

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1653
Responsible Officer:	David Auster
Land to be developed (Address):	Lot 44 DP 16212, 75 Rickard Road NORTH NARRABEEN NSW 2101
Proposed Development:	Demolition works, construction of dwelling house and a secondary dwelling including a swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Shawn David Bradstreet Catherine Jayne Bradstreet Melanie Jayne Bradstreet Darren James Bradstreet
Applicant:	Bradstreet Building Services Pty Ltd
Application lodged:	09/10/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	15/10/2018 to 31/10/2018
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval
Estimated Cost of Works:	\$ 805,000.00

ASSESSMENT INTRODUCTION

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

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

Development Control Plan;

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater 21 Development Control Plan - A4.11 North Narrabeen Locality

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - D11.9 Building envelope

Pittwater 21 Development Control Plan - D11.13 Fences - Flora and Fauna Conservation Areas

SITE DESCRIPTION

Property Description:	Lot 44 DP 16212 , 75 Rickard Road NORTH NARRABEEN NSW 2101
Detailed Site Description:	The site is an irregularly shaped lot that slopes down steeply from rear to front. It has a frontage of 12.19m, and a surveyed area of 1032sqm. There is an existing derelict dwelling on site, with a small attached single garage located at the front of the property. Surrounding development consists generally of detached dwellings of various heights and styles. There is a 5m wide (approximately) public drainage reserve / access way running adjacent to the north western side boundary.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the demolition of the existing structures on site, and construction of a new dwelling including double garage, swimming pool and detached secondary dwelling. The proposed works are described as follows:

Dwelling

Garage Floor Level

- double garage,
- driveway,
- bin storage,
- entry,
- internal and external access stairs
- internal passenger lift shaft

Media Floor Level

- media room,
- bathroom,
- cellar/store,
- deck,
- lift shaft
- internal access stairs

Ground Floor Level

- open plan living,
- dining and kitchen with pantry,
- laundry,
- WC,
- studio/guest room,
- front deck,
- rear alfresco terrace,
- lift shaft
- internal access stairs

First Floor Level

- four bedrooms including master with ensuite, walk-in robe and deck,
- bathroom,
- retreat,
- lift shaft
- internal access stairs

Secondary dwelling

- open plan lounge,
- living and kitchen,
- deck,
- bathroom
- two bedrooms

External Works

- New swimming pool and paved coping
- Proposed landscape plantings
- External stairs throughout site

As a result of the initial assessment, the extent of the proposed non-compliance with the side boundary envelope and overall height was found to be unacceptable. The applicants subsequently amended the plans to substantially reduce these non-compliances, and these amended plans have been assessed in this report. The amended plans were not renotified as the amendments reduced the size and environmental impacts of the development without making any major alterations to the design that changed the overall shape of the development. Renotification of the proposal was not therefore considered necessary in this case, in accordance with clause A5.1 of the DCP.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Peter Ernest Cook	66 Woorarra Avenue NORTH NARRABEEN NSW 2101
Mr Kaia Meiusi	73 Rickard Road NORTH NARRABEEN NSW 2101
Mr Kurt Roland Speyer	79 Rickard Road NORTH NARRABEEN NSW 2101

One submission was a submission in support of the application and raised no objections. In the other two submissions the following issues were raised, and each have been addressed below:

- Side setback
- Proposed planting

The matters raised within the submissions are addressed as follows:

- Side setback

Comment: The submission requested that the 'building limit edge' of the proposed primary dwelling be 1.5m from the side boundary with 73 Rickard Road to reduce overshadowing and prevent dampness and loss of daylight.

The originally submitted plans maintained compliance with clause C1.4 Solar Access of the DCP. However, the amended plans have increased the side setback of the upper level significantly to provide greater compliance with the side boundary envelope, and as a side effect this will also reduce the extent of overshadowing. The proposal will now result in relatively minor non-compliances with the side boundary envelope control (see discussion in this report), which are not unusual on a sloping site such as this one. Given the overall compliance with the solar access requirements, and that the side boundary setback for the upper level is generally much greater than 1.5m as requested by the submission, the submission is considered to be reasonably satisfied by the amended plans.

- Proposed planting

Comment: The submission raised concern with the two proposed *Angophora Costata* trees to be planted in the front setback area, due to the possibility that these trees would grow to block the ocean views from number 79 Rickard Road. It was suggested trees in this location be limited to species that would grow to no more than 5m in height, with a possible alternative being *Angophora Hispidula* (Dwarf Apple).

This is considered a reasonable request. Due to the slope of the land lower trees in the front setback area will still provide excellent screening of the built form when viewed from the road, as people on the road look up towards the property. A condition of consent is recommended requiring amendments to the landscape plan prior to issue of a construction certificate requiring species selection for trees in the front yard to be of trees that will not exceed 5m in height at maturity. The submission is considered to be reasonably satisfied in this regard.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component of the proposal is acceptable subject to completion of landscaping. Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls: C1.1 Landscaping <u>Planner's comment:</u> The condition recommended by Council's Landscape Officer requiring one <i>angophora costata</i> in the front yard and two within the rear yard has been modified to require only the two in the rear yard. This is to preserve views through the front yard area, as discussed under the

Internal Referral Body	Comments
	submissions section of this report.
NECC (Bushland and Biodiversity)	Council's Bushland & Biodiversity division has assessed the proposal against Pittwater LEP 2014 Control 7.6 Biodiversity Protection & Pittwater 21 DCP 2014 Control B1.4 Aboriginal Heritage Significance, B4.4 Flora & Fauna Enhancement Category 2 & Wildlife Corridors and believes the proposed development complies subject to conditions, as recommended..
NECC (Development Engineering)	The submitted concept OSD design is satisfactory. The existing driveway crossing is too steep and not at right angles to the property which makes access difficult and will need to be reconstructed as part of the works. A condition for this has been included. The Geotechnical report addresses the relevant DCP controls. No objection to approval, subject to conditions as recommended.
NECC (Riparian Lands and Creeks)	Approved subject to conditions. No objection to the proposal, the property lies more than 200m north from the shore of Narrabeen Lagoon which is mapped in the 2018 Coastal SEPP under Coastal Use. Appropriate sediment and erosion control measures are to be installed and maintained prior to demolition and throughout the construction and landscaping phase.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 926070M_02).

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

Commitment	Required Target	Proposed
Water	40	45
Thermal Comfort	Pass	Pass
Energy	40	53

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	Primary dwelling 8.5m Secondary dwelling 5.5m	8.8m 5.34m	3.5% N/A	No Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.9 Preservation of trees or vegetation	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

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	8.8m
Percentage variation to requirement:	3.5%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- Compliance with the height control is constrained by the sloping topography of the site.
- The development does not result in a significant bulk when viewed from either the street or the neighbouring properties.
- The development will maintain a compatible scale relationship with the newer residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.
- The extent of the proposed new works where they are not compliant with Council's maximum height control do not present any significant impacts in terms of view loss for neighbours, loss of solar access or unreasonable bulk and scale.

These arguments are considered to be valid planning grounds and are generally accurate. The non-compliance is confined to the front of the new dwelling, as the land falls away, and the minor non-compliance will not cause any unreasonable environmental impacts, or cause the proposal to be incompatible with the scale of development in the area.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient

environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E4 Environmental Living zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the PLEP 2014 are:

(1) The objectives of this clause are 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 proposal is considered to be generally consistent with the desired future character statement. The building will be three storeys at the location where the height limit is breached. However, the dwelling steps with the topography as required by the statement, and the three storey element quickly becomes two storeys as the land slopes up towards the rear. The majority of the dwelling is no more than two storeys as required.

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

Comment:

The dwelling is generally compatible with the height and scale of development in the area. It will be generally larger than the immediate neighbouring buildings, but the development as a whole falls generally within the applicable built form controls, with only the front upper corner of the dwelling breaching the height limit. Given the general level of compliance with the controls, the proposal is considered to be generally compatible with the height and scale of development that is likely to occur in the area.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The application has provided diagrams indicating shading of neighbours will not be unreasonable. The proposal will maintain compliance with the solar access requirements under the DCP. The minor breach of the height limit will not cause any unreasonable overshadowing.

d) to allow for the reasonable sharing of views,

Comment:

The proposed breach of the height limit will not cause any unreasonable view loss. There may be some view loss caused by the dwelling further back towards the rear of the new dwelling (where it is well beneath the height limit). However, as discussed in this report, it is not considered to result in any unreasonable view loss.

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

Comment:

The proposal generally steps down the slope in accordance with the topography. The breach of the height limit is minor, and is confined to the front upper corner of the dwelling as the land slopes away.

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

Comment:

The proposal results in only a minor height non-compliance, and this will not have any unreasonable visual impacts on the natural environment, or any heritage conservation areas or heritage items.

Zone objectives

The underlying objectives of the E4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The site does not have any identified special ecological, scientific or aesthetic values. The proposal will sit generally within the applicable built form controls, with relatively minor proposed non-compliances with the overall height and side boundary envelope controls. As such it is considered to be adequately low-impact.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The proposal is generally within the built form controls, generally compliant with all other applicable planning controls, and as such is considered to have no significant or unreasonable adverse impact on those values. It is within the general expectation for development of the site.

- To provide for residential development of a low density and scale integrated with the landform and landscape.

Comment:

The proposal is for a primary dwelling and secondary dwelling, permissible with consent in the zone. The design of the primary dwelling (which includes the height non-compliance) is stepped down generally with the topography, and will be integrated into the landform and landscape.

- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

Comment:

The proposal will not have any significant impacts on any riparian or foreshore vegetation or wildlife corridors.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the E4 Environmental Living zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel, for which Council has an exemption for dwelling houses that can be determined by delegation.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m or established building line	13.4m and behind established building line.	N/A	Yes
Rear building line	6.5m	6.5m (secondary dwelling)	N/A	Yes
Side building line	SE 2.5m	2.5m (primary dwelling) 1.5m (secondary dwelling)	N/A N/A	Yes Yes
	NW 1m	1.515m (primary dwelling) 5.5m (secondary dwelling)	N/A N/A	Yes Yes
Building	SE 3.5m	Outside envelope up to 780mm	N/A	No

envelope	NW 3.5m	Outside envelope up to 500mm	N/A	No
Landscaped area	60%	60.4% (including 6% paved alfresco area)	N/A	Yes

***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
A4.11 North Narrabeen Locality	No	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D11.1 Character as viewed from a public place	Yes	Yes
D11.2 Scenic protection - General	Yes	Yes
D11.3 Building colours and materials	Yes	Yes
D11.6 Front building line	Yes	Yes
D11.7 Side and rear building line	Yes	Yes
D11.9 Building envelope	No	Yes
D11.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D11.13 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D11.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.11 North Narrabeen Locality

The desired character statement states that The North Narrabeen 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.

The proposed dwelling will be up to three storeys high for a small portion of the development at the front of the upper level (approximately 2m in width viewed on the side elevation). The development is otherwise no more than two storeys at any point. Aside from this minor variance from the wording of the desired character statement, the dwelling is stepped down the slope in accordance with the topography and in accordance with statement. Canopy trees on site will be retained, and new planting is proposed to replace those to be removed. The proposed colour scheme is generally in accordance with the DCP and will harmonise with the natural environment as required. The proposal is therefore considered to be generally consistent with the desired character statement, despite the minor variation noted above.

C1.3 View Sharing

There are distant ocean horizon views available from what appears to be a secondary dwelling at the rear of the north western neighbour (number 77 Rickard Road). A submission was received from the owners of this property, but the submission only raised concerns with the height of the proposed trees in the front yard, which are the subject of a recommended condition of consent to restrict in height to maintain these views.

The views from the secondary dwelling at the rear of the site, which include ocean, are considered to have moderate value given distance and filtering by vegetation. They are directly across the side boundaries, and are through the centre of the area of the site most likely to be developed given the applicable built form controls. The part of the new dwelling which may block these views will be fully compliant with the built form controls, with the proposed non-compliances with the height and envelope controls occurring at the front of the proposed new dwelling. Due to the slope of the land the dwelling

will be well within these limits further back where any view loss from the secondary dwelling is likely to be caused.

Given these considerations, the proposal is considered to result in a reasonable sharing of views, consistent with the Tenacity Principles of view assessment.

D11.9 Building envelope

The proposal will be up to 780mm outside of the envelope on the south eastern side, and up to 500mm outside the envelope on the north western side.

Merit Assessment

To achieve the desired future character of the Locality.

Comment: The proposal is generally consistent with the desired future character, as discussed in this report. There is a small part of the dwelling which will be three storeys in height, but overall, the dwelling will step down in accordance with the slope of the land, and the overall proposal is considered to be generally in accordance with the desired future character.

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 proposal will replace the existing rundown building on site, and will improve the streetscape in this regard. Planting is proposed within the front setback area, though the height of this planting is recommended to be limited by condition to retain views for the neighbours across the front setback area. However, given the slope of the land the planting will still provide screening of the built form when viewed from the street below.

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

Comment: The development will step down in accordance with the topography. The proposed envelope non-compliances are generally relatively minor in the context of the overall development, and confined to the front corners of the upper level. Given the slope of the site the non-compliances are not considered unreasonable.

The bulk and scale of the built form is minimised.

Comment: The bulk and scale of the primary dwelling is stepped back up the slope of the site, and also steps in from the side boundaries, with the side setbacks increasing as the slope falls away to the front of the site. The built form is adequately minimised.

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

Comment: The proposal will not result in any unreasonable impacts on views. A condition is recommended limiting the height of planting in the front setback area to preserve views, as discussed in the Submissions section of this report. There may be some views impacted by the rear of the proposed dwelling (the envelope non-compliance occurs at the front), but this area is well beneath the envelope, and given the level of general compliance in this area the impacts are not considered to be unreasonable.

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

Comment: The breach of the envelope on the north western side is caused mainly by a privacy screen, which will help maintain privacy. The proposed windows and decks all fall below the envelope otherwise. The solar access diagrams provided indicate that the proposal will maintain a reasonable level of solar access to the south and south eastern neighbours, in accordance with the controls. Amenity is not considered to be impacted in any unreasonable way by the proposed envelope non-

compliance at the front of the building.

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

Comment: The application includes a landscape plan that has been assessed by Council's landscape officer and found to be satisfactory. Some tree removal is proposed in or near the proposed building footprint. However, replacement planting is proposed.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2011 / PDCP 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.

D11.13 Fences - Flora and Fauna Conservation Areas

No fencing is proposed. However, the plans indicate some retaining walls near the south eastern boundary extending onto the neighbour's property. A condition is recommended to delete works on the neighbouring property prior to issue of a construction certificate.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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

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

considered to be:

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1653 for Demolition works, construction of dwelling house and a secondary dwelling including a swimming pool on land at Lot 44 DP 16212, 75 Rickard Road, NORTH NARRABEEN, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-02 Revision B	8/3/19	Bradstreet Building Design
DA-03 Revision B	8/3/19	Bradstreet Building Design
DA-04 Revision B	8/3/19	Bradstreet Building Design
DA-05 Revision B	8/3/19	Bradstreet Building Design
DA-06 Revision B	8/3/19	Bradstreet Building Design
DA-07 Revision B	8/3/19	Bradstreet Building Design
DA-08 Revision B	8/3/19	Bradstreet Building Design
DA-09 Revision B	8/3/19	Bradstreet Building Design
DA-10 Revision B	8/3/19	Bradstreet Building Design
DA-11 Revision B	8/3/19	Bradstreet Building

		Design
DA-12 Revision B	8/3/19	Bradstreet Building Design
DA-13 Revision B	8/3/19	Bradstreet Building Design
DA-14 Revision A	5/10/2018	Bradstreet Building Design
DA-15 Revision A	5/10/2018	Bradstreet Building Design

Engineering Plans		
Drawing No.	Dated	Prepared By
11521-C1.00 Rev A	30.08.18	Waddington Consulting
11521-C1.01 Rev A	30.08.18	Waddington Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation J1704	13 August 2018	White Geotechnical Group
Arboricultural Impact Assessment	September 2018	Growing My Way Tree Consultants

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-22 Revision A	5/10/2018	Bradstreet Building Design

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Northern Beaches Council Waste Management Plan	13/08/2018	Vaughn Milligan Development Consulting

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

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

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments

specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. General Requirements

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

dangerous to persons or property on or in the public place

- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

4. **Removal and Replacement of Tree 2**

One (1) *Angophora costata* - Tree 2 as per provided Arborist Report authored by Growing My Way - Kyle Hill dated September 2018 is to be removed and replaced with one (1) 45L *Angophora costata* (Sydney Red Gum).

Reason: Ensure replacement of trees affected by development

FEES / CHARGES / CONTRIBUTIONS

5. **Security Bond**

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

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

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

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

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

6. Construction, Excavation and Associated Works Bond (Drainage)

A Bond of \$1,000 as security against any damage to the Council stormwater drainage pit adjoining the site as a result of the connection works as part of this consent.

Reason: Protection of Council's Infrastructure.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 13 August 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. On-site Stormwater Detention Compliance

The applicant must submit drainage plans prepared by a qualified experienced 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, detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's Pittwater DCP 21 Clause B5.7 and the concept drawing by Waddington Consulting Pty Ltd, drawing number 11521-C1.00 and C1.01 Rev A dated 30.08.18 and the recommendations of the Geotechnical Report by White Geotechnical Group Section 7 dated 13 August 2018.

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

approval prior to the issue of the Construction Certificate.

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

9. **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.

10. **Shoring of Adjoining Property**

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

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

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

11. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

12. **Tree Pruning Standards**

Any tree pruning required to allow vehicle/construction access shall be undertaken prior to the commencement of works, carried out by an AQF Level 3 Arborist and be to AS4373 Pruning of Amenity Trees. Any pruning of trees on neighboring properties requires owner consent and shall be to a maximum 15% total live canopy.

Reason: Natural Environment Protection (DACNECPCC2)

13. **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.

14. **Amendments to landscape plan**

The landscape plan is to be amended to replace any proposed trees in the front setback area that will grow to a height of more than 5m at maturity, with tree species that will grow to a height at maturity of at least 3m but no more than 5m.

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

Reason: Protection of views.

15. **Amendments to plans**

No works are permitted on neighbouring properties. Approved Plan number DA-06 is to be amended to delete the parts of the retaining walls shown as being across the boundary.

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

Reason: Owner's consent not provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNED06)

17. **Building materials, sedimentation**

No building materials or other materials are to be placed on or enter areas of bushland, wetland, or Council managed land (i.e. the drainage easement to the west of the subject site and/or the front northern nature-strip). Appropriate sediment fencing and the establishment of temporary fencing as per AS4970 Figure 3 (chain wire mesh panels held in place with concrete feet/weighted feet - not stakes into ground) along the western boundary with the drainage easement is to be installed prior to the commencement of any site works.

Reason: Environmental Protection

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Vehicle Crossings

The provision of one vehicle crossing 3.5 metres wide perpendicular to the kerb up to the boundary, in accordance with Northern Beaches Council Drawing No A4-3330/6 MH and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

19. Arborist Recommendations to be Implemented

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 Growing My Way - Kyle Hill, dated September 2018 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 is to take place within the calculated Tree Protection Zone (TPZ) of existing trees.

Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

Reason: To ensure the retention of the Urban Forest/Natural Environment and remain consistent with approved reports.

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

20. Landscape works

Landscaping is to be implemented in accordance with the Landscape Plan DA-22 revision A, inclusive of the following requirement:

- i) The nominated 3 *Angophora costata* canopy tree planting shall be reduced to 2, and consist of two within the rear yard, occupying an area approximately 3m x 3m, and planted at least 6

metre apart,

ii) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

21. **Authorisation of Legal Documentation Required for Onsite Detention**

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

Reason: To create encumbrances on the land.

22. **Registration of Encumbrances for On-site Stormwater Detention**

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

Reason: To identify encumbrances on land.

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

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

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

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

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

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

25. **Tree Protection to be Certified by Arborist**

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 authored by Growing My Way - Kyle Hill, dated September 2018 and the establishment of temporary fencing along the length of the boundary between the subject site and drainage easement to the west (to protect trees to be retained within the drainage easement) 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.

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

26. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

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

27. **Control of Weeds**

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

Reason: Weed management.

28. **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.

29. **Tree Retention**

In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan authored by Bee & Lethbridge Pty Ltd, ref. no 20748, dated 21/10/2017 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.

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

30. **Relocation of trees**

The transplanting of Tree no. 1 (*Plumeria acutifolia* Frangipani) - numbering as per provided Arborist Report authored by Growing My Way - Kyle Hill dated September 2018, is to be carried out by a qualified contractor with proven experience in this area and a maintenance strategy for a 12 month re-establishment period is to be developed, implemented and incorporated into the detailed landscape working drawings. This strategy is to address maintenance issues such as irrigation, soil testing, weeding, plant staking, fertilising, pest and disease control, remedial pruning and the like. Further, provision is to be made for the contractor to visit the site on a 3 monthly basis from the date of the relocation. After the inspection, the contractor is to issue a report to the project manager certifying that the palms are healthy and performing to expectation. A copy of this report is to be forwarded to the Principal Certifying Authority.

Reason: To ensure transplanting is successful and retain the Urban Forest.

31. **Retention of Natural Ground Levels**

The natural ground levels of private open space areas are not to be altered.

Reason: To reduce impacts on surrounding vegetation.

32. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

33. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

34. **Landscape Plan to be Implemented**

Landscaping is to be implemented in accordance with the approved Landscape Plan authored by Bradstreet Building Services, drawing no. DA-22, Rev A, project no. 1078 dated 5/10/2018, however tube stock sized pots are only approved to be planted within the calculated TPZ of existing trees on site (including neighboring trees) unless under the direction/supervision of the project Arborist. The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion time-frame are imposed. This landscaping is to then be maintained for the life of the development.

Reason: To ensure the site is landscaped.

35. **Pool filter**

The pool filter is to be enclosed in a structure that ensures no noise above 5dBA above ambient background noise levels is emitted.

Reason: Residential amenity.

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

Signed



David Auster, Planner

The application is determined on 22/05/2019, under the delegated authority of:



Rodney Piggott, Manager Development Assessments