fireplaces within the dwelling. The fireplace within the first floor master bedroom is indicated to be a gas fireplace. A condition will be imposed for this particular fireplace to be a gas fireplace only. The ground floor fireplace is a wood fueled fireplace which appears to be in the same location as the existing chimney exhaust. In order to ensure pollution control is contained from this wood fueled fireplace, controls will be imposed for the fireplace to meet the relevant Australian Standards which ensures proper installation of fireplaces and prescribes a minimum discharge height of the chimney above surrounding structures.

- **C1.14 Separately Accessible Structures**

Objections were raised regarding the addition above the garage. There is concern this portion of the dwelling may be used for separate habitation. The floor plans show the bedroom above the garage is accessible from the main dwelling and does not contain a kitchen area, therefore technically not a separate habitable living space.

- **D12.1 Character as viewed from a public place**

The objectors consider the proposal to be excessive in height and therefore not in character with the surrounding natural and built environment. The location of the building footprint is situated on a slope of 30% and therefore considered to be a steep site. The proposal is considered to be appropriate in scale in comparison to the surrounding built environment.

The proposal does not heavily impact on surrounding vegetation, although as discussed in *B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor*, a condition will be imposed for the proposed extension of the pool terrace to not occur in order to preserve vegetation for the wildlife corridor area. The slope of the site descends considerably down to the rear of the site which softens the visual impact of the first floor addition. There is also considerable screening vegetation which also obstructs the first floor addition from public view from the street.

The bedroom and balcony above the garage would appear excessive when viewed from the front of the dwelling as this structure is in close proximity to the front boundary. As further discussed in *D12.5 Front Building Line*, a condition shall be imposed for the bedroom and balcony above the garage to be removed and the garage shall contain a standard roof.

- **D12.3 Building colours and materials**

A schedule of finishes was provided within the Statement of Environmental Effects. The colours for the weatherboard cladding and roof are considered to be dark enough. The structural framing is finished in Dulux 'Whisper White' however these are minor visual elements.

- **D12.5 Front building line**

The minimum front setback requirement is 6.5m. The garage is approximately 500mm from the front boundary. The proposal utilises the existing driveway for vehicle entry. As the slope of the site is 30%, providing a garage set back 6.5m is difficult to achieve. The bulk and scale of the garage is satisfactory, however the bedroom and balcony area above the garage is concerning. The upper level bedroom increases the scale of works at the front of the dwelling considerably. As the roof over the bedroom and balcony above the garage is on the front boundary at its closest point, the two storey structure would appear visually dominant from the road reserve. Although there is vegetation within the road reserve which obstructs the structure from street view, the structure would appear dominant and out of character when viewed from the driveway opening. The bedroom and balcony area above the garage will be conditioned to be removed and the garage shall contain a standard roof.

- **D12.6 Side and rear building line**

Side setbacks

The side setback is 1.8m from the northern boundary except for a bathroom which is set back 900mm from the northern boundary. The dwelling is set back 1.31m from the southern side boundary. Although non-compliant with the required setback distances, the proposal is considered to provide reasonable side setback distances to ensure the proposal does not appear visually excessive or intrusive. The dwelling is reasonably set back from the northern boundary, except for the first floor bathroom. Reducing the bathroom to comply with a 1.0m setback would not reduce the scale of the proposed works.

Although the southern end of the dwelling provides a 1.31m set back to the southern side boundary, the section which breaches the side setback is a stairway. This is a transient space which does not pose a visual or acoustic privacy issue. The bulk and scale of the dwelling would not be reduced if the staircase were set back to comply with the 2.5m side set back requirement. The proposal is considered to provide adequate setbacks to each side boundary.

Rear setback

The proposal seeks consent for an extension of the terrace area west of the existing swimming pool. The retaining wall of the terrace area extends approximately 2.0m from the rear boundary at its closest point. The rear of the property contains a considerable amount of vegetation and native shrubs. As discussed in *B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor*, Council's Natural Resources Officer identifies this area as a buffer between the reserve and dwelling for local wildlife. As this area serves as a priority for providing a wildlife corridor, Council's Natural Resources Officer is not supportive of any further extension of the pool terrace.

The pool terrace also appears excessive in comparison to the surrounding vegetation. The retaining wall is approximately 4.2m at its highest point. As the pool terrace extends considerably into the rear setback area and the retaining wall is high, the pool terrace is considered excessive in nature and not consistent with the surrounding vegetation.

As the pool terrace would remove a significant amount of vegetation serving as a wildlife corridor for local wildlife, and the nature of the pool terrace appears excessive in comparison to the surrounding environment, it is recommended a condition be imposed for the pool terrace extension not form part of the consent.

- **D12.8 Building envelope**

The section drawing (A320) shows the extent of the breach of the building envelope. The northern side where the chimney and first level bathroom roof breaches the envelope is considered to be minor and does not have a major impact on the scale of the works. The southern side has a moderate breach of the envelope, however this portion of the dwelling is a staircase. The staircase does not present a visual or acoustic privacy issue as it is a transient space.

- **D12.10 Landscaped Area - Environmentally Sensitive Land**

The proposed landscaped area is listed as 344.90m² (including variations to allow 6% of the site as impervious landscaped treatments). This equates to 55% landscaped area. As discussed within *B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor*, the extension of the pool and terrace area further to the rear of the site is not supported and will be conditioned to not form part of the consent. Taking this into account, the landscaped area would be approximately 286.745m² (45.73%). When taking into account variations to allow for 6% of the site to be treated as impervious landscape treatments, the total landscape area comes to approximately 324.365m² (51.73%).

The required 60% landscaped area is not met, however the proposal provides substantial vegetation on site. The property is heavily reliant on vegetation on the road reserve in order to reduce the built form when viewed from the road. The landscape plan indicates landscaping on the road reserve which is considered sufficient in ensuring the dwelling is not a dominant feature when viewed from the road.

As previously discussed, the terrace extension to the rear of the site is not supported and the vegetation within this area is preserved for the purpose of a wildlife corridor. Taking this into account, the rear of the site contains adequate vegetation to be in character with the surrounding locality. A reasonable level of vegetation and trees has been provided in order to preserve the character of the site.

9.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies as listed at item 3.0.

The proposal has been found to be consistent with the outcomes of the relevant controls of P21 DCP. The proposal is considered to be consistent with the existing character of Palm Beach and the desired future character of the Palm Beach Locality. As a result of these considerations the proposal is recommended for approval.

RECOMMENDATION OF DEVELOPMENT OFFICER/PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0380/16 for the alterations and additions at 44 Bynya Road, Palm Beach subject to the conditions of consent.

Report prepared by

Christopher Nguyen
PLANNER

Date: 15 February 2017

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CONSENT NO: N0380/16
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:

EMILY SANDSTROM
WALTER BARDA DESIGN
PO BOX 398
DARLINGHURST NSW 1300

Being the applicant in respect of Development Application No N0380/16

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of Development Application No **N0380/16** for:

Alterations and additions to an existing dwelling house

At: **44 BYNYA ROAD, PALM BEACH NSW 2108 (Lot 127 DP 14961)**

Decision:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

- **Architectural drawings A100, A101, A210, A211, A310, A320, prepared by Walter Barda Design, dated 08/08/2016**
- **Arborist Report, REF 3981, prepared by Tree and Landscape Consultants, dated 21/06/2016**
- **BASIX Certificate, A254843, dated 08/08/2016**
- **Bushfire Risk Assessment Report, prepared by Bushfire Planning Services, dated 31/05/2016**
- **Geotechnical Risk Management Report, 29137Zrpt, prepared by JK Geotechnics, dated 15/02/2016**
- **NSW Rural Fire Service list of recommendations, D16/4279, dated 23/12/2016**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent _____

Mark Ferguson
INTERIM GENERAL MANAGER
Per:

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Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - c) that unauthorised entry to the work site is prohibited.The sign must 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.
4. 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:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i) The name and licence number of the principal contractor, and
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
 - b) in the case of work to be done by an owner-builder:
 - i) The name of the owner-builder, and
 - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above 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
5. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
6. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

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B. Matters to be incorporated into the development and maintained over the life of the development:

1. The proposed infill lawn level west of the swimming pool is not granted consent
2. The bedroom and balcony above the garage is to be removed and be replaced with a standard roof
3. The fireplace within the first floor master bedroom is to be a gas fireplace.
4. The stairway window (W2.12) is to be a high window with a minimum sill height of 1.8m
5. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.
6. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by JK Geotechnics are to be incorporated into the construction plans.
7. At the commencement of building works and in perpetuity the entire property shall be managed in accordance with requirements of the NSW Rural Fire Service, D16/4279, dated 23 December 2016
8. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.
9. No environmental weeds are to be planted on the site. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
10. Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.
11. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
12. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
 - a) Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
 - b) Species listed from the Endangered Ecological Community
 - c) Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Council website http://www.pittwater.nsw.gov.au/environment/species_lists

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13. At least three (3) locally native canopy trees which will mature at a height no less than 8.5 metres are to be planted onsite to replace trees approved for removal. Canopy tree species are to be selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and the Native Gardening link on Council's website http://www.pittwater.nsw.gov.au/environment/species_lists. All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
14. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
15. The Stormwater Harvesting and Reuse Scheme shall be installed and operated in accordance with the accepted BASIX certificate.
16. 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.
17. In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
18. The installed wood fire heater is to have an attached certificate of compliance AS/NZS 4013. All certified appliances are listed on the AHHA website www.homeheat.com.au
19. The installation of the wood fire heater is to comply with AS/NZS 2918 – Installation, this is a safety standard that tells you how a heater must be installed.
20. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pools Act 1992, Regulation and Australian Standard 1926.1~2012 Safety Barriers for swimming pools.
21. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool / spa.
 - a) The warning notice (i.e. sign) must contain all of the following words:
 - i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" and
 - ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
 - iii) "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",
 - b) In addition, the notice must contain a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
 - i) that are set out in accordance with the relevant provisions of that Guideline, and
 - ii) that comply with the other relevant guidelines of the Australian Resuscitation Council, and
 - iii) that are illustrated by drawings with key words only in bold print,
 - c) a statement to the effect that formal instruction in resuscitation is essential,
 - d) the name of the teaching organisation or other body that published the sign and the date of its publication.

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22. Materials and colour schemes are to be in accordance with the sample scheme approved by Council.
23. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

4. Construction works approved by this consent must not commence until:
 - a) Construction Certificate has been issued by a Principal Certifying Authority
 - b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
5. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
6. 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.

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7. An amended landscape plan is required to be submitted which removes the proposed *Angophora costata*s from the Council road reserve and removes all proposed works including the terrace from the western side of the existing pool. This area is to be managed to remove weeds with native vegetation retained.
8. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.

9. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
 - a) Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
 - b) A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete finish).
 - c) All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
 - d) Council's Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.
10. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
11. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
12. The applicant shall submit documentation to the Accredited Certifier from a licensed builder confirming that:
 - a) The domestic solid fuel heater shall comply with the NSW Environmental Protection Authority "Environmental Guidelines for Selecting, Installing and Operating Domestic Solid Fuel Heaters"
 - b) Any indoor domestic solid fuel heater will comply with the following Australian Standards:
 - i) AS2918:2001 Domestic Solid Fuel Burning Appliances – Installation
 - ii) AS3869:1999 Domestic Solid Fuel Burning Appliances – Design and Construction
 - iii) AS4013:1999 Domestic solid fuel burning appliances - Method for determination of flue gas emission

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- c) The indoor domestic solid fuel heater will carry a metal compliance plate in accordance with the Australian Standard for pollution emissions.
- d) The model of indoor domestic solid fuel heater to be installed complies with the current Australian Standards. A copy of the NSW Environmental Protection Authority Certificate of Compliance is to be submitted prior to release of the Construction Certificate.
- e) The installation of the indoor domestic solid fuel heater shall at all times comply with the requirements of the Building Code of Australia.
- f) The installation of the indoor domestic solid fuel heater shall be carried out by a licensed builder.
- g) The minimum discharge height of the chimney shall be one metre above any structure within a 15 metre horizontal radius.
- h) The external flue shall be installed so that the discharge height is a minimum of 600mm above any structure within a 3m horizontal radius, or according to the distances used in AS2918 Domestic Solid Fuel Burning Appliances – Installation (which ever is the greatest).
- i) The external chimney type is to be either a concentric shroud, venturi cowl or a parallel rain excluder.

13. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

Note: This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

2. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- c) Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.

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4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
5. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
6. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
7. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
8. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations
9. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
10. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.
11. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
12. No skip bins or materials are to be stored on Council's Road Reserve.
13. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - a) The builder's name, builder's telephone contact number both during work hours and after hours.
 - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d) That no skip bins or materials are to be stored on Council's Road Reserve.
 - e) That the contact number for Northern Beaches Council for permits is 9970 1111.

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14. All construction in the public road reserve must be undertaken by a Council authorised contractor.
15. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by TALC, dated 21 June 2016 are required to be complied with before and throughout the development period, particularly with regard to the following:
 - a) Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - c) All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - d) Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - e) Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
16. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.

Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.

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3. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
4. Prior to the issue of an Occupation Certificate, a suitably qualified professional is to certify that the as-built development is consistent with the recommendations/requirements of the NSW Rural Fire Service, D16/4279, dated 23 December 2016
5. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.

6. The applicant must obtain written confirmation from Council that all works in the road reserve have been completed in accordance with the conditions of the Roadworks Permit
7. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
8. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report (TALC, 21 June 2016) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.
9. The applicant shall submit documentation to the Accredited Certifier from the licensed builder that has carried out the installation of the solid fuel heater confirming that:
 - a) The domestic solid fuel heater complies with the NSW Environmental Protection Authority "Environmental Guidelines for Selecting, Installing and Operating Domestic Solid Fuel Heaters".
 - b) Any indoor domestic solid fuel heater complies with the following Australian Standards:
 - i) AS2918:2001 Domestic Solid Fuel Burning Appliances – Installation
 - ii) AS3869:1999 Domestic Solid Fuel Burning Appliances – Design and Construction
 - iii) AS4013:1999 Domestic solid fuel burning appliances - Method for determination of flue gas emission
 - c) The indoor domestic solid fuel heater carries a metal compliance plate in accordance with the Australian Standard for pollution emissions.
 - d) The model of indoor domestic solid fuel heater which has been installed complies with the current Australian Standards.
 - e) The installation of the indoor domestic solid fuel heater complies with the requirements of the Building Code of Australia.
 - f) The installation of the indoor domestic solid fuel heater has been carried out by a licensed builder.
 - g) The minimum discharge height of the chimney is one metre above any structure within a 15 metre horizontal radius.

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- h) The external flue has been installed so that the discharge height is a minimum of 600mm above any structure within a 3m horizontal radius, or according to the distances used in AS2918 Domestic Solid Fuel Burning Appliances – Installation (which ever is the greatest).
 - i) The external chimney type is either a concentric shroud, venturi cowl or a parallel rain excluder.
10. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.

G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.