

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Civic Centre, Dee Why

WEDNESDAY 23 OCTOBER 2019



Ashleigh Sherry
Manager Business Systems and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 23 October 2019
in the Walamai Room, Civic Centre, Dee Why**

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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 9 OCTOBER 2019

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 9 October 2019 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1 MOD2019/0110 - 4 PANIMA PLACE, NEWPORT - MODIFICATION OF DEVELOPMENT CONSENT N0057/16 GRANTED FOR ALTERATIONS AND ADDITIONS TO EXISTING DWELLING AND THE RECONSTRUCTION OF EXISTING SWIMMING POOL

REPORTING MANAGER Steve Findlay
TRIM FILE REF 2019/587499
ATTACHMENTS
1 Assessment Report
2 Site Plan & Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Mod2019/0110 for Modification of Development Consent N0057/16 granted for alterations and additions to existing dwelling and the reconstruction of existing swimming pool on land at Lot 5 DP 243519, 4 Panima Place, Newport, subject to the conditions outlined in the Assessment Report.

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0110
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 5 DP 243519, 4 Panima Place NEWPORT NSW 2106 Lot LIC 526549, 4 Panima Place NEWPORT NSW 2106
Proposed Development:	Modification of Development Consent N0057/16 granted for alterations and additions to existing dwelling and the reconstruction of existing swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Terence Michael Watson Suzanne Margaret Watson
Applicant:	Terence Michael Watson Suzanne Margaret Watson

Application Lodged:	15/03/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/03/2019 to 05/04/2019
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	4.3 Height of buildings: 12.9%
Recommendation:	Approval

EXECUTIVE SUMMARY

This report considers an application for modifications to a consent for alterations and additions to an existing dwelling and the reconstruction of an existing swimming pool. The dwelling and pool are currently under construction.

The modifications involve a number of elements, including correcting errors in the approved plans in relation to floor and ridge levels due to an incorrect level shown on the original architectural plans, regularisation of as-built works and proposed new changes. As a result of the drafting error, the floor and ridge levels were under the actual proposed heights.

The approved dwelling house did not comply with the maximum building height of 8.5m, being 9.3m. The current application seeks to vary this height by only 70mm, which has been achieved through a redesign of the roof.

Due to the minor extent of the current variation and the inconsequential nature of the additional height in terms of residential amenity and the character and design of the building, the proposal is supported.

The proposed development was notified and 7 submissions were received. The primary concerns raised by the 3 adjoining properties are views and privacy impacts. The residents concerns have been assessed and they do not warrant special conditions to address those matters or refusal of the application.

The modification application is recommended for approval.

PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks approval for proposed design amendments and retrospective approval for works that have been completed.

The proposal includes an amendment to the condition imposed by the Development Unit for the maximum ridge height of the dwelling house.

Retrospective Approval

Retrospective approval is sought for the following works that have been completed:

Finished Floor Level Changes

- Change in the rumpus room finished floor level from RL7.15 to F.F.L RL7.48 (increase of 0.33m)
- Change in the height of the pool deck/terrace from RL9.855 to F.F.L RL10.23 (increase of 0.375m)
- Change in the height of the finished floor level of the ground floor from RL11.53 to RL11.75 (increase of 0.22m)
- Change in the height of the finished floor level of the garage from RL12.13 to RL12.33 (increase of 0.20m)
- Change in the height of the finish floor level of Level 1 from RL14.88 to RL15.10 (increase of 0.22m)

Level 1 - Under Balcony

- New access door on the western elevation to replace a window adjoining the storage area
- New access/walkway on the northern elevation adjoining the rumpus room
- New sliding doors on the northern elevation from the rumpus living room to access the new walkway
- Windows on the northern elevation deleted, and windows adjoining the bathroom of Level 1 - under balcony pool deck reduced in size
- New retaining wall at the rear of the northern elevation

It is important to note that the approval of Development Application N0057/16 was based on an incorrect nomination of the existing entry foyer level of RL 12.13m. The correct existing entry floor is

RL12.33m. Consequently, all floor levels have been amended to reflect the corrected floor level.

Proposed New amendments

Building Height/Roof

- Change in the conditioned overall ridge height of the the dwelling house from RL17.88m to RL17.95 (increase of 0.07m)
- Increase in the maximum building height from 9.3m to 9.6m (increase of 0.3m)
- The roof pitch being lowered to 2 degrees
- The addition of 36 solar panels on the northern slope of the roof

Level 1

- Reduction of the first floor window of Bedroom 3 on the eastern elevation
- Reduction of the first floor window of Bedroom 3 on the southern elevation
- Reduction and relocation of the first floor window adjoining the walk-in-robe on the western elevation
- Increase in the size of the window adjoining the first floor en-suite on the western elevation
- Minor internal configurations

Ground Floor

- Two windows deleted adjoining the ground floor bathroom on the western elevation and the retained window reduced in size
- Increase in the size of the ground floor window adjoining the living room on the western elevation
- Deletion of the ground floor windows adjoining the kitchen and family room on the eastern elevation
- Addition of a new ground floor window adjoining the kitchen on the eastern elevation
- Minor internal configurations

Level 1 - Under Balcony

- Addition of steps from the new access/walkway adjoining the rumpus room
- Minor internal reconfiguration

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 - Zone E4 Environmental Living
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan - A1.7 Considerations before consent is granted
Pittwater 21 Development Control Plan - A4.10 Newport Locality
Pittwater 21 Development Control Plan - B5.10 Stormwater Discharge into Public Drainage System
Pittwater 21 Development Control Plan - B5.11 Stormwater Discharge into Waterways and Coastal Areas
Pittwater 21 Development Control Plan - B5.12 Stormwater Drainage Systems and Natural Watercourses
Pittwater 21 Development Control Plan - B5.13 Development on Waterfront Land
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
Pittwater 21 Development Control Plan - D10.1 Character as viewed from a public place
Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)
Pittwater 21 Development Control Plan - D10.16 Construction, Retaining walls, terracing and undercroft areas
Pittwater 21 Development Control Plan - D10.18 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	Lot 5 DP 243519 , 4 Panima Place NEWPORT NSW 2106 Lot LIC 526549 , 4 Panima Place NEWPORT NSW 2106
Detailed Site Description:	<p>The site is known as 4 Panima Place, Newport and has a legal description of Lot 5 in Deposited Plan 243519.</p> <p>The site is irregular in shape and has a size area of 1,097m². The site has eastern and western side boundaries of 41.975m and 48.21m respectively (by survey), and a rear boundary of 23.44m to the Pittwater Waterway.</p> <p>The site has a fall of over 10m from the front boundary to the rear of the property. Across the proposed building footprint</p>

the land falls 5.72m with a gradient of up to 27.7%.

Vehicular access to the site is currently provided via a common driveway from the Panima Place cul-de-sac.

The existing dwelling houses along the northern side of Panima Place are all orientated to enjoy expansive views of the Pittwater Waterway.

The dwelling house is currently under construction is for a two-storey dwelling, including an attached garage, above-ground swimming pool, retaining walls, paved areas and vegetation. A jetty and pontoon currently exist north from the site into Pittwater Waterway.

Adjoining properties consist of large multi-storey dwelling houses, of varying ages, within a landscaped setting.

Map:



SITE HISTORY

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

- **Development Application (N0057/16)** for the alterations and additions to an existing dwelling and the reconstruction of existing swimming pool was approved by Council's Development Unit on the 18/08/2016.

The application was approved subject to changes to the design as follows:

1. The maximum roof ridge height of the development is to be RL17.88m AHD.
2. A privacy screen is to be provided along the eastern edge of the Ground Floor Level balcony to a

minimum height of 1.7m above the finished floor level to prevent overlooking into the neighbouring property at 5 Panima Place.

- **Modification Application (N0057/16/S96/1)** for a change in the roofline over the north-western facing ground-floor balcony to provide for a opening louvre roof, was approved by Council on the 12/12/2016.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for N0057/16, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under N0057/16.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application N0057/16 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the

Section 4.55 (2) - Other Modifications	Comments
(i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environmental Plan 2011 and Pittwater 21 Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><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.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited 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 7 submission/s from:

Name:	Address:
Cadence & Co Design Pty Ltd	7/287 Mona Vale Road TERREY HILLS NSW 2084
Mr Henry Robert Hodge	2 Panima Place NEWPORT NSW 2106
Mr Toby Rowley Browne	C/- Mark Hurcum Design Practice L2 271 Alfred Street North NORTH SYDNEY NSW 2060
DFP Planning Pty Ltd	11 Dartford Road THORNLEIGH NSW 2120
Ingham Planning Pty Ltd	Suite 406 Level 4 220 George Street Sydney NSW 2000
Mrs Julie Anne Browne	140 A Crescent Road NEWPORT NSW 2106
Mrs Alyse Berriman	3 Panima Place NEWPORT NSW 2106

The following issues were raised in the submissions:

- Application type
- Accuracy of information
- Unauthorised works
- Side Boundary Setbacks
- Building Height
- Privacy
- View Loss
- Building envelope and solar access
- Access to the foreshore and shared pontoon
- Works in the foreshore area

The matters raised within the submissions are addressed as follows:

- **Concern is raised that the proposed works cannot be approved under a Section 4.55 Modification**

Comment:

An applicant is able to apply to Council for approval to modify an approved development consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*. Section 4.55 refers to the part of the Act that allows a development consent to be modified, if the development is substantially the same.

The modification is to be assessed as a Section 4.55 (2) application with the modified development being 'substantially the same development' as the development the subject of the original development consent.

Modification applications can grant retrospective approval under NSW case law as established in the case of *Windy Dropdown Pty Ltd v Warringah Council* [2000] NSWLEC 240. Therefore, all works (proposed and undertaken works) can be assessed and approved under this current modification.

This issue does not warrant the refusal of the application.

- **Concern is raised in regards to the accuracy of the information provided**

Comment:

The documentation and architectural plans by JJ Drafting, dated January 2019, and a survey plan from Byrne & Associates Pty Ltd, dated 17 January 2019 were submitted as part of the current application.

Council received from Cadence & Co Design (objector who made a submission), an additional survey plan from C.M.S. Surveyors, dated 18 October, 2018. The two surveys (applicants and objectors) are very similar in their depicted levels, however, it is important to note that this the C.M.S survey was not undertaken by accessing the subject site, whereas the Bryne & Associates Survey Plan accessed the site to undertake the survey. Due to the very close depicted levels of the two surveys, it is considered that the Bryne & Associates Survey Plan that was undertaken by accessing the site is sufficient for Council to undertake an accurate assessment of the modified works.

This issue does not warrant refusal of the application.

- ***Concern is raised as to works not included as part of this Modification Application and the unauthorised use of the site***

Comment:

Submissions received made comment on the use of the swimming pool and habitation of Level 1 under balcony area.

If there is concern about the habitation of the under balcony area or the use of the swimming pool, it is recommended that a report be made to Councils Compliance Unit for their investigation.

This issue does not warrant the refusal of the application.

- ***Concern is raised that the proposed height of the development will adversely impact upon views***

Comment:

This issue has been addressed in detail elsewhere in this report (refer to Clause C13 "View Sharing" under the Pittwater 21 DCP).

In summary, the assessment found that the extent of view loss is minor from No. 2 Panima Place with respect to the modified works at No.4 Panima Place and that the extent of further view loss is not sufficient to warrant refuse the current application.

- ***Concern is raised that the proposed side boundary envelopes will adversely impact upon the views from No. 2 Panima Place and be visually dominant***

Comment:

This issue has been addressed in detail in this report (refer to Clause D10 "Side Boundary Envelope" under the Pittwater 21 DCP).

In summary, the additional non-compliance was found to satisfy the various objectives of the control and will have minimal impact upon view loss, such that the non-compliance does not warrant the refusal or further amendment of the application.

- ***Concern is raised that the previously approved side setback should be increased further on the western boundary to reduce the privacy impacts, overshadowing and impact on views***

Comment:

There is no proposed change to the approved side boundary setbacks of the approved dwelling, and

consequently the western side setbacks do not form part of the assessment for the modification application. However, the planning assessment of Development Application No. N0057/16 addressed this concern in detail under Clause D10.8 Side and Rear Building Line of the Pittwater 21 DCP. The assessment report found that the proposed setback to the western boundary satisfied the various outcomes of the control and had minimal impact upon the provision of deep soil landscaping, visual dominance, bulk and scale and did not unreasonably effect the amenity of the neighbouring properties, including view sharing, privacy and overshadowing.

Therefore, this issues does not warrant further amendment or refusal of the application.]

- ***Concern is raised that the modified height will create unreasonably overshadowing on the west side of the property, particularly during the mid-winter months***

Comment:

This issue has been addressed in detail in this report (refer to Clause C14 "Solar Access" under the Pittwater 21 DCP).

In summary, the assessment finds that the development complies with the requirements of the clause and does not warrant further amendment or refusal of the application.

- ***Concern is raised that the increase in the finished floor level of the pool terrace area and window changes will result in a significant loss of privacy to the rear private open space areas***

Comment:

This issue has been addressed in detail elsewhere in this report (refer to Clause C1.5 "Visual Privacy" under the Pittwater 21 DCP).

In summary, the assessment finds that the modified development, as conditioned, does not create any additional unreasonable privacy impacts to the private open space area of the neighbouring properties. Areas which have been identified as creating additional overlooking have been appropriately addressed by conditions which require the installation of opaque glazing to specific windows on both the eastern and western elevations.

This issue does not warrant the refusal of the application.

- ***Concern is raised in regards to the additional retaining wall within the foreshore area***

Comment:

This issue has been addressed in detail in this report (refer to Clause 7.8 "Limited development on the foreshore area" under PLEP 2014).

In summary, the assessment finds that the constructed walkway/access adjoining the rumpus room is not located within the foreshore area. The retaining wall is located within the foreshore area, however, the assessment concludes that the retaining wall is consistent with the outcomes of the control.

This issue does not warrant the refusal or further amendment of the application.

- ***Concern is raised regarding the access to the shared path between No. 4 and No.6 Panima Place and to the pontoon at the rear of No.4 Panima Place***

Comment:

Concern has been raised regarding obstruction of the shared access path and pontoon as a result of the construction of the dwelling house.

A condition is to be included to ensure the access path between the properties at 3 and No.4 Panima Place is not obstructed at any time.

Should access be obstructed, the matter can be reported to Councils Compliance Unit for their investigation and action.

This issue does not warrant further amendment or refusal of the application.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	The proposed works include minor alterations within the existing footprint. There is no Biodiversity objections to the proposed modification.
NECC (Riparian Lands and Creeks)	The application is supported as the proposed modifications do not impact water quality. Sediment and erosion controls were addressed in the original approval. Therefore, there is no objection to the proposed modification.

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. A253285_03 and 09 February 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A253285_03 and 09 February 2019).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

The subject site is identified as being located within the Coastal Use Area under the provisions of SEPP (Coastal Management) 2018. The application has been considered with regard to the relevant provisions of State Environmental Planning Policy (Coastal Management) 2018 and Council can be satisfied that the proposal is consistent with the relevant matters prescribed by this policy.

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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.3m ² (*)	9.6m ² (**)	12.9%	No

* Development Application N0057/16 was conditioned to maintain an overall building height of RL17.88. This modification application seeks to increase the the overall building height to RL17.95 (an increase of 0.07m).

** Notwithstanding a Clause 4.6 Variation is not required to form part of a Modification Application, the merits and reasonableness of the additional variation has been reviewed by stepping through the provisions of Clause 4.6 (see below).

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes

Detailed Assessment

Zone E4 Environmental Living

The development proposed is found to be consistent with the following Outcomes of the E4 Environmental Living zone:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The proposed modification is found to have a negligible impact on the previously approved landscaping and existing vegetation on the site, as detailed in the Biodiversity comments elsewhere in this report.

The documentation accompanying the proposed modification contains sufficient information for Council to be satisfied that the development will continue to be consistent with surrounding developments.

4.6 Exceptions to development standards

Description of Non-Compliance

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.6m
Percentage variation to requirement:	12.9%

The DA was originally accompanied by a request pursuant to Clause 4.6 in support of the variation to the building height development standard. Notwithstanding a further Clause 4.6 Variation request is not required as part of the assessment of a S4.55 modification application, as the current proposal seeks to increase the overall building height beyond the already varied building height, a further assessment has been undertaken below.

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, as per application N0057/16, 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, as per application N0057/16, did adequately demonstrate 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 as part of the application N0057/16 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 as per application N0057/16 argued, in part:

- *"the significant majority if the existing building lower than 8.5m;*
- *bulk and scale compatible with neighbours and its context;*
- *site slope between the garage and pool is up to 31%;*
- *the height will not obstruct views;*
- *the proposal maintains existing privacy and sufficient sun; and*
- *alternatively, a relocated first floor would increase building footprint and potential further loss of landscaped space.*

The visual bulk and scale of the proposal is acceptable and the height, form and design of the additions are appropriate for the site and locality. The proposed works are not likely to result in any adverse impacts on the existing amenity of neighbouring properties."

Consideration of Further Increase in Building Height

The modification seeks to further increase the building height by 70mm. In this regard, the previously submitted justification continues to be valid for the proposed building height increase in that:

- The additional proposed height breach relates to the steep topography of the site;
- The additional proposed height breach does not result in any unreasonable overshadowing of adjoining properties;
- The additional proposed height breach does not result in any loss of privacy for neighbouring properties;
- The additional proposed height breach does not result in any adverse visual impact given the overall improved articulated nature of the dwelling; and
- The additional proposed height breach does not detract from compliance with the E4 Environmental Zone objectives.

In the circumstances of the sloping site conditions, additional variation to the development standard of 8.5m, while continuing to allow for a consistent architectural style throughout the entire building, is not considered unreasonable.

It is agreed that the additional breach is largely influenced by the incorrect nomination of the existing entry foyer level for application N0057/16, and the slope of the land. It is determined that the non-compliance will not result in any unreasonable impacts to any surrounding properties.

In this regard, the applicant's written request continues to demonstrate that the modified 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 continues to adequately demonstrate 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 justifications provided as part of the previous written request by the applicant, as part of application N0057/16, 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 modified 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 the 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 modified proposal reflects the established built form character of the immediate Panima Place area where multi-level, variably stepped houses are prevalent, due to the steeply sloping topography of the land.

The existing approved three (3) levels remain with some internal changes, new floor heights, new access and balcony elements and a new roof form. It is changes to the floor heights and their relationship with the sloping topography that have contributed to the height non-compliance.

The residential nature of the development and the non-compliance is considered to be consistent with the objectives of the standard and the urban context of the local area.

The development satisfies this objective.

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

development.

Comment:

The site is located on the downward slope of the Panima Place escarpment which is characterised by undulating topography to the Pittwater high water mark. This results in variable built forms in the area, such that there is an eclectic mix of height and scale in which to be compatible with.

The modification seeks to vary the building height to 9.6m, with an increase in the maximum roof ridge from RL17.88 to RL17.95 (an increase of 0.07m or 70mm as shown in Figure 1 below).

It is important to note that the maximum roof ridge of RL17.95 (apex of the roof) complies with the 8.5m building height standard as shown in the diagram.

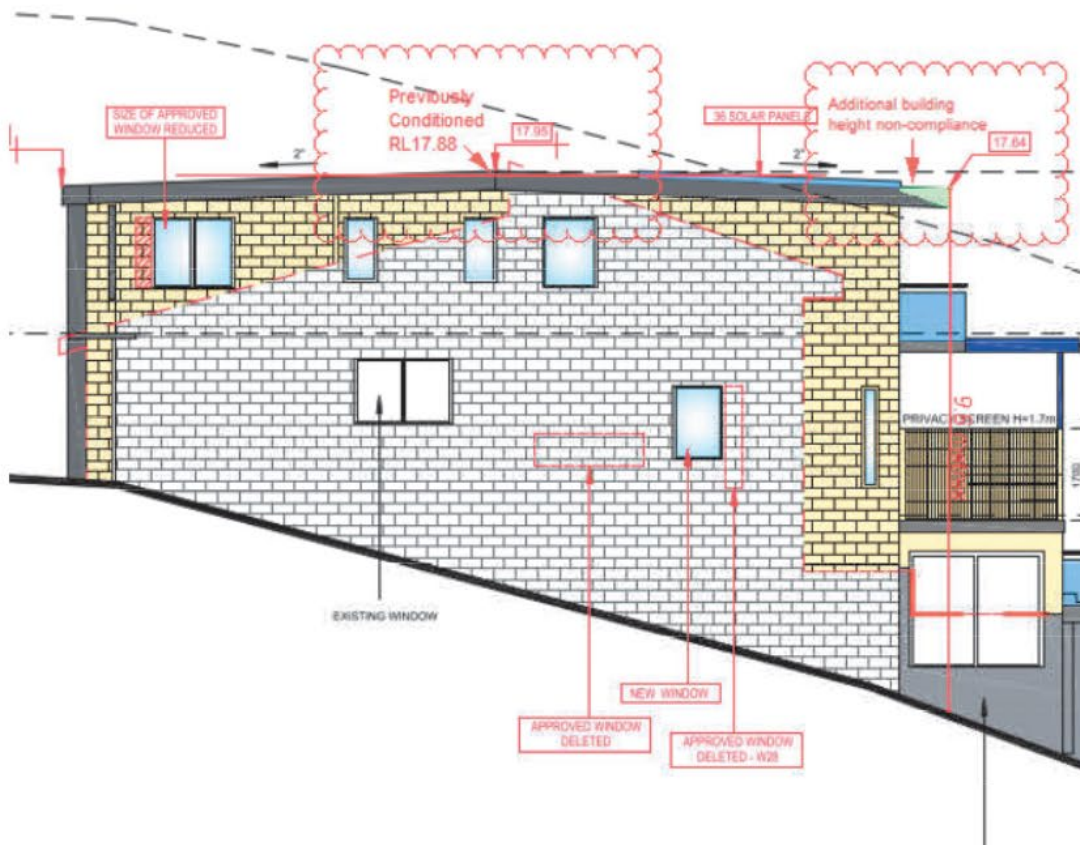


Figure 1. Additional Building Height in green (9.6m) and previously approved RL17.88 with modified RL17.95.

The additional building height non-compliance is located at the north-eastern corner of the northern roofline edge over the balcony of the first floor.

It is noted that a reduction to the building height would not achieve compliance nor reduce the

scale of the building to any significant extent such that it would appear as smaller than the previously approved.

The modified development continues to present as a three (3) level development when viewed from adjoining properties to the east and west, and a two (2) storey development when viewed from Panima Place.

Therefore, due to the topographical nature of the site and the local area, there is a variety of built forms along Panima Place. The additional non-compliance is considered to be relatively minor and does not unreasonably conflict with the height and scale of surrounding and nearby development. In this context, the proposed height is considered to be compatible.

The development satisfies this objective.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The development application includes shadow diagrams by JJ Drafting (see Drawing No. 10 - 12, dated January 2019). The shadow diagrams indicate that the modified building height will cast additional shadow over the neighbouring right of carriageway and the road reserve to the south between 9.00am and 3.00pm on 21 June.

It should be noted that overshadowing is controlled by Clause C1.4 (Solar Access) in the Pittwater 21 DCP which requires that at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of three hours of sunlight between 9.00am and 3.00pm on June 21. In this regard, the diagrams indicate that the modified height will not additionally overshadow these areas. The modified building height continues to be compliant with the requirements of that particular control.

Given the finding in this clause, the development satisfies this objective.

d) to allow for the reasonable sharing of views,

Comment:

It is acknowledged that the additional non-compliance is limited to the north-eastern corner of the proposed roofline, and does not impact the viewing angle from the properties to the east No.5 Panima Place or west No.3 Panima Place. The sweeping range of Pittwater water views available from the internal areas and terrace areas of both properties will continue to remain intact.

The height non-compliance does not have an impact upon the existing Pittwater water views from No. 2 Panima Place, as the breach of the building height is limited to the north-eastern corner of the development. It is the maximum ridge of RL17.95 that obstructs the view lines from 2 Panima Place. However, the maximum roof ridge complies with the 8.5m height limit, being a maximum height of 7.6m above the existing ground level.

The modified proposal makes no change to the complying western side setback, and modifies the roof pitch from 4 degrees to 2 degrees. Therefore, the modified design has attempted to minimise and reduced the impact into the existing view line.

Consequently, the portion of the development which breaches the building height will not unreasonably interrupt neighbouring views and the modified design attempts to minimise the

maximum roof ridge impact on these views.

The development satisfies this objective.

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

Comment:

The modified design continues to respond the topographical constraints of the site.

The proposal makes no change to the previously approved open style rear balcony areas that provides a more "stepped" look when viewed from the rear waterway and neighbouring properties. The proposal continues to reflect the established built form character of the immediate Panima Place area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land.

The development satisfies this objective.

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

Comment:

Despite the topographical constraints of the site, the modified design continues to creates articulation, and visual interest and is sufficiently setback from the boundaries such that the visual impact of the building will be appropriately managed.

There is no change to the previously approved landscaping or removal of any significant trees onsite that will soften and filter the built form.

The development satisfies this objective.

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 proposed modifications will be relatively low-impact and have been designed to respond to the steep topography. The dwelling house will provide the occupants an increased level of amenity without causing unreasonable impacts to adjoining neighbours (subject to conditions) or to the site itself. The modified development does not result in any adverse impact to the existing natural environment.

As such, the modified development is consistent with this stated objective.

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

Comment:

There is no change to the previously approved natural landscaped setting. Therefore, the modified dwelling house will continue to within a natural setting below the existing tree canopy.

As such, the development is consistent with this stated objective.

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

Comment:

The modified development is of a minor scale, that will be integrated with the existing dwelling and the steep landform. The design continues to be open in style and responds to the natural vegetated context in which the site is located.

The modified development will not dominate the existing bushland environment with the bulk and scale continuing to be consistent with the surrounding area.

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

Comment:

The modified development will continue to retain the existing foreshore vegetation and existing trees for the wildlife corridors.

As such, the development is consistent with this stated objective.

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

As mentioned above, there is no requirement for the consent authority to be satisfied with a Clause 4.6 variation as this is a modification application.

7.1 Acid sulfate soils

The site is identified as being partly within 'Class 1' and partly within 'Class 5' on the Acid Sulfate Soils Map and was assessed under the previous application.

The proposed modification does not involve the disturbance of more than one tonne of soil, which is the trigger for an Asset Sulfate Soil Management Plan (ASSMP). Therefore, a ASSMP is not required.

In addition, the water table will also not be affected by the proposed works.

7.2 Earthworks

A Geotechnical Addendum has been prepared by Jack Hodgson Consultants Pty Ltd, Reference No.

MQ 30330N, dated 8 March, 2019. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the modifications works.

Accordingly, Councils Biodiversity officers have concluded that the impact of the earthworks will not unreasonably impact or disrupt vegetation on the property.

7.6 Biodiversity protection

Councils Biodiversity officers have assessed the modification proposal and consider the impact of the modified works to be negligible.

An Arboricultural Impact Assessment prepared by Standfast Tree Services, dated 19 December 2018 to address the impact of the retaining wall erected below the dwelling on the Eucalyptus Punctata (Grey Gum) adjoining the northern face of the dwelling. A second wall is listed within the report, however this wall is not part of this application.

The report concludes that the impact the works is acceptable. Further mitigation work involving aeration of the soil between the tree and the garden wall be implemented within the conditions of this consent.

7.7 Geotechnical hazards

A Geotechnical Addendum has been prepared by Jack Hodgson Consultants Pty Ltd, Reference No. MQ 30330N, dated 8 March, 2019. This report and its recommendations are included within the draft conditions to ensure there is no additional adverse impacts to the surrounding properties resulting from the proposal on sloping land.

7.8 Limited development on foreshore area

The application proposes minor works within the foreshore area, including:

- The construction of a retaining wall (1m in height)

The retaining wall is permissible within the foreshore area. The proposed wall is supported as the minimal structure will not visually dominate the foreshore area, and remains consistent with other retaining walls on the subject site and surrounding properties.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	8.3m - 9.5m	No change	Yes
Foreshore Building Line	6.5m	All works behind foreshore building line	Garden retaining wall located 0.8 - 1.0m within the foreshore area	No
Side building line	2.5m	1.2m west	No change	Yes
	1.0m	0.9m east	No change	Yes
Building	3.5m	Within envelope	Additional encroachment of	No

envelope			approximately 0.1m for a length of 15.0m	
	3.5m	Outside envelope	No additional envelope encroachment	Yes
Landscaped area	50%	51.5%	No change	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.8 Estuarine Hazard - Medium Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
C1.1 Landscaping	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
D10.1 Character as viewed from a public place	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A1.7 Considerations before consent is granted

Modification applications can be granted retrospective approval under NSW case law as established in the case of *Windy Dropdown Pty Ltd v Warringah Council* [2000] NSWLEC 240. Commission J.Talbot considered the following:

"The broad construction of s96 leads to a practical result that enables authority to deal with unexpected contingencies as they arise during the course of construction of development or even

subsequently, provided of course that the development to which the consent as modified relates is substantially the same development."

Therefore, works already undertaken and which form part of this Section 4.55 application can be approved under this application.

A4.10 Newport Locality

The application proposes a range of amendments to the design of the dwelling house, in addition to a small retaining wall to the foreshore area.

In this regard, the nature of the built form and retention of the existing landscaping will ensure the modified works continue to sit comfortably with adjoining and surrounding two, and three storey residential development.

On balance, the modified proposal is considered to be consistent with the desired future character of the locality.

B5.10 Stormwater Discharge into Public Drainage System

Subject to compliance with previously applied conditions, the proposal is considered to meet the requirements of this clause.

B5.11 Stormwater Discharge into Waterways and Coastal Areas

Subject to compliance with previously applied conditions, the proposal is considered to meet the requirements of this clause.

B5.12 Stormwater Drainage Systems and Natural Watercourses

Subject to compliance with previously applied conditions, the proposal is considered to meet the requirements of this clause.

B5.13 Development on Waterfront Land

Subject to compliance with previously applied conditions, the proposal is considered to meet the requirements of this clause.

C1.3 View Sharing

Background

A view loss assessment was undertaken for DA No. N0057/16, from No.2 Panima Place regarding potential impacts to the views of Pittwater Waterway, Rowland Reserve, and the land/water interface across the area of the subject site.

The conclusion of the view loss assessment under the original DA assessment was as follows:

"In this instance, it is considered that the minor amendment to impose a lesser pitched roof on the dwelling would have little impact upon the internal amenity of the dwelling, however would significantly improve the view loss extent on the neighbouring property. Should the application be approved, a

condition of consent is recommended for the roof to be amended prior to the issue of a Construction Certificate."

As a result, a condition was imposed that required the maximum roof ridge height of the development to be RL17.88m to improve the view affectation in relation to No.2 Panima Place, which has views over the roof of the proposed dwelling.

Modification View Loss Assessment

The modification application seeks to increase the maximum ridge height of the development from RL17.88m to RL17.95m (an increase of 0.07m or 70mm). Consequently, a view loss assessment has been undertaken for the additional 70mm increase in height.

In determining the extent of the additional view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council* (2004) NSWLEC 140, are applied to the proposal.

One submission from No.2 Panima Place, Newport was received that raised concern regarding view loss.

A view loss assessment was undertaken from No.2 Panima Place on the 14 June, 2019.

It is important to note that construction has since commenced on the site and the clearing of vegetation and pre-existing structures has further enhanced the view of the Pittwater waterway available from No.2 Panima Place across the subject site.

Step 1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Step 1:

The affected views from the one storey dwelling at No. 2 Panima Place consists of views to the north and north-west of the Pittwater waterway, Scotland Island, Church Point and Ku-ring-gai Chase National Park, including the land/water interface and boats in the foreground.

Step 2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Step 2:

The views are obtained over the side boundary of No.2 Panima Place, and over the subject sites roof-line. The views are obtained from the kitchen, open-plan dining/living room and study from within the dwelling and the northern outdoor terrace. The views are obtained from sitting and standing positions,

with the water views diminishing as you move further into the dwelling.

It is important to note that the design of the primary living spaces of No.2 Panima Place has been orientated to take advantage of the the views to the north and north west.

Step 3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".

It is considered that the modified development will involve some impact upon the views from the area within the dwelling and from the outdoor terrace. The view impacts are as follows:

Kitchen

It is considered that the additional view loss from the kitchen will be minor portion of water and tree canopy vegetation from the kitchen to the north-west. The additional view loss impact is considered to be **minor**.

Dinning/Living Area

The site lines from the dinning/living area contains the most significant area of views. It is considered that additional Pittwater water views will be lost from the dinning/living room area. However, when standing the occupants will retain the land/water interface from a standing position. The additional view loss is considered to be **minor**.



Photo 1. Photo of the current view from the dinning room with the subject site roof removed.



Photo 2. Photo of the view with the subject site existing dwelling house roof.

Study

The additional view loss from the study, as determined by previous view photos, from a standing position is a minor portion of Pittwater water views. Water views, land/water interface and district tree views continue to be retained. It is considered that the additional view loss is **minor**.

Outdoor Terrace

The additional view loss from the outdoor terrace area is very minor portion of water and tree canopy vegetation. There are multiple outdoor areas, and view points externally facing north that will retain views to the far north-west of Rowland Reserve and the foreshore. The additional view loss is considered to be **minor**.

Step 4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to Step 4:

Of relevance to the view sharing analysis, the development has been found to exhibit non-compliance for the building height under PLEP 2014 and the eastern Side Boundary Envelope built form control under P21 DCP.

The non-compliance of the building envelope occurs along the wall plane of the eastern elevation and is considered that this variation does not create unreasonable view loss to No.2 Panima Place.

The non-compliance with the maximum building height is located in the north-eastern corner of the development where the site slopes towards the rear of the subject site and it is considered that this variation does not create unreasonable view loss to No. 2 Panima Place.

The maximum overall ridge height impacts the existing view corridor of No. 2 Panima Place. However, this area complies with the 8.5m building height requirement at 7.6m.

The modified proposal demonstrates a design that has attempted to minimise the view loss for the neighbouring property as follows:

- Roof pitch of 2 degrees (lowest it can go);
- First floor internal floor to ceiling height of 2.4m increasing to 2.65m at the central roof ridge; and
- Ground floor has a floor to ceiling height of 2.4m for the front section of the ground floor then increases to 3.0m via a previously excavated floor level.

Given that the minimum requirement for a habitable room is 2.4m and 2.1m for a non-habitable room (bathrooms, laundry, circulation space and pathways/corridors), it is considered that the design has demonstrated floor to ceiling height that cannot be further reduced without impacting on the amenity of the occupants.

In view of the above and the Tenacity Planning Principal, it is considered that the modified proposal and consequent minor view loss is reasonable in this circumstance.

Solar Panels

The modified proposal includes the addition of 36 solar panels to be constructed on the northern slope of the roof. The solar panels will not be visible over the maximum ridge line, and therefore will not cause

an additional view loss.

Conclusion

The current view lines are extremely vulnerable to any form of two storey development on the subject property. The proposals compliance with the building height control at the maximum ridge height combined with design features such as a low roof pitch, and minimum floor to ceiling heights, maintains a reasonable view sharing corridor with the additional view loss considered to be reasonable and view sharing acceptable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21 DCP 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.

C1.5 Visual Privacy

The outcomes of Clause C1.5 Visual Privacy requires that:

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*
- *A sense of territory and safety is provided for residents.*

The controls behind the requirement are:

- *Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).*
- *Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*
- *Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.*

The general orientation of properties along the waterfront of Panima Place are towards the north to capture the expansive views to the Pittwater waterway. Prior to the current construction of No.3 and No.4 Panima Place, there was an absence of privacy screening devices in these areas so to maintain view lines across the side boundaries of the subject and neighbouring sites, see photo 3 below.



Photo 3. *The general character in design, and existing overlooking prior to the construction to No. 3 and No.4 Panima Place.*

Development Application (N0057/16), with applied conditions, satisfactorily address overlooking as determined by the assessment report.

However, the modified proposal includes additional windows and changes to the finished floor levels that could result in additional visual privacy impacts. Therefore, the modified changes have been assessed below.

Level 1 Windows

- The window adjoining bedroom 3 on the eastern elevation is to be reduced
- The window adjoining bedroom 3 on the southern elevation is to be reduced
- The window adjoining the walk in robe on the western elevation is to be reduced
- The window adjoining the en-suite on the western elevation is to be increased

The window adjoining bedroom 3 on the eastern elevation is to be reduced in size, and will overlook the eastern neighbours roof line (No.5 Panima Place). Additional privacy measures are not required.

The window adjoining bedroom 3 on the southern elevation is also to be reduced. The window is located over 9.0m from the nearest adjoining property boundary, being No.2 Panima Place, with existing vegetation and boundary fencing obstructing any direct view-line to the property. Additional privacy measures are not required.

The window adjoining the walk-in-robe and the en-suite on the western elevation are orientated towards

the front entry area of No. 3 Panima Place. However, overlooking from a living area is more objectionable than overlooking from a bathroom/wardrobe where people tend to spend less waking time. As the windows are directly associated to a bathroom/wardrobe and is orientated to the front transitional entry area, it is not considered that any additional privacy treatments are required.

Ground Floor Windows

- The windows adjoining the bathroom on the western elevation are to be removed, and the middle window is to be reduced
- The window adjoining the lounge room on the western elevation is to be increased
- The window adjoining the lounge/kitchen on the eastern elevation is to be removed and an additional kitchen window proposed

The remaining window adjoining the bathroom on the western elevation will overlook the side setback area of No.3 Panima Place. In this regard, due to the proximity to the neighbouring dwelling, it is considered that an opaque privacy treatment to this window is appropriate in this instance.

The existing window adjoining the lounge room is to be increased by approximately 0.5m. The additional area will create additional overlooking to No.3 Panima Place. The overlooking is specifically towards a first floor window, the opening to the first floor balcony and the rear private open space area, as demonstrated in photo 4 below. Therefore, additional opaque privacy treatments are required.



Photo 4. *Overlooking from the window adjoining the lounge room to No.3 Panima Place.*

A submission was received from No. 5 Panima Place that raised concerns regarding the overlooking

from the additional window on the eastern elevation adjoining the kitchen. This additional window will be in line with a bedroom window of No. 5 Panima Place. Therefore, it is considered that due to the very close proximity of the adjoining bedroom window privacy treatment of opaque glazing is required.

Rear Pool Terrace Area

The modified design maintains the previously approved footprint and side boundary setbacks for the terrace area. However, the finished floor level of the terrace area has been increased from RL9.855 to RL10.23 (an increase of 0.375m). Therefore, impact of the height increase on the visual privacy of the adjoining neighbours is assessed below.

No. 5 Panima Place

The design of the pool and terrace area provide reasonable privacy measures. The spatial distance between the swimming pool and the eastern and western terrace edges are 0.9m to the east and 1.0m to the north. These areas are considered low traffic areas rather than recreational spaces due to their size. It is not anticipated that frequent unreasonable direct overlooking would occur from these areas.

After discussion with the owners of No.5 Panima Place it was requested that no privacy screens be installed on the pool terrace area in order to maintain the existing water views obtained over the subject site from their property, see photo 5 below. The imposition of a privacy screen on the finished floor level of RL10.23 would impact upon the existing views from 5 Panima Place, and as such it is reasonable not to require a privacy screen on the pool deck.



Photo 5. Existing view lines from No. 5 Panima Place over the subject site terrace.

No. 3 Panima Place

An assessment of photos pre-construction and a site assessment revealed the an absence of any privacy measures at the rear of the properties between No.4 and No.3 Panima Place. Therefore, direct overlooking into the private open space areas from the subject site to No.3 Panima Place was possible

from multiple areas, including the previous pool terrace area.

The DA assessment report concluded that the pool terrace was consistent with existing privacy impacts:

"the pool deck is not considered to result in any unreasonable impacts upon the adjoining property to the west with regards to visual privacy."

A site visit undertaken from the constructed terrace level (RL10.23) revealed overlooking view lines to the private open space areas and swimming pool of No.3 Panima Place. The 0.375m increase in height does not unreasonable exacerbate the previous overlooking, as show in photo 6 below. Therefore, the increase in the finished floor level of 0.375m for the terrace area continues to be consistent with the degree of overlooking that was previously approved.



Photo 6. Existing overlooking from subject site pool terrace to No. 3 Panima Place.

As discussed, the installation of a privacy screen on the western elevation terrace area would impact the view line for all properties. Therefore, it is considered reasonable not to incorporate a privacy screen on the pool deck so to maintain existing view lines.

The addition of a 1.8m privacy screen, as requested by No.3 Panima Place, would significantly add to the bulk and scale of the built form, as shown by figure 2 below. Privacy screens would not demonstrate a skilful approach to managing the visual privacy as a result of the slope, with a visual presentation being an un-modulated structure on the western elevation that presents as a massing of bulk and scale. This presentation is not consistent with the desired character of the Newport Locality, nor Clause D10.18 (Scenic Protection Category One Areas) where bulk and scale are to be minimised to ensure the preservation of scenic views and encourage view sharing.

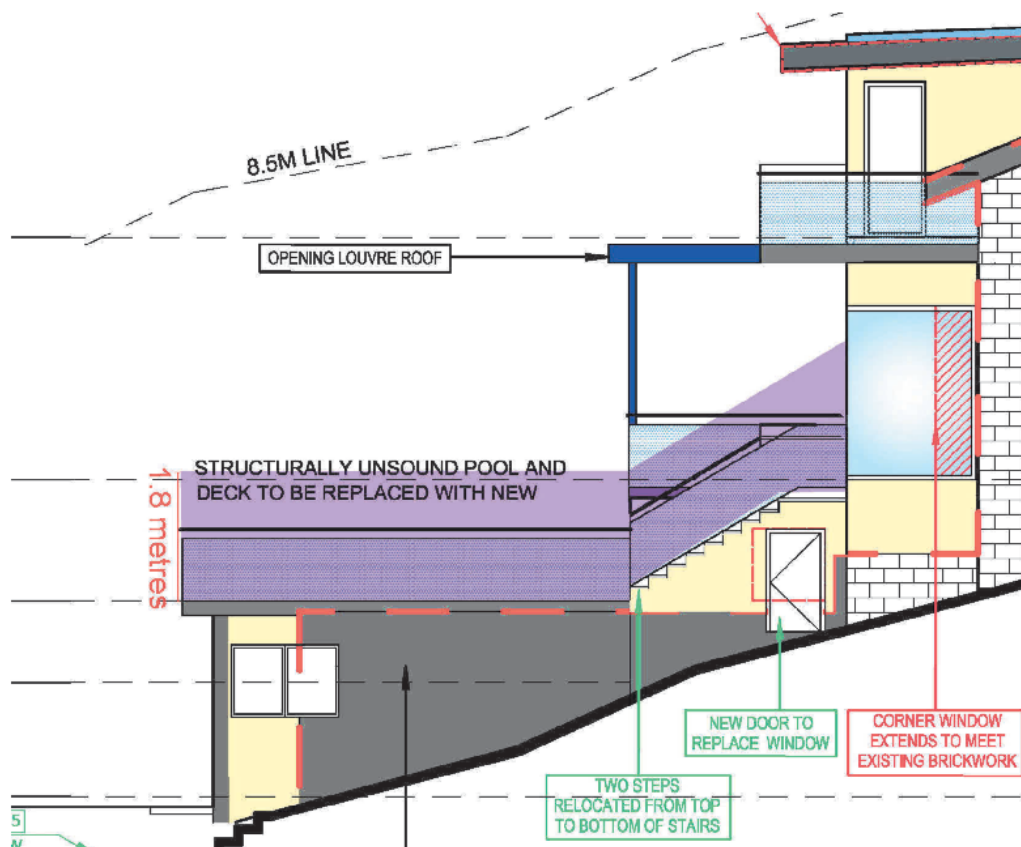


Figure 2. Pink area represents the visual bulk and scale created by 1.8m privacy screens.

It is also noted that No.3 Panima place has a recent approval for the construction of planter boxes with associated screening planting on their eastern boundary. These planter boxes will assist in providing filtered screening and obscure the direct line of sight to the pool and lawn are of No.3 Panima Place.

Level 1 Balcony

The finished floor level for the first floor balcony has been increased from RL14.88 to RL15.10, an increase of 0.22m. The floor height change is not considered to further exacerbate the existing overlooking from this balcony. The main recreational area of the balcony is orientated to north to capture the existing view lines, and is positioned in the middle of the dwelling footprint minimising the ability for direct overlooking to No.3 Panima Place. Therefore, additional privacy measures are not required.

Level 1 - Under Balcony

- Retrospective approval for the new access door that has replaced the window adjoining the storeroom on the western elevation
- Retrospective approval for the bi-fold doors on the northern elevation adjoining the rumpus room
- Retrospective approval for the access/walkway on the northern elevation adjoining the rumpus room
- Additional steps from new access/walkway adjoining the rumpus room to the garden area

Whilst the new access door is directly facing the western side boundary, the opaque glazing minimises privacy impacts. It is considered that the inclusion of a opaque treated door will not result in any unreasonable visual privacy impacts.

The new access stairs, access/walkway and associated bi-fold doors at the rear of the site, improve the access and livability from the rumpus room to the outdoor space. There is no unreasonable overlooking from this area as the orientation is towards the north, and it considered a transitional area due to the width being only 0.6m. The access stairs are orientated to the east with landscaping screening and softening the area. Therefore, the access/walkway is not considered to result in any unreasonable impacts upon adjoining properties with regards to visual privacy and no privacy treatments are recommended.

A submission received from No.140A Crescent Road raised concern regarding overlooking from an approved window on the western elevation adjoining the rumpus room. This window is well over 30m from No.140A Crescent Road, with the line of site over property No.3 Panima Place. It is considered that the minor size of the window, the spatial distance and intervening vegetation obscured the impacts of potential overlooking. Therefore, it is not considered that privacy treatments to this window is required.

Therefore, subject to conditions, the modification application proposes a range of amendments to the design of the dwelling that satisfy the requirements of the C1.5 Visual Privacy control.

C1.6 Acoustic Privacy

The acoustic levels would be consistent with current residential living.

D10.1 Character as viewed from a public place

The existing dwelling house is orientated towards the Pittwater Waterway. The minor modifications continue to demonstrate proposed design is a visually modernised improvement of the existing dwelling house, with an integration with the landform and landscape and provides continued consistency with surrounding developments. Therefore, there will be a improvement in the presentation to Pittwater Waterway.

D10.11 Building envelope (excluding Newport Commercial Centre)

The modified dwelling-house exhibits a minor additional non-compliance with the side building envelope requirements.

The additional non-compliance is very minor and includes the following:

- Eastern Elevation: additional areas measuring: 0.1m in height for a length of 15m

There is no additional side boundary envelope variation to the western elevation.

The control permits a minor variation for the addition of a second storey where the existing dwelling is retained. The proposed modified works continue to include the retention of the existing dwelling with a first floor level, and as such the modified variation for the addition of a second storey is permitted.

The non-compliance reflect the transitions within the existing ground line combined with the additional building height as shown by Figure 2 below. The resulting built form is not considered unreasonably bulky or dominant and will be suitably in scale with the large trees that exist on the site.

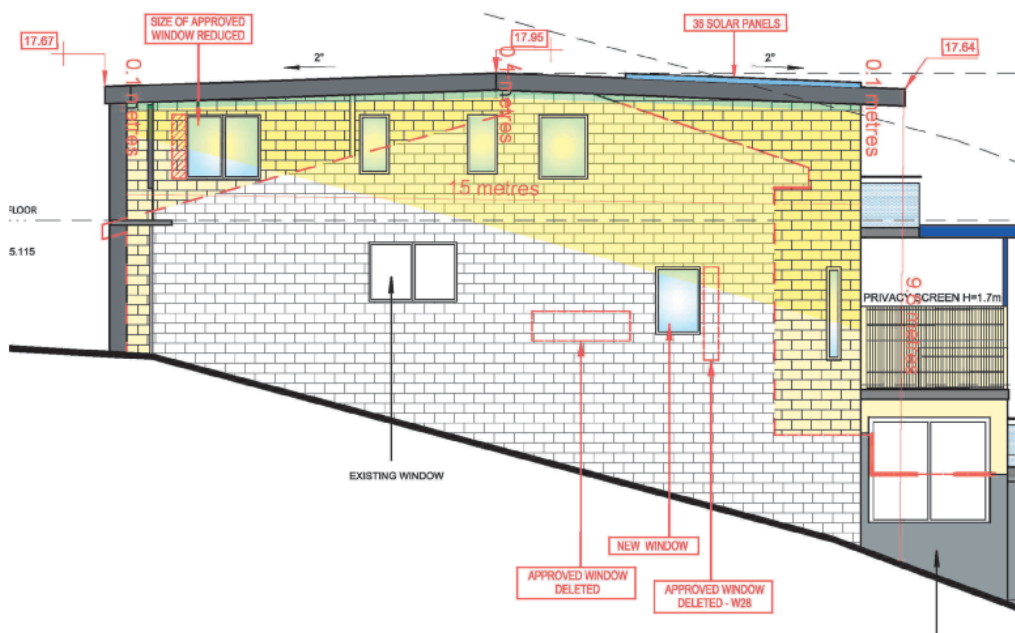


Figure 2: Additional envelope encroachment in as a result of the modification in green.

The proposed works are considered to be reasonable solution in light of the circumstances, the constraints of the site and is consistent with the outcomes of the building envelope control, as follows:

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

Comment:

The modified development is consistent with the desired future character of the Newport locality.

- *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 modified development continues to present a more modern design, with the modified changes being consistent with surrounding built form. Furthermore, the resultant built form will be maintained below the existing tree canopy.

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

Comment:

The modified development is considered to be a design response in consideration of the natural characteristics of the site, with the retention of existing canopy trees and the enhancement of landscaping.

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

Comment:

The proposed modifications create a envelope non-compliance that is relatively minor in size. The eastern elevation variation is not visually apparent from the front setback and foreshore area. The additional encroachment area directly adjoin the significant wall planes of the adjoining dwelling houses, demonstrating consistency with adjoining development.

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

Comment:

As discussed previously due to the downslope siting of the existing dwelling, the modified envelope encroachment will not result in any unreasonable impacts upon views.

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

Comment:

The design of the proposed additions, combined with imposed conditions, will not result in any unreasonable impacts upon the amenity of adjoining properties.

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

Comment:

There is no change proposed to the previously approved vegetation, and existing trees are retained within the foreshore area to reduce the visual impact of the development.

D10.16 Construction, Retaining walls, terracing and undercroft areas

As discussed above, the application proposes an additional retaining wall within the foreshore area which are considered to be consistent with the provisions of this control which prescribed that retaining walls and terracing shall be kept to a minimum.

The retaining wall adjacent to the undercroft area of the secondary dwelling access/walkway has a maximum height of 1m which complies with the maximum 3m requirement of the control.

Notwithstanding, the retaining wall is supported as being reasonable for the following reasons;

- Excavation works and site disturbance are very minor;
- The retaining wall creates an functional area to to screen and soften the undercroft area;
- The localised steepness at the rear of the site; and
- The height of the retaining wall is minor and consistent with that of adjoining and surrounding residential development, for example No. 3 Panima Place .

Therefore, the proposal will otherwise achieve consistency with the outcomes of this development

control, which aim to minimise site disturbance and encourage building design to respond sensitively to the natural topography of the land.

D10.18 Scenic Protection Category One Areas

Foreshore works

The modification application proposes an additional retaining wall within the foreshore area that generally aligns with existing natural ground level, with a maximum height of 1m above existing and finished ground levels. The retaining wall has a height of up to 1m and will not dominate the foreshore area, and is consistent with the objectives of PLEP 2014 and P21 DCP which aim to minimise site disturbance and respect the natural topography of the land.

The newly introduced retaining walls and subsequent landscaping to shield the undercroft area is supported.

Other works

The modification application also proposes a range of amendments to the design of the dwelling that do not unreasonably alter the character of the development as viewed from the public domain. No concerns are raised in this regard.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development 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

This report provides a detailed assessment of the Modification Application at No.4 Panima Place, Newport.

The notification of the application resulted in seven (7) submissions from four (4) neighbouring properties. Those objecting to the proposal raised concerns in relation to the additional view loss from the increase in the overall ridge height and privacy impacts that would be generated by the increase in the finished floor levels and additional windows.

The proposal does not comply with the 'Height of Buildings' Development Standard under the PLEP 2014. Whilst a Clause 4.6 variation for building height was supported in the original DA, a further assessment of the additional building height variation has been undertaken, despite not being technically required. The overall building height has increased to 9.6m and the maximum overall ridge height has increased from RL17.88 to RL17.95 (increase of 0.07m or 70mm). It is important to note that the maximum overall ridge height of RL17.95 (apex of roof) continues to comply with the building height control.

The additional building height non-compliance and increase in the ridge height does not result in any unreasonable impacts to any adjoining and surrounding properties. Furthermore, the applicant has provided sufficient justification for the additional minor departure from the development standard.

The additional view loss is considered to be minor. The modified design incorporates reasonable attempts to minimise the impact of this view loss through its lowered roof pitch and floor to ceiling heights.

The assessment of the modified proposal against Pittwater 21 DCP found that the proposal does not comply the side boundary envelope, and there are issues in relation to visual privacy. Given the constraints on the development by virtue of the steepness of the site and the siting of the existing structures on the site, some flexibility in applying these controls is required.

It is considered that the scale of the non-compliances is minor and suitable conditions have been imposed in relation to privacy. On this basis, the modified proposal will not have any unreasonable amenity impacts on adjoining properties and is consistent with the character of Panima Place and the Newport locality.

In summary, the application should be approved as the modified design is reasonable for the site by virtue of the level of non-compliance that does not create unreasonable amenity impacts on surrounding developments or the streetscape and foreshore character.

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 approval to Modification Application No. Mod2019/0110 for Modification of Development Consent N0057/16 granted for alterations and additions to existing dwelling and the reconstruction of existing swimming pool on land at Lot 5 DP 243519,4 Panima Place, NEWPORT, Lot LIC 526549,4 Panima Place, NEWPORT, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Analysis Plan 01	January 2019	JJ Drafting
Level 1 - Under balcony and Pool Deck 02	January 2019	JJ Drafting
Level 4 Ground Floor Plan 03	January 2019	JJ Drafting
Level 6 - First Floor Plan 04	January 2019	JJ Drafting
North and South Elevations 05	January 2019	JJ Drafting
West Elevation 07	January 2019	JJ Drafting
East Elevation 08	January 2019	JJ Drafting
Section 2 09	January 2019	JJ Drafting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Addendum to Geotechnical Report	08/03/2019	Jack Hodgson Consultants Pty Ltd
Arboricultural Impact Assessment	19/12/2018	Standfast Tree Services

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

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

B. Add Condition 7A Amendments to the Approved Plans to read as follows:

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

- a) The new window adjoining the kitchen on the eastern elevation is to be fitted with obscured glazing.
- b) The window adjoining the lounge room on the western elevation is to be fitted with obscured glazing.
- c) The window adjoining the bathroom on the western elevation is to be fitted with obscured glazing.

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

Reason: In order to maintain privacy to the adjoining / nearby property.

C. Add Condition 17A Survey Certificate to read as follows:

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

- a) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- b) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

D. Add Condition 17B Obstruction of Access Path to read as follows:

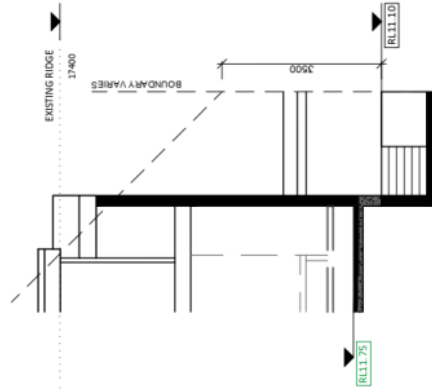
During the demolition and construction phase, no construction materials are to obstruct the access path between No.4 Panima Place and No.3 Panima Place. Additionally, all construction fences are to be located on or within the property boundaries.

Reason: to ensure that access is not obstructed to the neighbouring sites

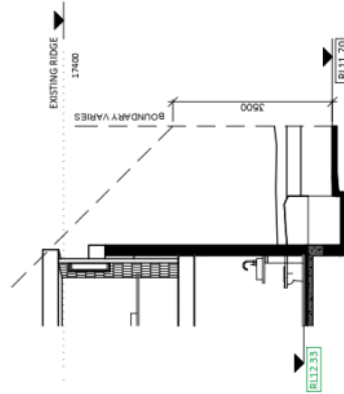


SITE PLAN

NOTE: THE SITE COVERAGE & LANDSCAPING CALCULATIONS DO NOT INCLUDE RIGHT OF WAY AND THE LAND HIGHLIGHTED IN BROWN

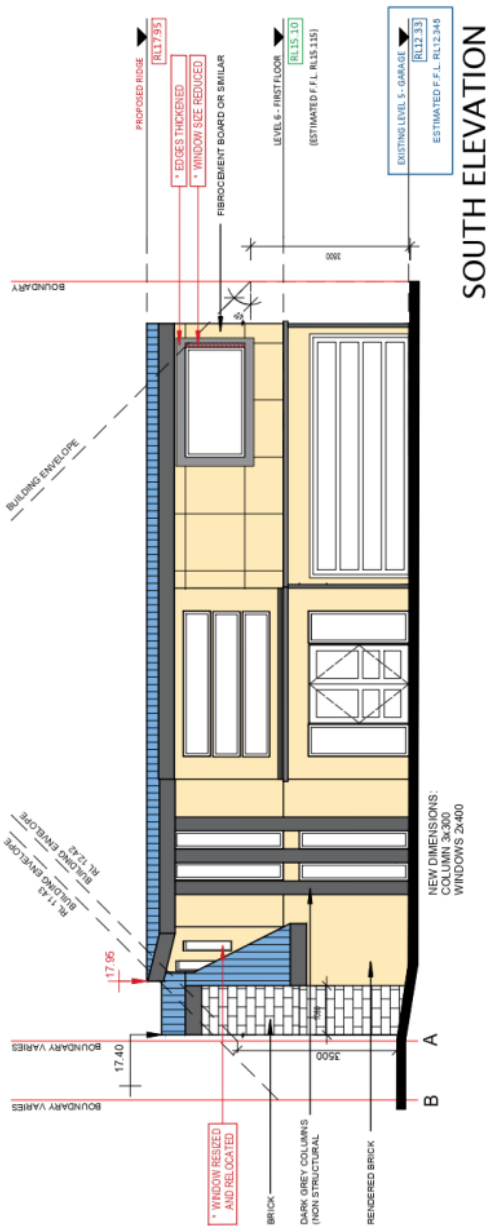


SECTION 3

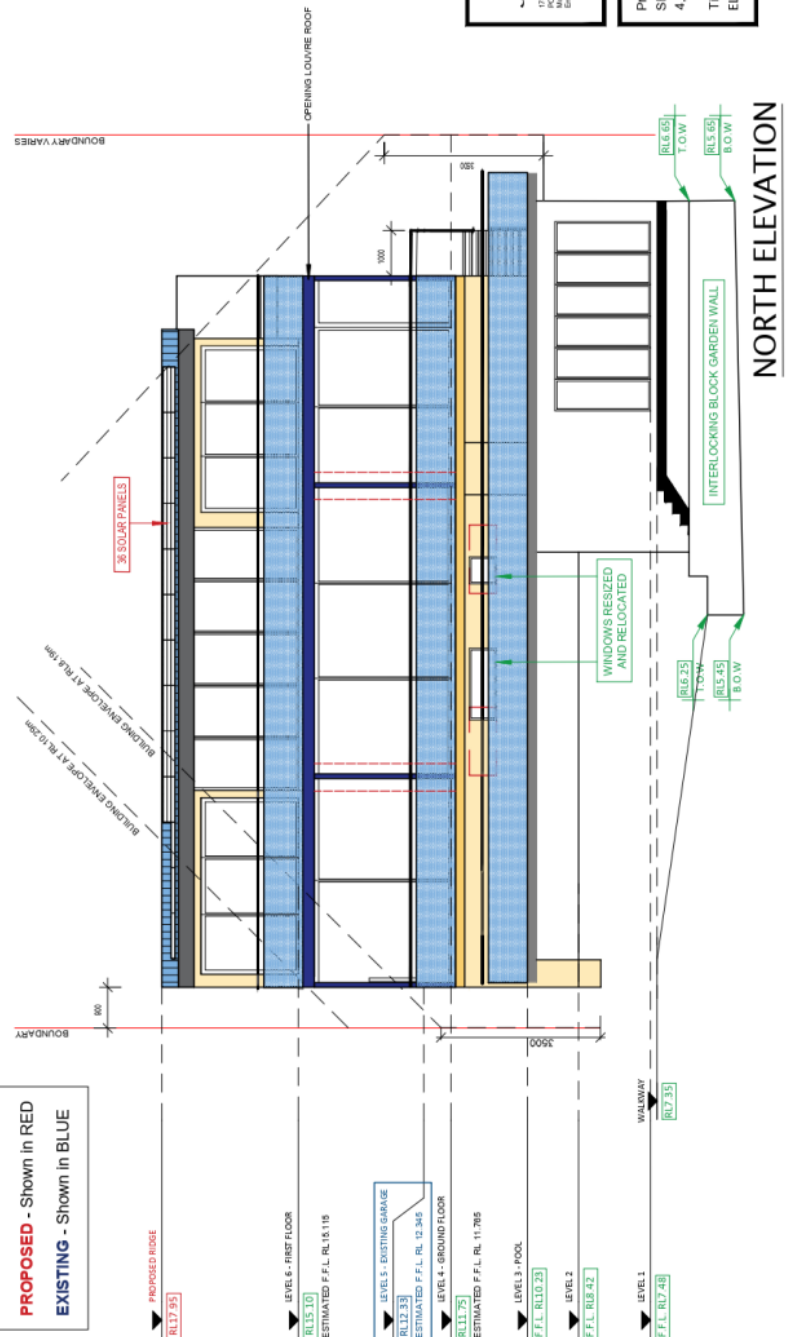


SECTION 4

<p>JJ Drafting</p> <p>174 Gordon St, North Sydney, NSW 1585 PO Box 887, New Pitt, NSW 2088 Email: j.j.drafting@gmail.com.au</p>	<p>NOTES:</p> <ul style="list-style-type: none"> All structures including stormwater & drainage to engineers' details On-site construction to be in accordance with the relevant SAA Code of Practice These drawings are to be read in conjunction with all other consultants' drawings and specifications Any amendments to these drawings shall be in accordance with the requirements of current editions including amendments of the relevant SAA Code of Practice, the Building Code of Australia and local council requirements Concrete footings, slab, structural beams or any other structural members are to be designed by a practicing engineer
	<p>Project: SECTION 4.55 MODIFICATIONS 4, PANIMA PLACE, NEWPORT</p> <p>Scale: 1:100 Date: JANUARY 2019</p> <p>Title: ELEVATIONS AND SECTIONS</p> <p>Job No.: 687 / 19 Dwg No.: 05</p>



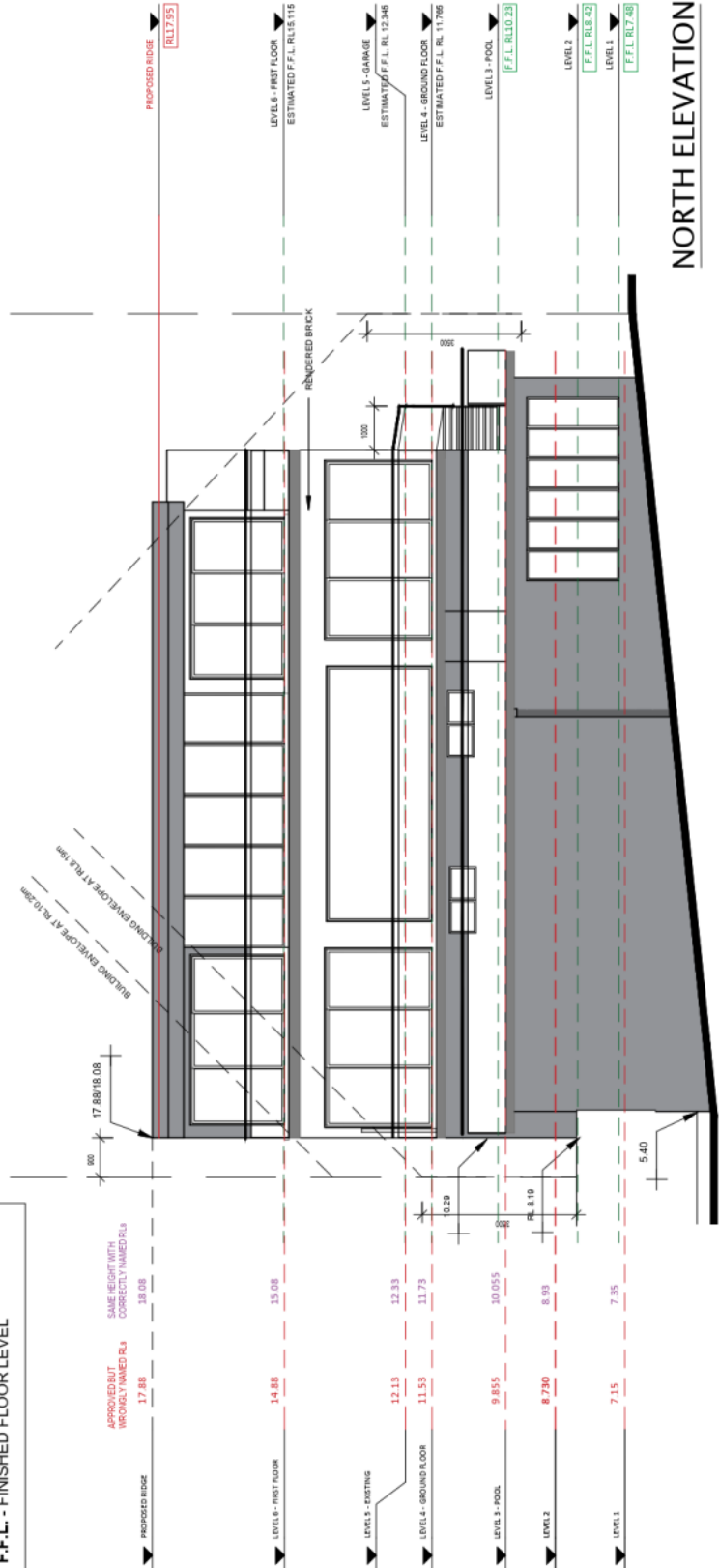
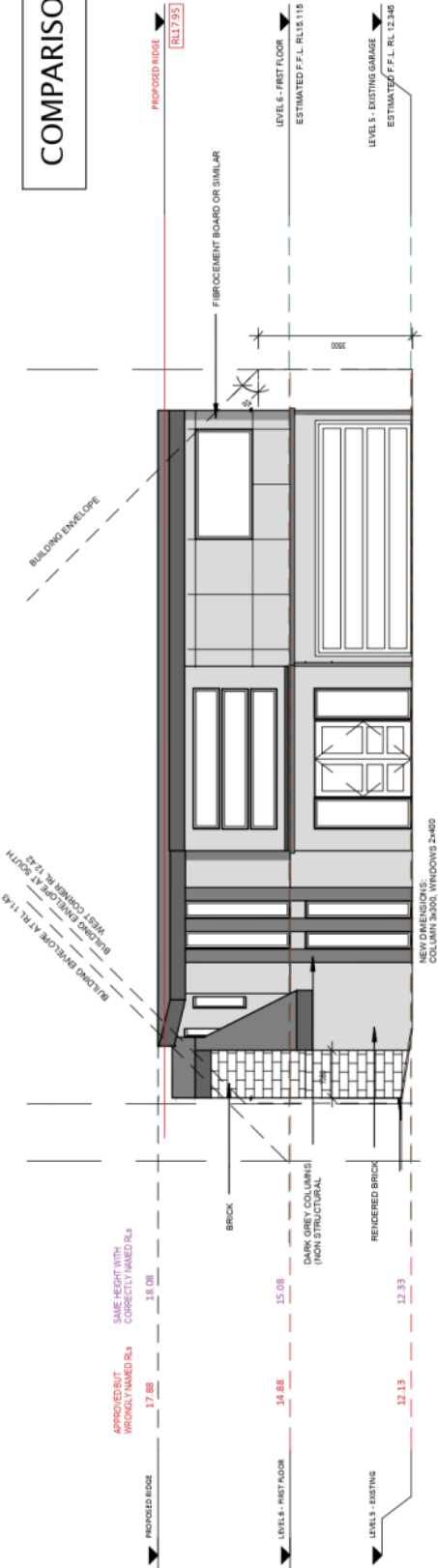
SOUTH ELEVATION



NORTH ELEVATION

COMPARISON PLAN

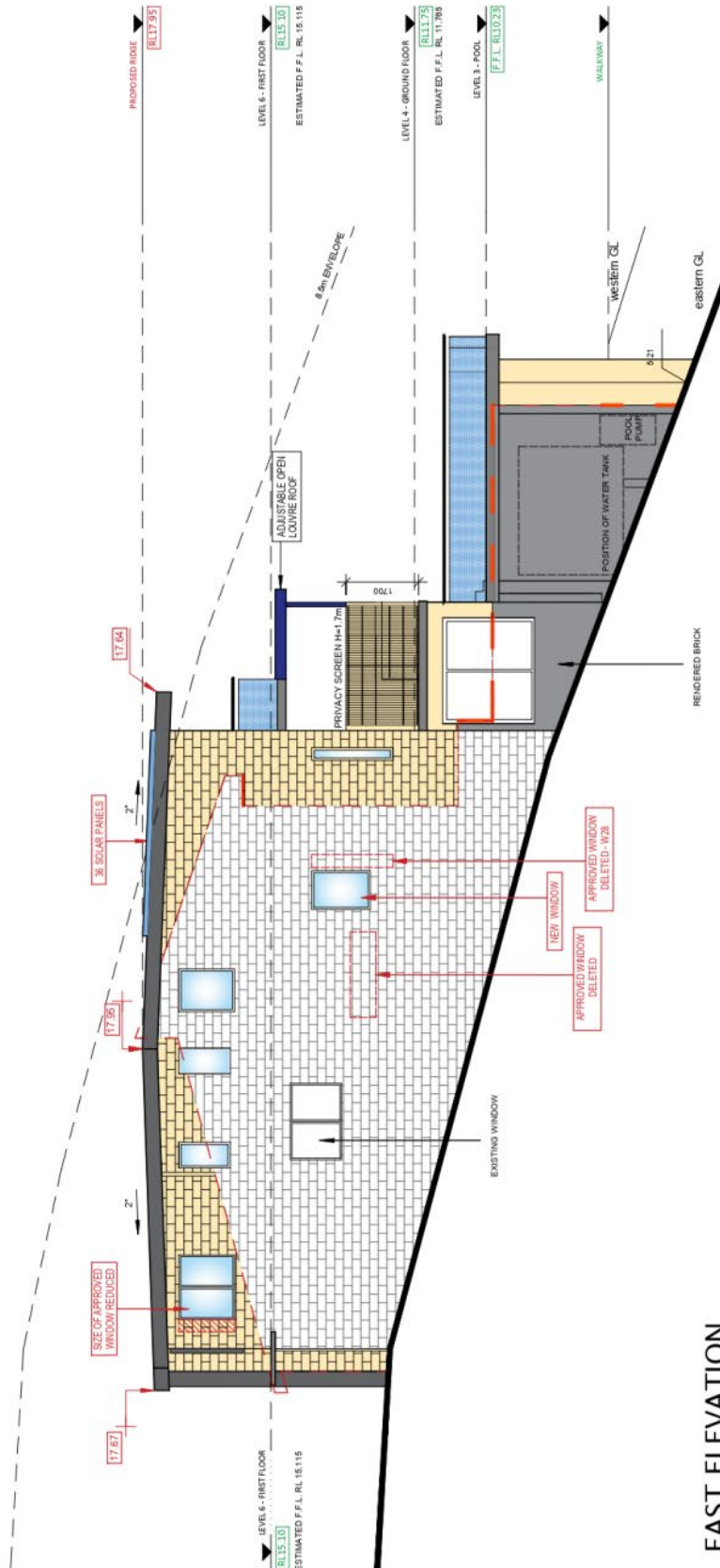
<p>Scale: 1:100 Date: JANUARY 2019</p>	<p>Job No.: 687 / 19 Dwg No.: 06</p>	<p>Project SECTION 4.55 MODIFICATIONS 4, PANIMA PLACE, NEWPORT</p>	<p>Title: ELEVATIONS WITH COMPARISON LEVELS</p>	<p><i>JJ Drafting</i> 125 Graham St North Narrabeen, NSW 2231 Phone: 02 9490 7731 Email: j.j.drafting@gmail.com</p>	<p>NOTES:</p> <ul style="list-style-type: none"> All structures including sewerwork & drainage to engineer's details Do not obtain dimensions by scaling drawings All dimensions are to be checked on site prior to starting work These drawings are to be read in conjunction with all other consultants drawings and specifications At workmanship & materials shall be in accordance with the requirements of current editions including amendments of the relevant SAA Codes of Practice, the Building Code of Australia and local council requirements These materials are to be used throughout unless otherwise noted Concrete footings, slab, structural beams or any other structural members are to be designed by a practicing engineer.
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WEST ELEVATION

<p>NOTE:</p> <ul style="list-style-type: none"> Drawings include information & drawings to engineer's details Do not allow distribution by selling draughtsman All dimensions are to be checked on site prior to starting work The Engineer shall be responsible for the design and draughtsmen's drawings and specifications The Engineer shall be responsible for the requirements of current practices including amendments of the relevant SAA Code of Practice, the Building Code of Australia and local council requirements Concrete footings, slab, structural beams or any other structural members 	<div style="text-align: right;"> <p>Scale: 1:100 Date: JANUARY 2019</p> <hr/> <p>Job No.: 687 / 19 Dwg No. 07</p> </div>
<h2>JJ Drafting</h2> <p>133 Gordon St, North Melbourne, Vic 3201 PO Box 897, Hawthorn, Vic 3122 Email: j.j.drafting@gmail.com</p>	
<p>Project: SECTION 4.55 MODIFICATIONS 4. PAINIMA PLACE, NEWPORT</p> <p>Title: WEST ELEVATION</p>	



EAST ELEVATION

AS BUILT - Shown in GREEN
PROPOSED - Shown in RED
EXISTING - Shown in BLUE

<p>NOTES:</p> <ul style="list-style-type: none"> All structures including stormwater & drainage to engineer's detail Do not build structures without a valid engineering approval These drawings are to be read in conjunction with all other consultant's drawings and specifications These drawings are to be read in conjunction with all other consultant's drawings and specifications Practice, the Building Code of Australia and local council requirements Concrete footings, slab, structural beams or any other structural members are to be designed by a practicing engineer. 	<p>JJ Drafting</p> <p>170 Gaudry St, North Sydney, NSW 1585 Ph: 02 9339 1777 Email: jja@jjdrafting.com.au</p>	<p>Project: SECTION 4.55 MODIFICATIONS 4, PANIMIA PLACE, NEWPORT</p> <p>Title: EAST ELEVATION</p>	<p>Scale: 1:100 Date: JANUARY 2019</p> <p>Job No.: 687 / 19 Dwg No.: 08</p>
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ITEM 3.2

**DA2018/1989 - 104 CABARITA ROAD, AVALON - LAND
SUBDIVISION OF 4 LOTS INTO 2 TORRENS TITLE LOTS TO
CREATE 9 COMMUNITY TITLE RESIDENTIAL LOTS WITH 1
COMMUNITY TITLE ACCESS LOT, INCLUDING LANDSCAPING,
ROADWORKS, SERVICES INFRASTRUCTURE AND ANCILLARY
SITE WOR**

REPORTING MANAGER Anna Williams
TRIM FILE REF 2019/587561
ATTACHMENTS
1 Assessment Report
2 Site Plan

PURPOSE

To refer the attached application for determination by the discretion of the Executive Manager Development Assessment.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority **approve** Development Consent to DA2018/1989 for land subdivision of 4 Lots into 2 Torrens Title Lots to create 9 Community Title residential Lots with 1 Community Title access Lot, including landscaping, roadworks, services infrastructure and ancillary site works on land at Lot 8 & 9 DP 629464 & Lot 14 & 15 DP 858130, 104 Cabarita Road, Avalon Beach, subject to the conditions outlined in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1989
Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 8 DP 629464, 102 Cabarita Road AVALON BEACH NSW 2107 Lot 15 DP 858130, 100 Cabarita Road AVALON BEACH NSW 2107 Lot 14 DP 858130, 96 Cabarita Road AVALON BEACH NSW 2107 Lot 9 DP 629464, 104 Cabarita Road AVALON BEACH NSW 2107
Proposed Development:	Land subdivision of 4 Lots into 2 Torrens Title Lots to create 9 Community Title residential Lots with 1 Community Title access Lot, including landscaping, roadworks, services infrastructure and ancillary site works
Zoning:	E4 Environmental Living E4 Environmental Living E4 Environmental Living E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Basscave Pty Ltd
Applicant:	Meraki Developments Pty Ltd
Application Lodged:	17/12/2018
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	09/01/2019 to 11/02/2019
Advertised:	12/01/2019
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,190,660.00

Executive Summary

This application is referred to the development determination panel as it involves more than 5 new lots, has site works exceeding \$1million and there were 3 submissions received by Council. Two of the submissions were actually lodged against the separate house development applications but are also considered in this report due to overlapping issues raised.

The proposal involves a subdivision that comprises a Torrens Title plan to consolidate and define the principal development areas. Proposed Lot 1 will then be subject to a Community Title Subdivision into 10 Lots (9 housing blocks and 1 private access road). The residue of the Torrens Title subdivision being Lot 2 will remain unchanged and is not part of the future community title scheme.

The principal works involve the construction of stormwater water drainage, road access and infrastructure, including site preparation work and ancillary works along Cabarita Road. However the community subdivision pattern has concentrated the civil works and future dwelling footprints to parts of the site that are already substantially disturbed to reduce impacts on native vegetation.

A significant proportion of the site contains remnant Pittwater Spotted Gum Forest (PSGF) endangered ecological community (EEC) and other remnant vegetation therefore minimising the environmental impact on this EEC and along the foreshore zone has formed a principal consideration in this assessment report.

Subject to conditions to manage environmental impacts during site works and post construction the proposal is considered to be satisfactory for approval.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves subdivision and consolidation two (2) Torrens Title allotments (lots) and then a Community Title subdivision of one of the Torrens lots into 10 smaller Community Title lots (including the road access).

A. Consolidation of Lot 14 and 15 DP 858130 and Lot 8 and 9 DP 629464

B. The Torrens Title subdivision Lot descriptions are:

Lot	Proposed area	Details
Lot 1	9,918 sqm	Existing dwelling demolished for Community Title subdivision.
Lot 2	2,741 sqm	Existing dwelling retained and a boatshed. (including easements for right of carriageway, services and water. Note Lot 2 is nominally labelled for descriptive purposes only as a "Lot 11". This is only to avoid reference to two "Lot 2"s. between the Community Title and Torrens Title) Lot 2 is not part of the CMS and part of the purposes of the Torrens Title subdivision is to establish appropriate easements / ROW so that Lot 2 is not reliant on the Community Title subdivision or CMS.

C. The Community Title subdivision Lot descriptions are:

Lot	Proposed area	Details
Lot 1	1,258 sqm	Access Lot, including access handle to foreshore and on-site detention facility and easements for access, services and waste.
Lot 2	973.8 sqm	Dwelling house lot
Lot 3	757.1 sqm	Dwelling house lot
Lot 4	752.4 sqm	Dwelling house lot
Lot 5	1098 sqm	Dwelling house lot, including stormwater easement
Lot 6	1324 sqm	Dwelling house lot, including stormwater

easement

Lot 7	943.2 sqm	Dwelling house lot
Lot 8	954.5 sqm	Dwelling house lot
Lot 9	877.7 sqm	Dwelling house lot.
Lot 10	979.4 sqm	Dwelling house lot

Ancillary site works include:

Excavation and selected tree removal, demolition of remnant structures, drainage works, civil works for ancillary structures.

Therefore, in order to effect the construction certificate works in co-ordination with the houses and the civil works for the subdivision, some works will progress in phases (for appropriate sections of the site) rather than all at once. This is appropriately managed by condition's of subdivision and construction certificates required between times for the subdivision certificate/s (Torrens and Community Title) stage.

In summary the phasing of works is respondent to the Applicant managing specific construction certificates in co-ordination with subdivision works and the various development applications for dwelling on each residential Lot.

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 - Zone E4 Environmental Living
Pittwater Local Environmental Plan 2014 - 5.7 Development below mean high water mark
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
Pittwater Local Environmental Plan 2014 - 7.10 Essential services
Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality
Pittwater 21 Development Control Plan - B3.10 Estuarine Hazard - Subdivision

Pittwater 21 Development Control Plan - B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)
Pittwater 21 Development Control Plan - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community
Pittwater 21 Development Control Plan - B4.15 Saltmarsh Endangered Ecological Community
Pittwater 21 Development Control Plan - B6.2 Internal Driveways
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.4 Solar Access
Pittwater 21 Development Control Plan - C1.7 Private Open Space
Pittwater 21 Development Control Plan - C4.4 Subdivision - Public Roads, Footpath and Streetscape
Pittwater 21 Development Control Plan - C5.18 Public Road Reserve - Landscaping and Infrastructure
Pittwater 21 Development Control Plan - D1.11 Building envelope
Pittwater 21 Development Control Plan - D15.18 Seawalls
Pittwater 21 Development Control Plan - D15.22 Masterplan - Careel Bay

SITE DESCRIPTION

Property Description:	<p>Lot 8 DP 629464 , 102 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 15 DP 858130 , 100 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 14 DP 858130 , 96 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 9 DP 629464 , 104 Cabarita Road AVALON BEACH NSW 2107</p>
Detailed Site Description:	<p>The subject land has an irregular subdivision shape and currently comprises four (4) Torrens Title residential Lots having a combined area of 12,668 square metres (sqm) with a maximum width of 132.9 metres and a maximum depth of 126.2m across the central area of the site.</p> <p>The north-eastern boundary of the site is defined by the mean high water mark of Careel Bay and the south-western boundary extends along a corner frontage with Cabarita Road. Adjacent land to the south-east and north-west is developed for residential use (detached dwellings) and some of those properties have water views across part of the site.</p> <p>The natural landform of the site slopes moderately toward Careel Bay foreshore with some steeper sections toward Cabarita Road and the north-eastern site. Parts of the land have been terraced due to previous residential occupation. The principal development on the site consists of a stormwater line near the northwestern boundary, retaining wall along Cabarita Road, concrete driveway area, dwelling house (land owners residence), two-storey boat house at the foreshore, a foreshore outbuilding and a retaining wall along the foreshore area. A former large dwelling house near the centre of the site has been demolished.</p> <p>The site contains an area of remnant Pittwater spotted gum forest that is a significant landscape feature across much of</p>

the site. The foreshore area also contains some she-oak trees and grassy flat areas adjacent the waterfront. The sandy foreshore area is exposed at low tide, therefore boat access is available via an existing jetty adjacent the 'boat house' building.

Cabarita Road is a narrow through road with regular bus services to / from Mona Vale. Only a short footpath links is constructed along part of the site frontage but there is no continuous link east or west along Cabarita Road.

Map:



SITE HISTORY

Pre-lodgement Meeting No.PLM2018/1989 for the subdivision of 4 Lots into 11 Lots and construction of dwelling on each residential Lot.

Complying Development Certificate No.CDC0234/16 for demolition of a dwelling house was issued by private certification (110296) on 12 December 2016.
The works have been completed.

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 Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. The applicant provided amended details including driveway levels, access, footpath construction, waste services and vegetation management. This information is of a minor supplementary nature and does not require re-notification in accordance with the DCP. These matters are related to conditions but only affect a minor part of the proposal.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact</p>

Section 4.15 Matters for Consideration'	Comments
	<p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development, subject to conditions.
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.
Section 4.15 Determinations	<p>(4) A development consent may be granted:</p> <p>(a) for the development for which the consent is sought, or</p> <p>(b) for that development, except for a specified part or aspect of that development, or</p> <p>(c) for a specified part or aspect of that development.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Alexander Ronayne	73 Cabarita Road AVALON BEACH NSW 2107

The subdivision application received one (1) submission, however two (2) further submissions have been received on the related development applications for proposed dwellings within the Community Title lots. Therefore, consideration of all issues received for all submissions has been made collectively with this subdivision assessment due to some overlapping issues raised. (This is in addition to any consideration made under the relevant assessment of the separate dwelling house applications).

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

- View & outlook impacts
- Flora & fauna impacts
- Building work impacts
- Traffic and parking impacts
- Dwelling occupancy and residential parking

The matters raised within the submissions are addressed as follows:

- *Concern that the subdivision will result in new dwellings on the land that will impact water views and the outlook from adjacent land, including No. 73 Cabarita Road.*

Comment:

Council is currently also assessing development applications for dwelling houses within the proposed Community Title subdivision residential lots (Community Lots 2 to 10). Each dwelling will maintain a landscape setting and the principal location of private open space is oriented so that it does not have an unreasonable impact on adjacent land and is consistent with the pattern of development in the Locality. In consideration of views, a detailed assessment of this issue is made under the individual development applications for the dwelling houses that may impact on existing view lines from adjacent land / dwellings.

Therefore, this issued has been suitably considered and is addressed by conditions to ensure no unreasonable impact.

- *Concern that the proposal will impact on the existing tree canopy and further extensive vegetation clearing that will be required will remove habitat for native animals.*

Comment:

Detailed plans of the subdivision layout, location of trees to be retained or removed as well as proposed dwelling footprints are shown on the submitted plans. Comprehensive new civil works are required for the road access, infrastructure, drainage, services, and buildings. Comprehensive landscaping works will therefore be required to restore new landscaping for the final completion. The completion of landscaping works are principally part of the final phase for each dwelling house and a detailed planting schedule has been provided to ensure the extensive use of endemic species and other native / suitable plants to encourage habitat for wildlife. The community management plan includes provisions for the long term management / retention of trees and restrictions that will ensure the long term retention of the forest canopy.

Therefore, this issued has been suitably considered and is addressed by conditions to ensure no unreasonable impact.

- *Concern that the proposal will have an extensive construction period by the combined subdivision civil works and then building works, which will extend into weekend time creating noise & amenity impacts on surrounding residents, including construction traffic / parking issues.*

Comment:

Construction works are limited to standard industry hours (which include Saturdays) for development that is regulated under the *Protection of the Environment Operations Act 1997*. While the site does require some excavation works for the principal building elements (road, services, drainage, retaining walls) most excavation works are relatively shallow, with the dwellings also designed to have building footprints that minimises the need for deep or

extensive excavation.

The proposal has been provided with a construction traffic management plan (CTMP) addressing procedures to ensure no unreasonable impact on traffic movement or parking in the vicinity of the site during subdivision works. The site is sufficiently large to accommodate parking on-site and ensure that construction vehicles can enter and leave in a forward direction. The CTMP included details for traffic management including risk assessment, construction vehicles, minimising vehicle movements, traffic control and works along the road reserve. In addition to the CTMP the applicant has provided a construction and site management plan to address related issues and co-ordination of traffic control devices, site access, health and safety, designated areas, contractor parking, sediment devices, stockpiles, material delivery / loading, water runoff and related work site issues.

Therefore, this issued has been suitably considered and is addressed by conditions to ensure no unreasonable impact.

- *Concern that the subdivision should have a restriction for single occupancy dwellings only and adequate off-street parking access.*

Comment:

The separate development applications for dwellings proposed for each lot within the Community Title subdivision are for single dwelling only. Each dwelling is provided with garages sufficient to accommodate two (2) cars and the internal driveway areas have sufficient space to accommodate casual visitor parking. The inclusion of any new secondary dwellings within the site would require development consent as secondary dwelling are permissible with the R2 Residential zone and also subject to the provisions of the Pittwater21 Development Control Plan.

Therefore, this issue has been considered and addressed by the separate development applications made for Community Lots 2-10. Notwithstanding this a condition is included to ensure the existing "outbuildings" to be retained on site are not unlawfully used as separate dwellings.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	Proposal to Subdivide raises no material Building Certification issues that warrant additional or special conditions for any Consent that may issue for this proposal.
Environmental Health (Acid Sulphate)	Acid Sulfate Soils class 5 considered. No objection to approval with no conditions
Landscape Officer	The landscape component of the subdivision is acceptable subject to the provision of a public footpath, provision of a tree protection plan, engagement of a project arborist, the protection of existing trees, and the provision of canopy tree planting at subdivision. Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls:

Internal Referral Body	Comments
	<p>B4.22 Preservation of Trees and Bushland Vegetation C4.4 Subdivision - Public Roads, Footpath and Streetscape C4.7 Subdivision - Amenity and Design C4.8 Subdivision - Landscaping on the existing and proposed public road reserve frontage to subdivision lots</p>
NECC (Bushland and Biodiversity)	<p>Amended Comments It has been discussed and agreed with Council development assessment planners that a s88b restriction on title will be conditioned to ensure the permanent protection of portions of the Pittwater Spotted Gum Forest Endangered Ecological Community (EEC) vegetation that has been recorded and mapped on site. The restriction is proposed over two separate areas, namely a portion of Lot 2 of the Stage 1 (Lot 11 of the Stage 2) subdivision, as well as portions of lots 2-5 (Stage 2). As some of the highest quality PSGF EEC on the site occurs within Lot 2 (Stage 1), a proposed area subject to the restriction has been identified and mapped by Council. The second area will be in accordance with the 'Environment Protection Area' mapped within the Biodiversity Development Assessment Report.</p> <p>Original Comments I have reviewed the Stage 1 & 2 subdivision plans, the Biodiversity Development Assessment Report and SEE, and provide the following comments. A brief site inspection was also conducted. The site contains vegetation characteristic of the Pittwater Spotted Gum Forest Endangered Ecological Community (PSGF EEC), Swamp Oak Floodplain Forest EEC, and habitat for several threatened species. The site is also mapped on the Pittwater LEP Biodiversity layer and Wildlife Corridor layer.</p> <p>The two stage subdivision, subsequent residential dwelling development, and biodiversity development assessment report (BDAR) rely on 'permanent' conservation of a 1125sqm area within proposed lot 1 (Stage 1). This 1125 sqm environment protection area is to be retained (lots 2 - 5 Stage 2 community title subdivision) and improved, along with a native revegetation area (lots 2 - 6) and landscaping. The BDAR sets out the overall impacts, mitigation and offset strategy proposed as part of the subdivision development. While the principle of including avoid and minimise measures on site is supported in general, the development does not include any permanent protection measures such as inclusion of the EEC vegetation within the community association property (Lot 1), or a restriction on title such as a s88b instrument (or similar). While the environment protection area (lots 2 -5 Stage 2) is proposed to be managed in accordance with a Bushland Management Plan (to be provided), and is referred to within the draft community management statement, it will be reliant on the community association and ten separate owners to avoid impacts to the endangered vegetation community into the future. The burden of implementing the BMP which applies to the EPA area will be the responsibility of four owners, however it is unclear if this will be an individual, joint or even a</p>

Internal Referral Body	Comments
	<p>community association responsibility</p> <p>Section 7.1 (3) of the <i>Biodiversity Conservation Regulation 2017</i>, in relation to the biodiversity offsets scheme threshold states that if a proposed development involves the subdivision of land, the subdivision is taken to involve the clearing of native vegetation that, in the opinion of the relevant consent authority is required or likely to be required for the purposes for which the land is to be subdivided. Council believes that the clearing of native vegetation likely to be required for a residential subdivision, construction of at least nine dwelling, services, roads etc will be greater than that considered. It is unrealistic to rely on the avoidance and minimisation of impacts without any formal protection mechanism. In particular the ongoing protection of parts of the site, especially those directly adjoining proposed building envelopes, is considered to be unrealistic once new owners require areas for outdoor recreation, further alterations and additions etc or other 'operational' impacts.</p> <p>The area of EEC to be considered under the avoid, minimise, offset hierarchy should include Lot 2 of the Stage 1 subdivision, as well as portions of lots 2-5 (Stage 2) that have already been proposed. As some of the highest quality PSGF EEC on the site occurs within Lot 2 (Stage 1) It is recommended that a building envelope is provided for that lot so that the overall impacts to the EEC as a result of the Stage 1 subdivision, and any subsequent development, can be considered. It is also unclear why proposed Lot 10 (Stage 2) does not contain any conservation management areas as identified on other lots within the Stage 2 subdivision, as the biodiversity values should also contribute to the overall avoid and minimise strategy.</p> <p>In summary, the full extent of construction and operational impacts likely to be required is understated, and therefore the conclusions of the BDAR and the extent of residual impacts offset is not supported. As discussed, for areas on the site (Stage 1 and 2) where construction and operational impacts will be avoided, a suitable mechanism to permanently protect the EEC and threatened species habitat is required. The BMP proposed to manage the EEC areas must also be provided as part of an application.</p>
NECC (Coast and Catchments)	<p>Estuarine Risk Management</p> <p>The coastal engineer engaged by the applicant has independently derived an Estuarine Planning Level (EPL) of RL 3.2m AHD for the subdivision site at a distance 10.0m landward of the existing seawall. The coastal engineer considers that development on all of the allotments created would be at an acceptably low risk of damage from estuarine inundation and wave action for a design life of 100 years as long as the recommendations listed in Section 7 of the submitted Estuarine Risk Management Report are adopted as relevant. The proposed subdivision is therefore able to satisfy the relevant</p>

Internal Referral Body	Comments
	<p>requirements of the Estuarine Risk Management Policy and associated B3.10 Estuarine Hazard controls subject to conditions.</p> <p>Section 7 of the approved Estuarine Risk Management Report (Horton Coastal Engineering Pty Ltd, dated 10 December 2018) further recommends that the existing seawall is repaired at locations where it is currently in poor condition to rectify voids in the seawall face and to prevent migration of soil occurring through the wall. The necessary works should be completed before the subdivision certificate is issued and conditions to this effect have been included as a part of this assessment.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 12 Development on land within the coastal vulnerability area</p> <p><i>Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <ul style="list-style-type: none"> (a) <i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i> (b) <i>the proposed development:</i> <ul style="list-style-type: none"> (i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i> (ii) <i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i> (iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i> (c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i> <p><u>Comment:</u> The subject land has not been included on the Coastal Vulnerability Area Map under <i>State Environmental Planning Policy (Coastal Management) 2018</i> (CM SEPP) and in regard to clause 15 of the CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land. As such, it is considered that the application complies with the requirements of <i>State Environmental Planning Policy (Coastal Management) 2018</i> as they relate to development on land identified as a coastal vulnerability area or land that may be affected by coastal hazards.</p>
NECC (Development Engineering)	The proposed development includes the subdivision of the existing 4 lots into 2 torrens title lots with one of the proposed lots

Internal Referral Body	Comments
	<p>accommodating the existing dwelling and boat shed and the other lot then being further subdivided into a community title subdivision comprising 9 residential lots and one community lot. The works include the construction of a common driveway from the frontage of the site in Cabarita Road which services all the proposed residential lots including the existing dwelling. There is an existing Council drainage line and easement burdening the site which is to be altered as part of the proposal. The proposal also includes the provision of a footpath along the frontage of the site.</p> <p>The assessment of the application has been undertaken and the following comments apply.</p> <p><u>Geotechnical Assessment</u> The submitted Geotechnical report includes forms 1 and 1A as required by Council's policy and the risk analysis undertaken has shown that the site and existing and proposed development can achieve the 'Acceptable Risk Management' criteria as required by Council's Policy.</p> <p><u>Stormwater Assessment</u> The Hydraulic design for the diversion of the Council stormwater trunk line has been reviewed and the proposed pipe size is insufficient and will need to be increased from the proposed 600mm diameter to 675mm and the necessary drainage easement also increased by 500mm to 2.5 metres. It is considered that these issues can be conditioned. The pipeline will need to be increased in capacity up to the seawall which will require a new outlet. This issue can also be conditioned. The new pipeline will impact a number of trees. A review of the tree assessment by 'Growing My Way Tree Services' indicates that some trees will need to be removed as part of the drainage works and some trees can remain with strict management controls during construction. The above requirement to increase the pipeline size and upgrade the existing line up to the seawall will impact one tree number 70A which will need to be removed. If this is a significant tree which must be retained, it is considered that the pipeline could be diverted to suit. This issue is to be addressed by the applicant's Arborist and Hydraulic consultant if the pipeline is to be diverted.</p> <p>The internal stormwater system design for the proposed subdivision has been reviewed and is satisfactory subject to conditions. The water quality for the development has been reviewed by Water Management who have provided conditions.</p> <p><u>Subdivision Assessment</u> The proposal requires 2 subdivision certificate applications in order to firstly create 2 lots from the existing 4 lots and then re-subdivide one of the newly created lots into the community title lot. A review of the plans, 88b instruments and management statements indicates that the proposal is satisfactory subject to conditions.</p> <p><u>Vehicular Access Assessment</u></p>

Internal Referral Body	Comments
	<p>The submitted engineering plans for the driveway access to the site has been reviewed and the proposed width of the driveway varies through the site. There is a narrow section on proposed Road 1 between chainage 114 and the truck turning bay which does not permit passing for two vehicles. This issue has been raised by Council's Traffic Engineer and must be addressed by the applicant.</p> <p>A review of the cross sections provided for the entry into the garages for the proposed dwellings indicates that the cross fall of the road exceeds 5% in a number of sections. It is considered that the design must include cross sections at a minimum of 5 metre chainages to ensure the cross fall of the proposed road does not exceed 5%. A revised long section to suit this requirement must also be provided for assessment.</p> <p>A typical section for the proposed pavement design must be provided by the Civil Engineer. The entire access road is to be reconstructed as part of the works including the sub-base. These works may impact upon the existing trees that are to remain and a review of these civil works must be undertaken by the applicant's Tree Consultant to ensure their recommendations can be achieved.</p> <p><u>Public Footpath Assessment</u></p> <p>The engineering plans indicate the provision of a footpath along the frontage of the site. These works have been recommended by Council's Traffic Engineer. There are a number of trees that may be impacted by these works however the applicant's Tree Consultant has not addressed the impact on the trees as a result of these works. The works will also require a barrier due to the curve in the road which will increase the width of the path and also may require a retaining wall to be constructed. It is considered that a typical detail for this work must be provided by the applicant's Engineer and the design reviewed by the Tree Consultant to assess the impact on the trees.</p> <p>Also the proposal includes the provision of a waste storage area within the community lot. There appears to be existing trees in this location which have not been assessed by the applicant's Tree Consultant.</p> <p>Development Engineers cannot support the application due to insufficient information to address clauses B6.1 and B6.2 of Council's DCP.</p> <p>Additional Information submitted 25/09/2019</p> <p>The applicant's Consulting Engineer has provided a revised sketch to demonstrate that the driveway grades into the proposed dwellings will comply with the cross-fall requirements. Council's Landscaping Officer has approved the proposal subject to conditions and as such the issues raised with respect to the impact of trees is resolved.</p> <p>The approval also provides comments and conditions with respect to</p>

Internal Referral Body	Comments
	<p>the footpath required in the public road reserve.</p> <p>Engineering Conclusion Development Engineering raise no objection to approval, subject to conditions as recommended.</p>
NECC (Water Management)	<p>This application is recommended for approval with a number of conditions.</p> <p>Overall the approach to stormwater quality management is very good and satisfies the requirements of both Pittwater 21 DCP B5.9 and the <i>State Environmental Planning Policy (Coastal Management) 2018 - Div 3 Coastal Environment Area</i>. The individual property DAs have been conditioned to retain and maintain their boundary pits. None of the stormwater devices, including the stormwater tanks have high flow bypasses designed in, but analysis of the MUSIC model shows this has only a small impact on water quality outcomes. A change to the design of the bio-retention basin is required, incorporating a splitter in the upstream pit, spreading flows to all three basins, designed so that once the inlet to the first basin is at capacity, flows are directed to the second and then the third basin. The reason for this is to reduce high flow impacts on the first basin, including scour and higher levels of sediment. By splitting the flows, the maintenance load is spread evenly between all three basins, and aims to lengthen the period between required maintenance cleans. This reduces the cost of maintenance of the system for the properties under community title.</p> <p>Installation of the filter media and planting of the bio-retention must not be completed until development of the individual lots on the subdivision is 90 percent complete, or four years after the subdivision certificate is issued. A bond will be placed on this application to ensure this happens, as the dwellings on the individual lots are being constructed under separate development applications.</p> <p>The Community Management Statement must specifically list under the definition of 'Community Property' the stormwater system and all its parts ie. basins, GPT, filter baskets etc that will be maintained under community title, so that this is clear for the managing committee/agent. The statement must also include an operation and maintenance plan for the stormwater infrastructure, which could go in the Optional Matters section alongside the conservation area maintenance. This operation and maintenance plan must also be attached to the positive covenant for the common property.</p> <p>The Soil and Water Management Plan provided by NB Consulting Engineers meets requirements. The applicant is required to implement this plan and Section 5 of the Construction and Site Management Plan. Sediment and Erosion controls must be installed prior to any development on the entire site and maintained until all individual dwelling sites and complete and groundcover has been re-established.</p>

Internal Referral Body	Comments
	<p>Groundwater was not observed in test drills conducted by JK Geotechnics (Report 30/11/18) and therefore does not need to be considered.</p> <p>The existing pipe and outlet through the seawall into Pittwater is proposed to be used. If this changes because the seawall is replaced, the new outlet to Pittwater must be approved by Council.</p>
Road Reserve	No impact on existing Council road assets.
Traffic Engineer	<p>Original Comments: The proposal is for the subdivision of the lot into 10 lots with a shared private road. Each lot will comprise 1 single dwelling, a double garage and driveway space to accommodate 2 vehicles (Total of 4 vehicles on each site).</p> <p>Traffic: The introduction of 10 dwellings will result in 8-9 vehicle movements in the peak hour in accordance with RMS Guidelines. This is deemed to have a negligible impact on the network.</p> <p>Parking: Parking number provided onsite are deemed suitable.</p> <p>Pedestrian: The footpath along Cabarita Road shall be extended along the full frontage of the site and join to the nearest Bus Stop. The bus stop waiting area shall be made DDA compliant for safe use by all patrons. This shall be conditioned as part of any approval.</p> <p><u>Traffic comments in response to additional Information submitted 25/09/2019:</u> Reviewing the development engineering conditions in response to the additional information provided by the applicant, the conditions provided in development engineering conditions cover the issues previously raised by the traffic team regarding provision of footpath, DDA compliant bus stop, driveway gradients, and installation of re-directive kerb or crash barrier.</p> <p>The proposal can be supported subject to further conditions on provision of turning area on the access road for the largest truck accessing the site, and provision of passing bay opportunities to enable vehicles to wait to one side whilst the truck maneuvers along the access road.</p> <p><u>Planning Comment</u> The turning area has been nominally shown in the central area where there is ample space due to the junction of driveways. However, if it was located at the western extremity of the private road this may create significant design conflict with driveway access points and the OSD infrastructure. This issue is addressed by condition to any minor design adjustment can be appropriately accommodated to ensure</p>

Internal Referral Body	Comments
	compliance with acceptable standards.
Waste Officer	<p>Conditions</p> <ul style="list-style-type: none"> The residential waste room is an acceptable size to accommodate bins for 11 dwellings for general waste and recycling bins, which 11 bins as detailed in appendix A. Storage for a minimum of 1 x 240L vegetation recycling bin per residential dwelling must also be provided. The Clean Up Waste Storage is adequate in size, however as per the Northern Beaches Council Waste Management Guidelines section 4.5 point c) the room is to be separate from the waste and recycling bin storage area. The entrance is through the garbage storage

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	The proposal was referred to the Aboriginal Heritage Office (AHO). No objection was raised subject to inclusion of the referral response conditions as recommended.
NSW Department of Planning (SEPP 71 - Coastal)	<p>The proposal was referred to the Departmental Referral pursuant to SEPP 71. 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.</p> <p>In summary the proposal is considered to be consistent with the aims and objectives of the SEPP, subject to conditions to address management of the foreshore area.</p>
Nominated Integrated Development – Department of Industry – Natural Resources Access Regulator (Controlled Activity Approval for works within 40m of watercourse)	The proposal was referred to the <i>Department of Primary Industries - Natural Resources Access Regulator</i> pursuant to the Water Management Act 2000. The department has provided General Terms of Approval (GTA) to be included with conditions of consent as 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 unreasonable risk of contamination. 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 continuing residential land use. All waste management including demolition / bulk excavation of material will be subject to NSW laws for OHS requirements and Australian Standards.

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.

Other Service Infrastructure Authorities

The proposal was not required to be referred to the *Roads and Maritime Service* and no other service authority issues are raised pursuant to the SEPP.

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
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Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:				
Torrens Title Lot 1	700 sqm	9,918 sqm	N/A	Yes
Torrens Title Lot 2		2,741 sqm	N/A	Yes
Community Lots*				
(Subdivision of Torrens Title Lot 1)				
Lot 1 (Access handle lot)			N/A	Yes
Lot 2		1,258 sqm	N/A	Yes
Lot 3		973.8 sqm	N/A	
Lot 4		757.1 sqm	N/A	Yes
Lot 5		752.4 sqm	N/A	Yes
Lot 6		1098 sqm	N/A	Yes
Lot 7		1324 sqm	N/A	Yes
Lot 8		943.2 sqm	N/A	Yes
Lot 9		954.5 sqm	N/A	Yes
Lot 10		877.7 sqm	N/A	Yes
(Lot 11) (for purpose of the whole site is a nominal residue Lot)		979.4 sqm	N/A	Yes
		2,741 sqm		Yes

*Subject to final survey with subdivision certificate

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	Yes
4.1AA Minimum subdivision lot size for community title schemes	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone E4 Environmental Living

Consideration of the proposal with regard to consistency with the objectives of the Zone are:

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

Comment

The subdivision involves two components for the creation of the new lots.

Firstly a consolidation and Torrens Title subdivision of the existing lots that comprise the site to create two new Torrens Title Lots. Proposed Lot 2 will contain a dwelling house (existing), driveway area, a boat house, and outbuilding within one lot with minimal civil works and tree removal, thereby maintaining a low impact on the aesthetic value and ecology of this area of the site (being the north-eastern quarter). Scientific values are considered to be contained by considerations of the ecology and aesthetic elements of the site.

Secondly, the remaining site area of the Torrens Title subdivision (being Lot 1) will then be subdivided under Community Title to create 9 new house lots with one additional lot for private access / infrastructure to service the whole of the site.

A comprehensive assessment has been made of the environmental values of the site and the design has spaced and positioned the dwellings to minimise impacts on the ecology and aesthetic value of the site. This includes appropriate replacement tree planting and landscape management requirements. Conditions are recommended to ensure erosion and stormwater controls, foreshore management, tree conservation and construction management. Further to this each dwelling house application will have specific environmental conditions for that respective lot to address ecological and aesthetic values and maintain a long term low impact.

Therefore, the subdivision proposal is considered to be consistent with this objective, subject to conditions.

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

Comment:

The development does not have an adverse effect on the ecological, scientific and aesthetic values of the site by ensuring replacement tree planting and appropriate landscaping works, so that the buildings sit within a landscape coastal setting that is consistent with the pattern of surrounding development. Infrastructure services and engineering, and building works will be integrated into the environmental design (including building colours and materials) to maintain environmental site values, including management of stormwater, erosion control, tree protection and associated construction works.

Therefore, the subdivision proposal is considered to be consistent with this objective, subject to conditions.

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

Comment:

The subdivision density complies with the low density controls for the zone, including requirements for the retention of landscape open space. The layout of the subdivision has been designed to respond to the existing land form features and environmental site constraints.

The proposed dwellings / building envelopes are setback well away from the foreshore and integrated with the surrounding trees (predominantly Pittwater Spotted Gum Forest) as much as practicable. Excavation is limited to enable the dwelling footprints, vehicle access, drainage management and landscaping works. Where trees are required to be removed suitable replacement trees will be provided to restore the long term tree canopy and landscape setting. Minimal landscape changes are proposed for the north-eastern quarter of the site where the existing dwelling will be retained on proposed Lot 2 (Torrens subdivision). The new dwelling house Lots adjoining Cabarita Road are provided with wide setbacks along the Cabarita Road frontage which assists to preserve the tree canopy and landscape character of the site. Landform changes for the proposed lots on the high side of the site is integrated within the central area where the landform has been previously disturbed and filled or excavated.

Therefore, the subdivision proposal is considered to be consistent with this objective, subject to conditions.

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

Comment:

The proposed lots fronting the foreshore have sufficient area to comply with the foreshore building line and enable the foreshore area to be retained with minimal change along the high water mark. Suitable conditions are included to enable the long term management to maintain a consistent foreshore interface, similar to the existing landscape.

Subdivision works will include the repair and restoration of the existing sandstone wall and stormwater outlet to reduce dilapidation and erosion. Landscape works will retain the grassy foreshore area with supplementary native planting to enhance the remnant Swamp Oak habitat. The site includes some minor representative types of Native Vegetation of the Sydney Metropolitan Area (NVSMA) which is considered within the broader landscape management. The proposal will phase site works which will assist in reducing the impacts of works to particular areas of the site, rather than the entire site at once, which assists to reduce impacts on wildlife and adjacent land.

Therefore, the subdivision proposal is considered to be consistent with this objective, subject to conditions.

5.7 Development below mean high water mark

The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.

Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water)

7.8 Limited development on foreshore area

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*

- *public access to link with existing or proposed open space,*
 - *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
 - *public access to be located above mean high water mark,*
 - *the reinforcing of the foreshore character and respect for existing environmental conditions.*
- Comment:

The site is currently held under private ownership with no common boundary to any parkland / reserves that might allow public access along the foreshore, apart from an approach by water. This situation is intended to be maintained, in that the private road is gated to identify the community title (private ownership) of the internal road. Private through access to the foreshore however is to be maintained via a walkway (stairs) located on the western side of the 'boat shed' / wharf area.

The waterway area in front of the site is not easily accessible by boat other than light watercraft due to shallow water and a sandbar that is partly exposed during low tide. The above DCP objectives have been considered in the context of the development proposal and appropriate conditions are recommended to address foreshore management. The line of the seawall is the most appropriate feature to protect as this structure is affected by stormwater runoff and is on a variable alignment to the existing foreshore lot boundary. A restriction on use area along the seawall (2m wide buffer) is recommended to reinforce the foreshore character in respect of the environmental conditions and natural processes near the mean high watermark.

Therefore, subject to conditions the proposal is consistent with the objectives and provisions of this part of the DCP.

7.10 Essential services

Consideration of the 'phasing' of works have been made with respect to services that are essential for the development and would need to be available or that adequate arrangements have been made to make them available when required for each new dwelling house including:

- the supply of water,
- the supply of electricity,
- the disposal and management of sewage,
- stormwater drainage or on-site conservation,
- suitable vehicular access.

Conditions are recommended to address the above requirement for the Torrens Title and Community Title subdivision and in co-ordination with the future housing construction.

Pittwater 21 Development Control Plan

Built Form Controls

Subdivision - Cabarita Road - Foreshore (Community residential) Lots 2, 3, 4, 5 and Lot 10

Lot 1 is the Private Road / driveway access Lot for all lots within the subdivision. No lots have direct driveway access to Cabarita Road and must enter via the gated private access road.

Built Form Control (ref Plan SK201)	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (Setback area forms)	Lot 2 - 26.0m Lot 3 - 23.4m Lot 4 - 20.4m	N/A	Yes Yes Yes

	rear yard as dwellings are oriented toward the internal road)	Lot 5 - 11.6m Lot 10 - 10.6m		Yes Yes
Rear building line Lots 2 to 5 and Lot 10	6.5m (Lots face internal private road)	Lot 2 - 6.5m Lot 3 - 6.5m Lot 4 - 5.0m Lot 5 - 11.0m Lot 10 - 10.0m	N/A	Yes Yes No* Yes Yes
Side setback building line Either boundary 1.0m or 2.5m to the opposite boundary.	East boundary	Lot 2 - 1.0m Lot 3 - 1.0m Lot 4 - 1.0m Lot 5 - 1.0m Lot 10 - 2.5m (south east)	N/A	Yes Yes Yes Yes Yes
	West boundary	Lot 2 - 2.5m Lot 3 - 2.5m Lot 4 - 2.5m Lot 5 - 2.5m Lot 10 - 1.0m (north west)	N/A	Yes Yes Yes Yes Yes
Building Side Boundary Envelope*	3.5m East boundary	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	N/A	Yes
	3.5m West boundary	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	No change	Yes (Existing)
Landscaped area* (Reference Landscape Sheet 101, as indicative consideration)	60% (Area 1)	Lot 2 - 689 sqm (70%) Lot 3 - 506 sqm (66%) Lot 4 - 480 sqm (63%) Lot 5 - 757 sqm (68%) Lot 10 - 644 sqm (65%)	N/A	Yes Yes Yes Yes Yes
Minimum Lot Frontage width (at building line)	16.0 m	Lot 2 - 22.9m Lot 3 - 16.7m Lot 4 - 16.3m Lot 5 - 19.9m Lot 10 - 16.8m	N/A	Yes Yes Yes Yes Yes
Minimum Lot Depth	27.0m	Lot 2 - 43.2m Lot 3 - 44.6m Lot 4 - 45.6m Lot 5 - 39.9m Lot 10 - 42.6m	N/A	Yes Yes Yes Yes Yes

Minimum Building Envelope (Potential build area)	175 sqm	Complies for each Lot with more than 200 sqm area available for a large dwelling house and garage.	N/A	Yes
Minimum Slope	30%	Lot 2 - 22.0% Lot 3 - 26.0% Lot 4 - 26.8% Lot 5 - 27.6% Lot 10 - 21.1%	N/A	Yes Yes Yes Yes Yes

*Refer to detail merit assessment and considerations of the building form within the respective development applications for each dwelling house.

**

Subdivision - Cabarita Road - Road Frontage Lots (Community residential) Lots 6, 7, 8 and 9

Lot 1 is the Private Road / driveway access Lot for all lots within the subdivision. Foreshore lots have no direct driveway access to Cabarita Road and must enter via the gated private access road.

Built Form Control (ref Plan SK201)	Requirement	Proposed	% Variation*	Complies
Front building line*	6.5m (*Does not technically apply as Lots front internal private road, with no frontage to Cabarita Road)	Lot 6 - 5.8m Lot 7 - 6.8m Lot 8 - 3.7m Lot 9 - 10.3m	N/A	Yes Yes Yes Yes
Foreshore Building Setback	15.0m	Lot 6 - 18.2m Lot 7 - 15.8m Lot 8 - 17.8m Lot 9 - 27.7m	N/A	Yes Yes Yes Yes
Side Setback building line Either boundary 1.0m or 2.5m to the opposite boundary.	East boundary	Lot 6 - 1.2m Lot 7 - 1.1m Lot 8 - 1.6m Lot 9 - 1.9m	N/A	Yes Yes Yes No*
	West boundary	Lot 6 - 5.7m Lot 7 - 6.8m Lot 8 - 3.7m Lot 9 - 1.0m	N/A	Yes Yes Yes Yes
Building Side Boundary Envelope*	3.5m East boundary	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	N/A	Refer to house DA's
	3.5m West boundary	Refer to detailed dwelling design for each	N/A	Refer to house

		new Lot (Dwelling construction not part subdivision DA)		DA's
Landscaped area* (Reference Landscape Sheet 101, as indicative consideration)	60% (Area 1)	Lot 2 - 689 sqm (70%) Lot 3 - 506 sqm (66%) Lot 4 - 480 sqm (63%) Lot 5 - 757 sqm (68%) Lot 10 - 644 sqm (65%)	N/A	Yes Yes Yes Yes Yes
Minimum Lot Frontage width (at building line)	16.0 m	Lot 2 - 22.9m Lot 3 - 16.7m Lot 4 - 16.3m Lot 5 - 19.9m Lot 10 - 16.8m	N/A	Yes Yes Yes Yes Yes
Minimum Lot Depth	27.0m	Lot 2 - 43.2m Lot 3 - 44.6m Lot 4 - 45.6m Lot 5 - 39.9m Lot 10 - 42.6m	N/A	Yes Yes Yes Yes Yes
Minimum Building Envelope (Potential build area)	175 sqm	Complies for each Lot with more than 200 sqm area available for a large dwelling house and garage.	N/A	Yes
Minimum Slope	30%	Lot 2 - 22.0% Lot 3 - 26.0% Lot 4 - 26.8% Lot 5 - 27.6% Lot 10 - 21.1%	N/A	Yes Yes Yes Yes Yes

*Refer to detail merit assessment and considerations of the building form within the respective development applications for each dwelling house.

Subdivision - Cabarita Road - Foreshore (Torrens Title) Lot 11

Lot 1 is the Private Road / driveway access Lot for all lots within the subdivision.

Built Form Control (ref Plan SK201)	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (No road frontage. Access is via a ROW through Community Lot 1)	Dwelling house 15.6m Boat shed 1.0m Foreshore outbuilding 0.0m	N/A No change (Existing) No change (Existing)	Yes No (As approved) No (As approved)
Rear building line	6.5m	Lot 11 - 24m	N/A	Yes

Lot 11	(Lot accessed via internal private road)	internal road frontage (77.6m to Cabarita Road)		
Side building line Either boundary 1.0m or 2.5m to the opposite side boundary.	East boundary	Lot 11 - 2.2m Dwelling house 35.1m - Boat shed 1.5m - Foreshore outbuilding	N/A N/A N/A	Yes Yes Yes
	West boundary	Lot 11 - 23.2m Dwelling house 0.0m - Boat shed 41.0m - Foreshore outbuilding	N/A 100% N/A	Yes No* Yes
Building Side Boundary Envelope*	3.5m East boundary	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	No change	Yes
	3.5m West boundary	Refer to detailed dwelling design for each new Lot (Dwelling construction not part subdivision DA)	No change	Yes (Existing)
Landscaped area* (Reference Landscape Sheet 101, as indicative consideration)	60% (Area 1)	Lot 11 - 1,742sqm (63%)	N/A	Yes
Minimum Lot Frontage width (at building line)	16.0 m	Lot 11 - 32.6m	N/A	Yes
Minimum Lot Depth	27.0m	Lot 11 - 54.6m	N/A	Yes
Minimum Building Envelope (Potential build area)	175 sqm	Complies for Torrens Title Lot with more than 200 sqm area available for a large dwelling house and garage.	N/A	Yes
Minimum Slope	30%	27.3%	N/A	Yes

*Refer to detail merit assessment and considerations of the building form within the respective development applications for each dwelling house.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	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
B2.2 Subdivision - Low Density Residential Areas	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.10 Estuarine Hazard - Subdivision	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater 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
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.3 Subdivision - Transport and Traffic Management	Yes	Yes
C4.4 Subdivision - Public Roads, Footpath and Streetscape	No	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.11 Third Party Signage	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.13 Lateral limits to development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes
D15.18 Seawalls	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D15.22 Masterplan - Careel Bay	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

Context

"Until the early 1900s, Avalon Beach remained a tiny settlement of isolated farms and fishermen's cottages. Developer Arthur J Small sought to create a retreat similar to that of King Arthur at Avalon, Glastonbury, England, and in the early 1920s, land on the northern peninsula of the locality was subdivided, the Avalon Golf Course and Palm Grove Park established, and Norfolk Island Pines planted along the beachfront. Avalon Beach became a popular holiday destination. Early dwellings consisted of weekenders and holiday homes constructed of local rock, fibro and weatherboard. Residential development and permanent occupation of dwellings increased from the 1950s.

Since this time, the locality has developed into a predominantly low-density residential area, with dwellings built along valley floor, slopes, and ridges. The locality is characterised mainly by one and two-storey dwelling houses on 600-1,000 square metre allotments (some smaller blocks may exist), increasing to 950-1,600 square metres on the plateau and slopes, and up to 8,000 square metres in Ruskin Rowe. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes. The dominant feature of the Avalon Beach locality is houses setback from the street with low and no front fencing and vegetation used extensively to delineate boundary lines. Medium-density housing is located around the Avalon Beach Commercial Centre and neighbourhood retail centres.

The locality is serviced by the Avalon Commercial Centre at the intersection of Old Barrenjoey Road and Avalon Parade, and neighbourhood retail centres at the intersection of Hudson Parade and Hilltop Road, Elvina Avenue, North Avalon Road, and Careel Head Road. The locality also contains Avalon Primary School, Maria Regina Primary School, Barrenjoey High School, Avalon Surf Life Saving Club, Careel Bay Wetlands, and recreational facilities including Hitchcock Park, Avalon Golf Course, tennis courts, beaches, and several bushland reserves.

Houses, built structures, and vegetation in the vicinity of Cabarita Road, Chisholm Avenue, Hilltop Road, Palmgrove Road, Old Barrenjoey Road, Whale Beach Road, Avalon Golf Course, and Stapleton Park, indicative of early settlement in the locality, have been identified as heritage items. Land in Ruskin Rowe, primarily the subdivision pattern, domination of vegetation over built form, wildlife corridor and lack of fences, has been gazetted as a heritage conservation area.

The locality is characterised by steep slopes to the south, northwest, and east of Careel Bay, leading down to the valley floor. Due to the topography, some significant views can be obtained to the north, east and west. Conversely, the slopes and ridge tops of the locality are visually prominent.

Much of the indigenous vegetation has been retained, particularly where there are large areas of open space, and there are significant wildlife habitats and corridors within the locality. The locality is well serviced by areas of open space including several large parks or bushland areas as well as many smaller reserves. These areas vary greatly from structured golf courses and playing fields to beaches, headlands, and natural bushland (such as Angophora Reserve).

The natural features of the locality result in a high risk of bushfire, landslip, flood, coastal (bluff) hazard,

and estuary wave action and tidal inundation.

The major roads within the locality are Barrenjoey Road, Avalon Parade, and Hudson Parade. Barrenjoey Road is the primary access road to the northern suburbs of Pittwater. Many pedestrian links and pathways exist within the locality, including the Bicentennial Coastal Walkway on the headland."

Comments on Avalon Beach Locality:

The proposal has been considered in the context of the Avalon Beach Locality including the adjacent W1 Natural Waterways zone. The site contains some historical development being fibro outbuildings and foreshore structures that are characteristic of the locality. The former main dwelling that existed on proposed Lot 1 has been removed, however the foreshore setback area will remain substantially the same and the majority of the tree canopy conserved to retain the landscape character. The proposed subdivision pattern is consistent with the surrounding lot sizes and the use of a private road / driveway access will retain a landscape buffer along Cabarita Road.

The spatial separation shown for future building footprints within the site will minimise view impacts and also enable the development layout and site works to be respond to the topography of the site. The proposal is consistent with the Avalon Beach Locality to ensure the conservation of significant native vegetation, maintain wildlife habitat and provide future development that desired character for the area.

Desired Character

"The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.

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

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

Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. Special front building line setbacks have been implemented along Avalon

Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.

The design, scale and treatment of future development within the Avalon Beach Village will reflect the 'seaside-village' character of older buildings within the centre, and reflect principles of good urban design. External materials and finishes shall be natural with smooth shiny surfaces avoided. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors. The natural landscape of Careel Bay, including seagrasses and mangroves, will be conserved. Heritage items and conservation areas indicative of early settlement in the locality will be conserved, including the early subdivision pattern of Ruskin Rowe.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities."

Comment on Desired Character:

The proposal is consistent with the desired low density residential character of the area to maintain a landscaped setting with a dominant tree canopy with dwellings of one or two storey appearance. The subdivision demonstrates that future housing and the building envelopes proposed will ensure articulated building forms that address the desired character. Environmental outcomes of responding to the natural slope, site features, landscape setting, foreshore areas and hazards have been addressed by the subdivision design to accommodate future housing development of the land, subject to conditions.

In this regard the subdivision layout, including roadworks, drainage, landscape work, access, new pathways and infrastructure will be appropriately co-ordinated with the pattern of proposed housing on the site, consistent with Avalon Beach Locality statement.

Hazards, Natural Environment and Heritage

Hazards

"The Avalon Beach Locality is affected by various hazards. Land affected in the Avalon Beach Locality is shown on the hazard maps held in the offices of Council.

Natural Environment

The Avalon Beach Locality includes vegetation areas, threatened species, or areas of natural environmental significance. Land affected in the Avalon Beach Locality is shown on the natural environment maps held in the offices of Council.

Heritage

The Avalon Beach Locality may include Heritage items and/or conservation areas. Land affected in the Avalon Beach Locality is shown on the Heritage Map held in the offices of Council.

For Careel Bay a preliminary identification of these matters for consideration are listed in the Careel

Bay Masterplan."

Comment on Hazards, Natural Environment and Heritage

The potential coastal, drainage and geotechnical hazards have been considered in the context of the engineering plans, environmental reports and subdivision design. The proposal will not create any unreasonable risks to the property or natural environment subject to conditions as recommended.

The proposal responds appropriately to the natural environment having identified key vegetation areas of significance, topography and providing a suitable management framework (including Biodiversity Management Plan and Community Management Statement) to address environmental impacts.

There are no heritage listed items on the site however the proposal will retain some historical development features of the site including some sandstone steps, the sandstone seawall, 'boatshed' and principal buildings within proposed Lot 2 (Torrens). The scenic landscape significance of Careel Bay will remain consistent with broad pattern of urban development surrounding the site, including housing style and landscape setting of the dispersed tree canopy.

Careel Bay MasterPlan

Outcomes

- *"To achieve the desired future character of the Locality.*
- *Development addresses the issues identified in the Careel Bay Masterplan.*
- *A sense of place is provided by acknowledging the setting, history, landscaping and character and to give residents a sense of belonging and community pride.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment.*
- *To ensure that development adjacent to Careel Bay compliments the landscape character, public use and enjoyment of the Bay.*

Controls

- *Development is to appropriately address the issues identified in the Careel Bay Masterplan."*

Comments on Careel Bay MasterPlan:

- The proposal is considered to be consistent with requirements to respond to relevant issues under the Masterplan, including biodiversity conservation, foreshore protection, environmental controls and visual impacts of development.
- The development addresses the relevant issues identified in the Masterplan by maintaining landscape setbacks, delivery of new contemporary housing and appropriate to the coastal setting and urban pattern.
- The proposed development acknowledges the natural setting of the site, history and landscaping and character by retaining the tree canopy of significant forest trees and preservation of the foreshore features such as the sandstone retaining wall, boat house and ensuring a landscape setting. The use of a Community Title scheme enables a co-ordinated and integrated framework for the long term environmental management of the site.
- The development is considered to respond appropriately to the DFC reinforcing the natural features of the site and relating development work to the spatial characteristics of the wider surrounding built and natural environment. The use of a private access road that minimises changes along Cabarita Road by locating garage access areas along the central area of the site

and retaining a landscape buffer along the public road frontage.

B3.10 Estuarine Hazard - Subdivision

The subdivision involves minimal works within the foreshore area and stormwater / seawall reinstatement work is designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties. In this regard each dwelling is located above the Estuarine Planning Level. In summary, the proposal will not unreasonably affect estuarine processes, subject to conditions.

A Section 88B notation under the *Conveyancing Act 1919* is also proposed to be placed on the title for the foreshore Community Title Lots 6, 7, 8 and 9 to allow access along the seawall in order to address inappropriate foreshore modification works and allow essential maintenance of this estuarine area.

B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)

The proposal has been considered in the context of potential climate change impacts, namely sea level change impacts and stormwater discharge along the foreshore of the property over the life of the development and adaptive and integrated measures are recommended to be incorporated in the design of the project such that access to the foreshore is easily available to address impacts that are managed under the Community Title subdivision. This is achieved by an easement for access along the foreshore seawall.

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

The proposal has been given detailed consideration with regard to minimising and ensuring no unreasonable adverse impact on Pittwater Spotted Gum Endangered Ecological Community in accordance with relevant environmental assessment requirements. Council's Natural Environment Unit has assessed the proposal including future landscaping, construction impacts, biodiversity and the surrounding environment. Conditions are recommended to ensure the proposal is consistent with the objectives of this DCP requirement.

Development includes provisions to restore and/or regenerate Pittwater Spotted Gum Endangered Ecological Community and provide links between remnant forest areas of the site including forest recovery provisions.

Substantial areas of the tree canopy will be retained to ensure no unreasonable long term loss of canopy or trees and replacement planting is appropriate for the site's biodiversity and remnant habitat including wildlife corridors. Conditions of consent are also included to provide restrictive use easements where the most valuable forest areas of Pittwater Spotted Gum Endangered Ecological Community are to be retained.

The proposal has included reasonable residential limitations on the keeping of domestic animals that may threaten wildlife habitat. This is achieved by the Community Management Statement.

The proposed fencing is integrated with the landscaping concept for the subdivision and the development proposes at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community) where appropriate.

The proposal includes works that will address any existing environmental weeds issues to be managed and to protect the biodiversity of areas of Pittwater Spotted Gum Endangered Ecological Community.

B4.15 Saltmarsh Endangered Ecological Community

The proposed development will not create an unreasonable long term impact on the saltmarsh vegetation along the foreshore area that is characterised by sandflats and a partial beach area along the northern boundary. The adjacent Swamp Oak ecological community has also been considered in the context of future landscaping works to ensure appropriate planting to enhance the natural foreshore area.

Stormwater, wastewater and other drainage is disposed of through the new stormwater outlet that is within the Careel Bay foreshore area which will be repaired as part of the site works.

The site does not have any significant mangrove areas invading saltmarsh vegetation, and therefore no removal of mangrove areas is proposed.

Any works or activities proposed within the foreshore building line will be appropriately managed by an easement along the foreshore area ensuring ease of access to maintain the seawall area and restrict works that may also adversely affect adjacent saltmarsh vegetation.

B6.2 Internal Driveways

Concept design details have been provided to ensure access gradients and turning areas will be achieved during construction. The applicant has included swept paths for HRV (NSW Fire & Rescue vehicle) to demonstrate appropriate access and turn-around areas for such vehicles (including delivery or maintenance vehicles). The private road entry gate only defines the boundary of the property boundary and is freely operable by a push-button control and does not lock out vehicle access. Subject to conditions the final detailed civil design levels are appropriately managed at construction certificate stage.

C1.3 View Sharing

Detailed consideration of view sharing impacts is provided for the individual development applications of each dwelling house where views are a subject of concern for that respective dwelling. The subdivision works will not require any structures (retaining walls, fencing or the like) that will cause unreasonable view impacts on adjacent land pursuant to view sharing considerations outlined within *Tenacity Consulting v Warringah Council NSW LEC 140*. The broad layout of the subdivision, including building envelope area, setbacks, landscaping and spatial separation of buildings has been considered in term of view sharing. No significant change to the subdivision layout is proposed to create new view corridors or relocate / amalgamate any Lots due to existing views.

The proposed changes to selected dwellings to reduce encroachments within setback areas and the like are concurred with and will assist to address the detailed view issues made under the individual dwelling house development applications.

C1.4 Solar Access

Detailed consideration of solar access impacts is provided for the individual development applications of each dwelling house. The subdivision works will not require any structures (retaining walls, fencing or the like) that will cause unreasonable overshadowing of adjacent land.

C1.7 Private Open Space

The subdivisions plans include sufficient detail to show the intended building footprint shape for each

dwelling on the proposed residential lots. In this regard, each dwelling design and lot area has sufficient private open space to enable compliance with this requirement. For the proposed subdivision the potential impacts of private open space areas within the pittwater spotted gum forest habitat and saltmarsh habitat has been considered. Conditions included to ensure the appropriate management and restriction on use within these zones where private open space area are also located.

Therefore, subject to conditions the subdivision has demonstrated that private open space areas for the dwellings will not have an unreasonable impact on the natural environment.

C4.4 Subdivision - Public Roads, Footpath and Streetscape

The site has a frontage of 91.0 metres to Cabarita Road with a narrow roadside verge and only a short section of existing footpath. On the western side of the proposed private road entry Cabarita Road is supported by a 1m to 2m high retaining wall and toward the eastern side of the site the verge narrows to 1.5m. Therefore, the construction of a 1.5m wide footpath along the entire frontage is not practicable where it would require a cantilevered pavement, tree removal or reconstruction of retaining walls that support the road. In this regard, a 1.2m footpath is more appropriate to provide a safe pedestrian area and link to the nearest alternate bus stop (east).

The construction of a suitable footpath extension has been assessed by Council's engineering, traffic and landscaping sections and suitable conditions recommended to address works within the road reserve and compliance with Australian Standards.

C5.18 Public Road Reserve - Landscaping and Infrastructure

The requirements of this controls seek landscaping outcomes (such as street trees) and the provision of infrastructures for footpaths, footpaths and the like.

The provisions of this clause under the DCP also contains the following considerations:

"Where the landscaping or infrastructure in the public road reserve currently exists, the requirements of this control in respect to the specific landscaping or infrastructure item need not apply.

Where landscaping or infrastructure in the public road reserve is located in steep terrain, the landscaping and infrastructure requirements will be considered on merit."

The frontage of the site along Cabarita Road has narrow sections and steep land along the western part of the site. Part of the frontage also contains a narrow footpath section, however the replacement of the kerbside footpath with a 1.5m wide concrete path would require substantial engineering works above an existing retaining wall and is likely to adversely affect at number of large trees due to the guardrail and pavement support. In consideration of this a 1.2m footpath would be more appropriate with a raised kerb (deflective safety kerb). Along the eastern side of the site along Cabarita Road frontage the nature strip is suitable for a new concrete path and the roadside and a bus stop is located close by.

In accordance with the objectives and requirements of this clause it is considered that the proposal is satisfactory subject to conditions. This would involve less infrastructure work within the road reserve in order to lessen adverse environmental impacts, particularly to trees along the frontage.

D1.11 Building envelope

The side boundary envelopes are assessed in detail under the following applications

Community Title Lots:

- 1 - Not applicable: Road access / driveway and services Lot.
- 2 - Refer to detailed design for DA2019/1990
- 3 - Refer to detailed design for DA2019/1991
- 4 - Refer to detailed design for DA2019/1992
- 5 - Refer to detailed design for DA2019/1998
- 6 - Refer to detailed design for DA2019/1993
- 7 - Refer to detailed design for DA2019/1994
- 8 - Refer to detailed design for DA2019/1995
- 9 - Refer to detailed design for DA2019/1996
- 10 - Refer to detailed design for DA2019/1997

Torrens Title Lots:

Existing dwelling complies on proposed Lot 2 (also nominated as Community Title Lot 11).

The ground level building envelope (footprint areas) are compliant with the P21 DCP minimum area requirements for each lot.

D15.18 Seawalls

The subdivision has been assessed to ensure minimal adverse impact on the water quality hydrodynamics of the estuary area in front of the site along the seawall. Conditions are recommended to ensure appropriate access is provided for along the foreshore and not obstructed by structures or landscaping that would inhibit the maintenance and existing environmental continuity of the seawall or land-water interface. This is to be achieved via a narrow right of access along the landward side of the seawall and up to the northern boundary within the Community title Lots 6,7,8, and 9.

D15.22 Masterplan - Careel Bay

Careel Bay Masterplan has been considered in the assessment of this report, including the desired outcomes, subdivision requirements, issue of public interest and the objectives of the zone.

Subject to conditions the proposal is consistent with the Masterplan.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$21,907 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,190,660.

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

The subdivision has been designed to concentrate the majority of works generally within areas of the site that are already substantial disturbed from previous development / use. Accordingly the proposed lot areas and dimensions have been designed to allow for generous building envelopes to accommodated appropriately designed dwelling that are suitable for the site and that will be able to satisfy the DCP and LEP building controls.

The spacious lot layout will ensure the proposal remains consistent with the DFC and the long term integrity of the natural environmental values of the site. Issues of stormwater, private road construction, service infrastructure, landscape protection, visual impact, erosion control, access and environmental amenity have been addressed by the design assessment and conditions. These issues are supported by recommendations within the detailed environmental assessment reports prepared by the applicant in support of the application. Other issues raised by public submissions (including those made under the separate house development application) have been considered in the context of the subdivision works and addressed by conditions where appropriate for the subdivision.

The assessment of this application has identified a number of special site elements under the broader environmental matters considered. The site has some important natural features including areas of remnant Pittwater Spotted Gum Forest (PSGF), Swamp Oak Forest and foreshore areas. In this regard, restrictive easements are proposed to assist in the long term conservation and management of these areas, in a manner that is appropriate to the future development for housing on the site. Additional issues associated with site works near or within the road reserve have been addressed so that there will be no unnecessary clearing of trees along the road frontage, in order to maintain a landscape buffer to Cabarita Road. Sufficient details have also been provided by the applicant to ensure appropriate outcomes with the construction phase for civil works are managed to avoid any unreasonable impacts on surrounding residents as detailed within the recommended conditions of consent and application documents / reports.

Subject to conditions Council's Roads, Traffic and Waste engineers are satisfied with the subdivision proposal including the co-ordination of work between Torrens Title and Community Subdivision. Council's Natural Environment Units have provided suitable conditions to ensure appropriate mechanisms are available during works and for the long term by restrictions on title and a community management statement to manage conservation of remnant natural landscape values of the site.

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 DA2018/1989 for Land subdivision of 4 Lots into 2 Torrens Title Lots to create 9 Community Title residential Lots with 1 Community Title access Lot, including landscaping, roadworks, services infrastructure and ancillary site works on land at Lot 8 DP 629464, 102 Cabarita Road, AVALON BEACH, Lot 15 DP 858130, 100 Cabarita Road, AVALON BEACH, Lot 14 DP 858130, 96 Cabarita Road, AVALON BEACH, Lot 9 DP 629464, 104 Cabarita Road, AVALON BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Subdivision Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Administration Sheets 1 to 2	Received October 2019	Paul Barry Byrne Surveyor
Proposed Torrens Title Subdivision Plan Proposed Lot 1 and Lot 2 (Sheet 1 of 1)	Received October 2019	Paul Barry Byrne Surveyor
Community Title Subdivision of Proposed Lot 1 - Endorsed with Council's stamp		
Administration Sheets 1 to 3	Received October 2019	Paul Barry Byrne Surveyor
Proposed Community Title Subdivision Location Diagram Proposed Community Scheme (Sheet 1 of 3)	Received October 2019	Paul Barry Byrne Surveyor
Proposed Community Title Subdivision Detail Plan Proposed Community Scheme (Sheet 2 of 3)	Received October 2019	Paul Barry Byrne Surveyor
Proposed Community Title Subdivision Neighbourhood Property Plan Proposed Community Scheme (Sheet 3 of 3)	Received October 2019	Paul Barry Byrne Surveyor

A002 B Building Footprint Plan*	September 2019	Mark Hurcum Design Practice
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*Concept outlines, subject to separate development approvals for Community Lots 2 to 10.

Engineering Plans		
Drawing No.	Dated	Pr
SK06 Council Footpath Concept	20.6.2019	NE
C01 to C06 Road and Driveway Access (Sheets 1 to 6)	28.11.2018	NE
C07 to C13 Longitudinal Sections (Sheets 1 to 7)	28.11.2018	NE
D01 Site Stormwater Drainage	6.12.2018	NE
D02 Catchment Plan	6.12.2018	NE
D03 Stormwater Drainage Notes	6.11.2018	NE
D04 Stormwater Drainage Details Sheet 1	6.11.2018	NE
D05 Stormwater Drainage Details Sheet 5	6.11.2018	NE
D06 Soil and Water Management Plan	6.12.2018	NE
D07 Soil and Water Management Sheet 1	4.12.2018	NE
D08 Soil and Water Management Sheet 2	4.12.2018	NE
B01 Road and Driveway Access Plan	15.11.2018	NE
B02 Road and Driveway Access Plan	15.11.2018	NE
B03 Road and Driveway Access Plan	15.11.2018	NE

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Draft Section 88B Subdivision (Terms of easements / restrictions / covenants intended)	Received 19.12.2018	Applicant
Community Management Statement 2952260_3	12.12.2018	Applicant
Biodiversity Management Plan - Maintenance Manual	5.4.2019	GIS Environmental Consultants
Biodiversity Management Plan - Sheet 1 (Part 1a) - Ecological Works During Construction	5.4.2019	GIS Environmental Consultants
Biodiversity Management Plan - Sheet 2 (Part 1a) - Ecological Works During Construction (Including Attachment A and B)	5.4.2019	GIS Environmental Consultants
Biodiversity Management Plan - Lot 2 (Part 1b) - Ecological Works During Construction	5.4.2019	GIS Environmental Consultants
Geotechnical Risk Assessment 31842BMrpt Rev2	30.11.2018	JK Geotechniks
Biodiversity Development Assessment Report		GIS Environmental Consultants

Recommendations Section 7.3 and 7.4		
Estuarine Risk Management Report Recommendations Section 7	10.12.2018	Horton Coastal Engineering
Staging Detail for Project Ecology Works	12.9.2019	GIS Environmental 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
SK2019 A/P1 Foreshore Access Stairs and Boatshed Plan Detail	September 2019	Mark Hurcum Design Practice
Sht 101 Landscape Masterplan	28.11.2018	Jamie King Landscape Architect
Sht 111 Landscape Masterplan	28.11.2018	Jamie King Landscape Architect
Sht 112 Landscape Masterplan	28.11.2018	Jamie King Landscape Architect
Sht 113 Landscape Masterplan	28.11.2018	Jamie King Landscape Architect
Sht 402 Landscape Masterplan Materials Palette	28.11.2018	Jamie King Landscape Architect
Sht 101 Landscape Masterplan Plant Palette	28.11.2018	Jamie King Landscape Architect

Construction and Waste Management Plans		
Document / Plan No/Title.	Dated	Prepared By
Construction and Site Management Plan	November 2018	Applicant
Construction Traffic Management Plan 152-17 (CTMP)	November 2018	Urban Research and Planning
Waste Management Plan*	Received 19.12.2018	Mark Hurcum Design Practice
SK208 Removed Canopy	November 2018	Mark Hurcum Design Practice
SK209 Replacement Canopy Plan	November 2018	Mark Hurcum Design Practice
SK210 Waste Management Site Plan*	November 2018	Mark Hurcum Design Practice
SK211 / B Waste Storage Area*	15.7.2019	Mark Hurcum Design Practice
A004 Demolition Plan	November 2018	Mark Hurcum Design Practice
A005 / B Site Plan	September 2019	Mark Hurcum Design Practice

A006 / B Driveway Plan	September 2019	Mark Hurcum Design Practice
A007 Site Services Plan	November 2018	Mark Hurcum Design Practice

*Refer to conditions for changes required by conditions for the construction certificate.

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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Aboriginal Heritage Office	Referral Response Aboriginal Heritage Office	14.1.2019
Natural Resources Access Regulator	General Terms of Approval (Water Management Act 2000)	6.5.2019

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) Where applicable to the subdivision, 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) Where applicable to the subdivision, Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has

given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative Requirement

4. **General Requirements**

- (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 Subdivision 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.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$21,906.60 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$2,190,660.00.

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

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

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

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

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

6. **Security Bond**

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

7. **Construction, Excavation and Associated Works Bond (Drainage)**

A Bond of \$100,000 as security against any damage or failure to complete the construction of

Stormwater drainage works that reverts to Council's care and control as part of this consent.

Reason: Protection of Council's Infrastructure

8. **Construction, Excavation and Associated Works Bond (Crossing / Kerb)**

A Bond of \$30,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

Reason: Protection of Council's Infrastructure

9. **Construction, Excavation and Associated Works Bond (Maintenance for civil works)**

The developer/applicant must lodge with Council a Maintenance Bond of \$10,000 for the construction of drainage infrastructure works. The Maintenance Bond will only be refunded on completion of the six month Maintenance Period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion and may be exchanged for the works bond.

Reason: To ensure adequate protection of Council infrastructure.

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

10. **Public Road Reserve Landscaping and Infrastructure**

Details are to be provided to demonstrate the following road reserve landscaping and infrastructure requirements will be completed as part of the proposed roadworks:

i) The footpath is to include a design for access to both existing bus stops. The design must include the proposed undergrounding of the existing electrical lines to ensure there is no conflict with any retaining structures or trees.

ii) A 1.2m wide footpath, for the full width of the road reserve and extended to the existing bus stop fronting No. 110 Cabarita Road is required in accordance with Council specifications. Detailed design documents shall be provided indicating the nature of construction, surface finish, and proposed levels, to ensure protection of the existing trees located within the road reserve, identified as T18, T164, and T167.

iii) Pier footing construction techniques within the tree protection zone shall be applied in the vicinity of existing trees as determined by a AQZ level 5 arborist with qualifications in horticulture/arboriculture.

iv) A Arboricultural Impact Assessment shall be submitted as part of the Construction Certificate indicating suitable locations for pier footings.

vi) All remaining areas within the road reserve shall be turfed with Couch species (weed free) and finished with an even grade to a maximum 4% grade.

vii) All work within the road reserve is subject to a Section 139 approval (Roads Act 1993) being made from Council.

Reason: To enable the long term retention of the desired streetscape amenity.

11. **Stormwater Disposal**

Stormwater from the site shall be disposed of to the existing piped Council drainage system burdening the site in accordance with Northern Beaches Council's Pittwater 21 DCP 2014 Clause B5.10.

A certificate of compliance and drainage plans are to be provided to the Certifying Authority with the Construction Certificate application 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 for the drainage system.

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

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

12. **Geotechnical Report Recommendations 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 JK Geotechnics, Report Number 31842BMrpt dated 30 November 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 Certifying Authority prior to the issue of the Construction Certificate for the Community Title Subdivision.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **Traffic Management and Control**

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

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

14. **Amendments to the Approved Plans**

The following additional positive covenants are to be shown on the subdivision plans:

Foreshore Protection - Easement

A) An easement, variable width, between the between mean high watermark boundary and 2.0 metres (m) from the landward side of the the existing sandstone sea wall is to be provided. The easement is to be freely accessible from proposed Lot 1 Community Lot (boat storage area) across Community Lots 6, 7, 8 & 9, benefiting Community Title Lot 1. The terms of the easement shall limit fencing, landfill, boat ramps and works that would hinder access to maintaining ease of access and maintenance of the sandstone seawall.

Reason: Access, maintenance and protection of the seawall from stormwater erosion and sea level impacts.

Environmental Protection Area

B) An easement for restriction on use is to be provided for the "Environment Protection Area" (1125 square metres) as outlined on Figure 1.5 of the *Conservation Management and Landscape Area*, drawn by GIS Consultants, dated 29.11.2018. The terms of the easement shall limit the construction of domestic structures (including any exempt and complying development) land filling, excavation or the removal of any native trees that is not in accordance with the conditions of this development consent.

Reason: Conservation of Pittwater and Wagstaff Spotted Gum Forest from key threatening processes.

Restricted Development Area

C) An restricted development zone (for PSGF conservation EEC) of approximately 595 square metres, is to be provided generally south of the existing 'boatshed building' within Proposed Lot 2 (Torrens Title) and generally between the proposed foreshore access pathway and the existing principal dwelling on Proposed Lot 2 (Torrens title). The terms of the easement shall limit the construction of domestic structures / buildings without the required development consent where required by Council. Council shall be empowered to vary or amend the terms of the development restriction.

Reason: Conservation of remnant Pittwater and Wagstaff Spotted Gum Forest within the subject land.

15. **Service Infrastructure**

Details of provisions to comply with service infrastructure requirements are to be provided to accompany the Construction Certificate plans for roadworks within Community Lot 1, including *NSW Guidelines for fire hydrants for minor residential development*, services for electricity, water, gas and telecommunications, as applicable.

Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate for road works within Community Lot 1.

Reason: Integration of essential services during construction.

16. **Submission of Engineering Plans**

Engineering plans including specifications and details of the internal driveway, utility services, inter-allotment drainage system and the stormwater quality treatment system which are to be generally in accordance with the civil design approved with the Development Application, Pittwater 21 DCP 2014, Council's specification for engineering works - AUS-SPEC #1 and any relevant service authority guidelines are to be submitted to the Certifying Authority with the Construction Certificate application. Such details are to be accompanied by a certification 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, confirming that the plans/details comply with the above requirements.

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

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

17. **Sydney Water (Fire Hydrant System)**

Subdivisions involving the creation of private roads are to be serviced with fire hydrant systems to ensure that coverage of no less than 90 metres is maintained to all areas of the

development.

(Note: The fire hydrants are to be installed in accordance with all relevant Australian Standards and the requirements of the Sydney Water Authority and the NSW Fire Brigades.)

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

Reason: NSW Fire Brigades Requirement.

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

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of the footpath including any retaining walls through the nature strip, kerb and gutter with a suitable designed barrier and/or defective kerb and the driveway crossing which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and Pittwater 21 DCP 2014. The plans and details are to be accompanied by a certification 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 field, confirming that the plans/details comply with the above requirements.

The design must include the following information:

1. 1.2 metre wide footpath at the back of the kerb along the frontage of the site and up to the existing bus stop fronting No. 110 Cabarita Road to the east of the frontage.
2. Kerb and Gutter reconstruction along the frontage of the site. The design shall include some form of deflection to prevent vehicles mounting along the curved section and include any pedestrian barrier as required.
3. Any pier and beam or retaining wall details for the proposed footpath construction.
4. Concrete access path from the bin area to the proposed footpath.
5. 6 metre wide driveway crossing.
6. A *Disability Discrimination Act* compliant bus stop.

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

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

Reason: To ensure works in the road reserve are designed in accordance with Council's specifications.

19. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradients in accordance with AS/NZS 2890.1:2004. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

20. **Utilities Services**

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Certifying

Authority that

- (a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development; and
- (b) Evidence that notification has been received from a utility provider that requirements for the development can be provided.

Reason: To ensure that services can be provided as required by this Consent

21. **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.

22. **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.

23. **Construction Management Program**

An application for Traffic Management Plan is to be submitted to Council for approval. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community

24. **Design of the bio-retention basin**

The design of the bio-retention basin must be revised to incorporate a splitter in the upstream pit that spreads upstream flows to all three basins.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate. Certification is to be provided by a suitably

qualified and experienced Water Engineer.

Reason: To reduce the necessity for frequent maintenance of the basin.

25. **Stormwater Drainage Application**

A Stormwater drainage application under Section 68 of the Local Government Act 1993 is to be submitted to Council for the proposed trunk drainage system within the site. The submission is to include four (4) copies of Civil Engineering plans, specifications and details of the drainage system which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The design is to include the following:-

1. The minimum pipe size of the drainage system is to be 675mm diameter.
2. The pipeline is to be Concrete Rubber Ring Jointed with a minimum Class of 3.
3. All pipe joints are to include bulk heads.
4. Where the outlet is to be replaced the design is to be in accordance with the design principles in Controlled Activities on Waterfront Land: Guideline for outlet structures on waterfront land (NSW Office of Water, July 2012)
5. Pit details for cast insitu style pits.
6. A drainage easement 2.5 metres wide centrally placed over the new drainage line.

The form can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/stormwater-drainage-approval/4022-stormwater-drainage-approval.pdf>

The fee associated with the assessment and approval of the application is to be in accordance with 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 appropriate provision for disposal and Maintenance Stormwater management and compliance with the BASIX requirements, arising from the development.

26. **Tree Protection Plan**

a) Tree Protection Plan prepared by a AQZ Level 5 Arborist with qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority prior to the release of the Construction Certificate for civil works for the community title subdivision documenting the following:

- i) layout of the development and location of all trees identified for retention,
- ii) location of tree protection fencing, ground and trunk protection in accordance with AS2470-2009,
- iii) general tree protection measures

b) The identified Environmental Protection Area as indicated within the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants shall be fenced with 1.8m high standard chain wire construction fencing at the commencement of works and shall remain in place until all landscape works are complete. The only works permitted within the fencing area is approved tree removal and canopy tree planting. The Arborist shall determine the alignment of the protection fencing in consideration of site gradients, setbacks from existing

trees, and a setback to facilitate future lot development.

c) Any existing tree proposed for retention between the protection fencing and the future lot development footprint, if unable to be included within the fencing, shall be protected by trunk and ground protection measures in accordance with AS2470-2009.

d) Certification shall be provided to the Certifying Authority prior to Construction Certificate that the Tree Protection Plan addresses all tree protection measures to ensure the preservation of the existing trees nominated for retention.

e) The proposed canopy tree planting within the Environmental Protection Area shall be undertaken under the supervision of an Arborist or Ecologist.

f) Tree protection measures identified on the Tree Protection Plan are to be in place prior to commencement of works.

Reason: to retain and protect significant planting on the site.

27. **Restricted Development Area**

Prior to the issue of the Construction certificate for the community title works, the extent of the Restricted Development area (for conservation purposes of remnant PSGF Endangered Ecological Community) within proposed Lot 2 (Torrens - Stage 1 subdivision) must be surveyed and marked on a Plan.

The survey must be undertaken by a registered surveyor and Plan prepared to the satisfaction of Council's Manager Bushland & Biodiversity.

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

Reason: Bushland Protection.

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

All pre-construction biodiversity-related measures specified in the approved Biodiversity Development Assessment Report (GIS Environmental December 2018), Biodiversity Management Plan (GIS Environmental April 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures is to be certified by the project ecologist prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls (DACNECPCC1)

29. **Like for like credit retirement conditions - Species credit retirement conditions**

Prior to issue of the relevant construction certificate the class and number of species credits in Table 3 must be retired to offset the impacts of development.

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

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 3 requirements must be provided to the Manager Bushland & Biodiversity of Northern Beaches Council prior to release of construction certification.

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

Impacted species credit species	Number of species credits	IBRA sub-region
Chalinolobus dwyeri/ Large-eared Pied Bat	11	Pittwater
Myotis macropus/ Southern Myotis	7	Pittwater
Syzygium paniculatum / Magenta Lilly Pilly	2	Pittwater

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

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

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

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

Table 4 Species credits required to be retired – variation rules

Impacted species credit species	Number of species credits	IBRA sub-region
Chalinolobus dwyeri/ Large-eared Pied Bat	11	Pittwater, Cumberland, Sy Cataract, Wyang and Yengo.
Myotis macropus/ Southern Myotis	7	Pittwater, Cumberland, Sydney Cataract, Wyang and Yengo.
Syzygium paniculatum/ Magenta Lilly Pilly	2	Pittwater

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

31. **Notification of determination to which the Biodiversity Offset Scheme applies**

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

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

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

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

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

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

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

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

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

Impacted Plant Community Type	TEC	Number of ecosystem credits	Contaminant HBT
1214-Spotted Gum - Grey Ironbark open forest in the Pittwater and Wagstaffe area, Sydney Basin Bioregion	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	7	YES

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

33. **Variation rule credit retirement conditions - Ecosystem credit retirement conditions**

Prior to issue of the relevant construction certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

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

Table 2 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Approved variation plant community type(s) that be used to offset the impacts from development
1214-Spotted Gum - Grey Ironbark open forest in the Pittwater and Wagstaffe area, Sydney Basin Bioregion	7	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or From a location within 100km of the impact site	Any PCT from Wet Sclerophyll Forests (Grassy subformation), Tier 3 or higher, containing HBT (including artificial)

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

34. Estuarine Hazard Design Requirements

The following applies to all development:

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes; they will not reduce access to or diminish the amenity of adjoining public foreshore land.

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

35. Estuarine Planning Level Requirements

An Estuarine Planning Level (EPL) of RL 3.2m AHD has been independently derived for the subject site as outlined in the approved Estuarine Risk Management Report, prepared by Horton Coastal Engineering Pty Ltd dated 10 December 2018, and shall be applied to all development proposed below this level as follows:

- o All structural elements below RL 3.2m AHD shall be of flood compatible materials;
- o All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above RL 3.2m AHD or waterproofed to this level; and
- o The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below RL 3.2m AHD.

Reason: To ensure aspects of the development that may be affected by estuarine processes are built at the appropriate level.

36. Compliance with Estuarine Risk Management Report

The development is to comply with all recommendations of the approved Estuarine Risk

Management Report prepared by Horton Coastal Engineering Pty Ltd, dated 10 December 2018, including the recommendation to repair the existing seawall to rectify voids and prevent migration of soil through the wall, and these recommendations are to be incorporated into construction plans and engineering specifications as necessary.

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

Reason: To minimise potential risk associated with estuarine hazards for development in the coastal zone.

37. **Structural Engineering Design for the Repair of the Existing Seawall**

Structural engineering design for the repair of the existing seawall shall be prepared by a civil or structural engineer, with input as necessary from a specialist coastal engineer who is a registered engineer with chartered professional status and coastal engineering as a core competency, to ensure that the repaired seawall is able to withstand likely loadings and wave impact/over-topping forces for its intended design life.

Reason: To ensure that structural engineering design and specifications are prepared by appropriately qualified professionals

38. **Engineers Certification of Structural Engineering Plans**

The structural design for the seawall repairs shall be prepared by and each plan/sheet signed by, a registered professional civil or structural engineer with chartered professional status (CP Eng) who has an appropriate level of professional indemnity insurance and shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure structural engineering design and specifications are prepared by an appropriately qualified professional

39. **Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent, BDAR (GIS Environmental) and the Biodiversity Management Plan Parts 1 and 2 (GIS Environmental April 2019).

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

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016 (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Employment of a project ecologist is to be certified by the Principal Certifying Authority Prior to issue of Construction Certificate.

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

40. **Implementation of Biodiversity Management Plan**

All requirements in the Biodiversity Management Plan (GIS Environmental dated 5 April 2019) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist

and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

41. Native Vegetation Protection Covenant

Areas of retained native vegetation and trees and are to be protected, conserved, rehabilitated and managed through the use of a Section 88B (Conveyancing Act 1919) Instrument in which Northern Beaches Council shall be named as the sole authority to release or modify the restriction.

The instrument is to be written and registered on the title so that the owners are bound to manage and protect the areas in perpetuity according to

- the area mapped on Lots 2 - 5 as Environment Protection Area in Figure 1.5 of the Biodiversity Development Assessment Report (GIS Environmental) prepared for the approved development.

The draft instrument is to be acceptable to Council prior to the issue of the Construction Certificate and lodgement with the NSW Department of Lands.

Reason: To protect native vegetation proposed for retention in accordance with relevant Natural Environment LEP/DCP controls.

42. Amend Biodiversity Management Plan

The Biodiversity Management Plan Parts 1 & 2 and Ongoing Maintenance Manual, submitted in conjunction with the approved Development Application and as amended by these conditions of consent, is to be amended to include the Environment Protection Area.

The BMPs are to be amended and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

43. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards where works are applicable.

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. (DACPLC02)

44. Construction Traffic Management Plan.

As a result of the site constraints, limited vehicle access and parking, the submitted Construction Traffic Management Plan (CTMP) and report shall reviewed by an RMS accredited person and submitted to and approved by the certifying Certifying authority Authority prior to issue of the Construction Certificate for any civil works for the Community Title subdivision.

The CTMP must be revised address following (where not already included):-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements

on how various stages of construction will be undertaken;

- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a

manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.
(DACTRCPC1)

45. **Submission of Engineering Plans**

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of:

- Footpath Construction along the site frontage connecting to the nearest Bus Stop toward the south-east.
- Upgrade of the Bus Stop to the south-east to be DDA compliant.

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the community title subdivision.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval.

Note: This condition does not require footpath construction to the west (refer to condition 1) in order to minimize tree removal impacts that would occur along the supporting road frontage infrastructure / retaining wall.

Reason: To ensure compliance with Council's specification for engineering works.
(DACTRCPC2)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

46. **Project Arborist**

A Project Arborist with AQZ Level 5 qualification in horticulture/arboriculture is to be appointed to provide tree protection measures recommendations on site to any subdivision works in the vicinity of the following trees that are proposed for retention by the Tree Assessment and Development Impact Report prepared by *Growing My Way* and the *Biodiversity Development Assessment Report* prepared by GIS Environmental Consultants, including trees numbered as follows:

- o 1, 2, 3D, 3E, 3F, 3G, 3H, 4, 4B, 7C, 7D, 7F, 8, 11, 11B, 20, 21A, 27, 27A, 31, 36, 40, 41, 45, 46, 47, 49, 54, 55, 56, 61, 62C, 66, 69A, 69E, 69i, 70A, 82A, 89K, 90A, 90B, 91, 92, 95, 96, 97, 100, 101, 102, 102A, 103, 104, 104A, 104D, 104E, 118, 119, 119B, 128C, 129, 130, 130B, 131, 133, 134B, 139B, 140, and the following cabbage tree palms UN1, UN3 and UN4,
- o all existing trees proposed for retention within the 'Environmental Protection Area', as nominated in the *Biodiversity Development Assessment Report* prepared by GIS Environmental Consultants.

Details including field reports and photos are to be submitted to satisfaction of the the Certifying Authority.

Note: The Project Arborist is to be appointed at the commencement of the works and shall

demonstrate that their attendance on site has occurred as required to provide such recommendations.

47. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

48. **Approved Tree Removal**

Approval is granted for the removal of the following existing trees as assessed by the *Tree Assessment and Development Impact Report* prepared by Growing My Way and the *Biodiversity Development Assessment Report* prepared by GIS Environmental Consultants, as follows:

- 3, 3b, 3c, 7g, 22, 22B, 22C, and 22E, 44, 47A, 67A, 67B, 69C, 69D, 71C, 84B, 86, 89F, 90, 92A, 93, 94, 94A, 94B, 95A, 95B, 95C, 103, 116, 117, 118A, 138, 139, stag 1, and stag 2.
- all existing trees proposed for removal within the Environmental Protection Area, as nominated in the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants.
- all Exempt Species including: 1b, 3i, 5b, 22A, 49D, 62, UN, 68B, 69, 70B, 71, 71B, group of 91A to E, 91F, 101B, UN5, the numerous Phoenix palms, and the two large clumps of *Strelitzia nicolai*; and
- all priority weed species under the Biosecurity Act and shall be removed to prevent its spread, including UN2 and 7G (African Olive).

Reason: Assessed tree removal works.

49. **Bushland Protection Fencing and Signage**

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the boundary between the Conservation Management Areas and the construction area as shown on Biodiversity Management Plan (BMP) Part 1a (GIS Environmental 5/4/19) - is to be surveyed and marked clearly on the ground.

A temporary 2.0 metre steel mesh fence (or similar), incorporating BMP signage, is to be erected on the surveyed boundary between the Conservation Management Areas and the construction area for the duration of construction work.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

Reason: To ensure that the vegetation in the restricted development area is protected during and after construction.

50. Protection Fencing

Protection fencing measures (including sedimentation fences) are to be installed in accordance with all approved plans including those specified in the Arborist Report and/or Bushland Management Plan. Protection measures are to be maintained for the duration of the works. Protection fencing that is no longer required is to be removed once all works are completed.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

Reason: Environmental Protection

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

51. Progress Certification (Road & Subdivision)

Written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Principal Certifying Authority for the following stages of works.

- (a) Silt and sediment control facilities
 - (b) Laying of stormwater pipes and construction of pits
 - (c) Proof Roll - AUSPEC Standard
 - (d) Sub-grade trimmed and compacted **
 - (e) Base-course laid and compacted **
 - (f) Kerb and gutter construction
 - (g) Pavement
 - (h) Landscaping and vegetation
 - (i) Clean-up of site, and of adjoining Council roadway and drainage system.
 - (j) All layers of the road formation are to be proof rolled to Council's satisfaction
- (**To be tested by a recognised N.A.T.A. approved laboratory).

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

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

52. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority

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

53. Notification of Inspections for Public Drainage and Road Works

Council's Development Engineer is to be given 48 hours notice when the works for the trunk drainage line and works within the road reserve reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter, footpath and driveway crossing
- (e) Subgrade level / basecourse level / subbase
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of

Council and receipt of the required certification.

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

54. **Traffic Control During Road Works**

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

Reason: Public Safety

55. **Vehicle Crossings**

The provision of one vehicle crossing 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL 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.

56. **Maintenance of Road Reserve**

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

Reason: Public Safety.

57. **Excavation and Erosion Control**

The following measures shall be implemented in the sequence given below, to minimise soil erosion:

Approved runoff and erosion controls shall be installed before site vegetation is cleared (other than that associated with the construction of the controls). These shall be as shown on an ESCP approved by council. Topsoil shall be stripped only from approved areas and stockpiled for re-use during site rehabilitation and landscaping. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, waters, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned. All stockpiled materials are to be retained within the property boundaries. Uncontaminated runoff shall be intercepted up-site and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised. Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, or other sediment escaping from the site or entering any downstream drainage easements or waters. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to conform to the specifications and standards quoted and to any conditions of approval of those measures. Measures shall be applied, to the satisfaction of council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development. Measures required in permits issued under the Rivers and Foreshores Improvement Act shall be

implemented. This Act requires that people obtain approval for any proposed excavation or fill in or within 40 metres of a watercourse. Permits should be sought from the Department of Natural Resources.

Reason: To minimise soil erosion

58. **Safety Fencing of Excavation and/or demolition**

The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

Reason: To ensure private and public safety

59. **Temporary Sediment**

Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.

Reason: To reduce erosion and prevent sediment runoff into public assets

60. **Maintenance of Sediment**

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.

Reason: To ensure sediment controls are effective

61. **Erosion and Sedimentation Responsibilities**

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.

Reason: To ensure sediment and erosion controls comply with standards

62. **Site Entry Access way**

An all-weather access way at the front of the property consisting of 50-75 millimetres (mm) aggregate or similar material at a minimum thickness of 200mm and 15 metres long laid over geotechnical fabric is to be constructed prior to commencement of works and maintenance over the works period.

Reason: To reduce sediment being taken offsite

63. **Cleaning of Vehicles Leaving Site**

Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

Reason: To reduce sediment being taken offsite

64. **Noise and Vibration**

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

Reason: To ensure the amenity of the surrounding area for residents

65. **Protection of Adjoining Property - Excavation**

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 preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety

66. **Site filling - Virgin Excavated Natural Material (VENM)**

Where site fill material is necessary, fill materials must:

1. be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997
2. be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.
3. Certification is to be provided to the Principal Certifying Authority by a N.A.T.A. approved laboratory.

Reason: To ensure protection of the natural environment

67. **Soil and Water Management Plan Implementation**

All site drainage and sediment and erosion control works and measures as described in the Soil and Water Management Plan, the Construction and Site Management Plan and any other pollution controls as required by these conditions must be implemented prior to commencement of any work at the site and maintained until all development activities, including those for individual dwellings, have been completed and the site is sufficiently stabilised.

Reason: Protection of the receiving environment

68. **Tree and Vegetation Protection**

The following tree and vegetation protection requirements are to be satisfied:

- a) Existing trees and vegetation shall be retained as listed in the Tree Assessment and Development Impact Report prepared by Growing My Way and the *Biodiversity Development Assessment Report* prepared by GIS Environmental Consultants, as follows:
 - i) all trees and vegetation within the site, nominated for retention identified below in item v), excluding exempt trees under the relevant planning instruments of legislation (unless conditioned otherwise),
 - ii) all other trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation,
 - iv) exempt tree number 61: Hills Weeping Fig located within Lot 6 shall be retained,
 - v) the following existing trees shall be retained:
 - o 1, 2, 3D, 3E, 3F, 3G, 3H, 4, 4B, 7C, 7D, 7F, 8, 11, 11B, 20, 21A, 27, 27A, 31, 36, 40, 41, 45, 46, 47, 49, 54, 55, 56, 61, 62C, 66, 69A, 69E, 69i, 70A, 82A, 89K, 90A, 90B, 91, 92, 95, 96, 97, 100, 101, 102, 102A, 103, 104, 104A, 104D, 104E, 118, 119, 119B, 128C, 129, 130, 130B, 131, 133, 134B, 139B, 140, and the following cabbage tree palms UN1, UN3 and UN4,

- all existing trees proposed for retention within the Environmental Protection Area, as nominated in the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants.
- b) Tree protection shall be generally undertaken as follows:
- i) all tree protection shall be in accordance with AS4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing and ground protection to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
 - iii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
 - iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
 - v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
 - vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
 - viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
 - ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
 - xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.
- c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Reason: to retain and protect significant planting on development and adjoining sites.

69. **Tree Hollow Inspection by Ecologist**

During any vegetation clearance for Asset Protection Zones and construction works the Project Ecologist is to be physically present to re-locate any displaced fauna that may be disturbed during this activity.

All tree hollows proposed for clearing are to be inspected by the project ecologist prior to removal. Inspection of tree hollows is to be facilitated by a qualified and experienced tree climber or arborist with the use of an elevated work platform where necessary.

Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of tree removals

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016 and relevant Natural Environment LEP/DCP controls.

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

All biodiversity-related measures are to be implemented during construction, as specified in the approved ecological report (BDAR GIS Environmental December 2018), Biodiversity Management Plan (GIS Environmental April 2019) and these conditions of consent.

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

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls (DACNEEDW1)

71. **Fencing for Wildlife Passage**

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.

Reason: Management of wildlife corridors

72. **Vegetation Clearing Protocols**

Clearing of native vegetation is to be undertaken in accordance with the protocols and recommendations specified in the approved Biodiversity Management Plan.

Details confirming compliance are to be certified by the project ecologist and submitted to the Principal Certifying Authority.

Reason: To protect native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNEEDW2)

73. **Traffic Management**

Traffic management procedures and systems must be in place and practiced during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Consent Authority.

Reason: To ensure pedestrian safety and continued efficient network operation. (DACTREDW1)

74. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan prepared by *Mark Hurcum Design Practice* dated 12.12.2018

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

75. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.
(DACWTE02)

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

76. **Maintenance of Tree Planting**

Tree planting works shall be maintained for a minimum period of 12 months following practical completion. If any tree required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

77. **Environmental and priority Weed Control**

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

Reason: preservation of environmental amenity.

78. **Maintenance of Stormwater Quality System**

The stormwater quality system must be maintained at all times in accordance with the Stormwater Quality Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Reason: Protection of the receiving environment.

79. **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.

80. **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.

81. **Aboriginal Heritage**

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.

82. **Dead or Injured Wildlife**

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

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

83. **Domestic Animals Exclusion**

For the life of the development, cats are to be kept in a cat run and/or inside the dwelling such that they are prevented from entering wildlife habitat areas at all times. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties.

Reason: Wildlife protection

84. **Fencing for Wildlife Passage**

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.

Reason: Management of wildlife corridors

85. **Existing Outbuildings**

The existing outbuildings identified as the "Boatshed", adjacent two-storey fibro building and "Careel Chale", shown on the survey plans are not to be used as habitable dwellings without any lawful development consent for residential use.

Reason: Prevent unauthorized use of outbuildings for habitable purposes. (DACPLGOG1)

86. **Emergency Access**

The private road access (Community Lot 1, including associated vehicle rights of way) shall be maintained to enable immediate access through the entry gates and appropriate access for *NSW Fire and Rescue* or other emergency vehicles at all times, and ensure such vehicles can enter and leave the site in a forward direction.

Reason: Requirements in accordance with *NSW Guidelines for Emergency Vehicle Access* (DACPLGOG2)

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

87. **Certification of Council Drainage Works and Works as Executed Data within Private Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 68 approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage plan) certified by a registered surveyor in relation to boundaries and/or relevant easements prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' within the subject site, shall be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

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

works.

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

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Subdivision Certificate.

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

89. **Provision of Services for Subdivision**

The applicant is to ensure all services including, water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots

90. **Right of Carriageway**

A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument to include all vehicular access and manoeuvring areas. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919

91. **Restriction as to User for Vehicular Access**

A restriction as to user shall be incorporated in the title of Lots 2, 3, 4 and 5 of the community title subdivision that shall preclude those lots from utilising their frontage for vehicular traffic except for the section created as a Right of Carriageway. The wording of the restriction of use is to be prepared by a surveyor, with terms acceptable to Council.

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

Reason: To ensure compliance with Council policy for vehicular access.

92. **Certification of Stormwater Management System (New Subdivision)**

A Certificate is to be submitted 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 confirming to the satisfaction of the Principal Certifying Authority that the stormwater management system has been constructed in accordance with the plans nominated on the Development Consent and relevant conditions of Development Consent. The Subdivision Certificate will not be released until this certification has been submitted and the Principal Certifying Authority has confirmed that this condition has been satisfied.

Reason: To ensure the Stormwater Management System has been built to the appropriate standards.

93. **Stormwater Drainage and Utility Services Plan**

A plan of subdivision identifying the location of water, gas, telephone, electricity and stormwater drainage in relation to boundaries and/or relevant easements, prepared by a registered surveyor is to be submitted to Council. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that services have been provided with appropriate easements as required by the Conveyancing Act 1919

94. **Survey Plan - Construction Identification**

A declaration by a registered surveyor shall be provided to Council as evidence that all construction has been effected within the appropriate property, easement boundaries and rights of carriageway. This shall be in the form of a copy of the final subdivision or easement plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the surveyor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure accurate location of buildings, access and services

95. **Sydney Water Compliance Certification**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

Reason: To ensure compliance with the statutory requirements of Sydney Water

96. **Easement for Drainage**

An easement for drainage (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision the accompanying 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919

97. **Easement to Drain Water - Channel/Floodways**

An easement to drain water 2.5 metres wide in favour of Council centrally located over the trunk drainage line traversing the site. The easement is to be detailed on the final plan of subdivision.

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

to the issue of the Subdivision Certificate.

Reason: To identify Council drainage infrastructure on the property title.

98. **Easement for Services**

An easement for services (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure all utility services are located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919

99. **Electrical Substations**

The applicant shall dedicate the land required for an electricity sub-station as a public road, if requested by the energy authority. The dedication is to be detailed on the final plan of subdivision, to be submitted to Council with the application for a Subdivision Certificate.

Reason: To comply with statutory requirements of the energy authority

00. **Internal Driveway Compliance Certification**

The internal driveways must be certified by a 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 confirming to the satisfaction of the Private Certifying Authority that the internal driveway has been constructed in accordance with the approved plans and relevant conditions of Development Consent.

Reason: To ensure internal driveways are constructed to standard specifications.

01. **Subdivision Certificate Applications**

The proposed subdivision is phased (staged) in two parts. The first stage / phase involves the subdivision of existing lots 8 and 9 in D.P.629464 and Lots 14 and 15 in D.P.858130 to create two lots. The second stage / phase involves the re-subdivision of lot 1 created in stage 1 into a Community Title subdivision creating 10 lots.

Stage / Phase 1 Application

The applicant shall submit a completed Subdivision Certificate form, a final plan of subdivision, administration sheet and associated 88b instrument prepared in accordance with the requirements of the Conveyancing Act 1919. Four copies of the final plan of subdivision and two copies of the administration sheet and 88b instrument are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks.

The fee payable is to be in accordance with Council's fees and charges.

Stage / Phase 2 Application

The applicant shall provide evidence of the creation of the subdivision certificate application for Stage 1.

The applicant shall submit a completed Subdivision Certificate form, a final plan of subdivision, administration sheet and associated 88b instrument and community management statement prepared in accordance with the requirements of the *Conveyancing Act 1919* and *Community Land Management Act 1989*. Four copies of the final plan of subdivision and two copies of the administration sheet, 88b instrument and community management statement are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks.

The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the *Conveyancing Act 1919* and *Community Land Management Act 1989*.

02. **Geotechnical Certification Prior to Subdivision Certificate**

Prior to issue of the Subdivision 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.

03. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Quality System**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater quality system in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Quality Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater quality system, restricting any alteration to system.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements, (available from Council), at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification of the stormwater quality system is not carried out without Council's approval.

04. **Certification for the Installation of Stormwater Quality Management System**

A certificate from a Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER-3) must be provided, stating that the stormwater quality management system has been installed in accordance with the plans prepared by NB Consulting Engineers.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the

Subdivision Certificate.

Reason: Protection of the receiving environment

05. **Works as Executed Drawings - Stormwater Quality System**

Works as Executed Drawings for the stormwater quality system must be prepared.

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

Reason: Protection of the receiving environment

06. **Stormwater Quality Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater quality system remains effective.

The Plan must contain the following:

- a) Maintenance schedule of all stormwater quality treatment devices
- b) Identification of maintenance and management responsibilities
- c) Maintenance requirements for establishment period
- d) Routine maintenance requirements
- e) Inspection and maintenance record and reporting
- f) Funding arrangements for the maintenance of all stormwater quality treatment devices
- g) Vegetation species list associated with each type of vegetated stormwater treatment device
- h) Waste management and disposal
- i) Traffic control measures (if required)
- j) Maintenance and emergency contact information
- k) Renewal, decommissioning and replacement timelines and activities of all stormwater quality treatment devices
- l) Work Health and Safety requirements

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.

Reason: Protection of the receiving environment

07. **Community Management Statement**

The Community Management Statement must specifically list under the definition of 'Community Property' the stormwater system and all its parts ie. basins, GPT, filter baskets etc that will be maintained under community title. The statement must also include an operation and maintenance plan for the stormwater infrastructure.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate.

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

08. **Completion of bio-retention basin(s)**

Installation of filter media and planting of the bio-retention basin(s) (series of three basins on common property) must not be completed until one of the following is met: construction on the individual lots of the subdivision is 90 percent complete, or four years after the subdivision certificate is issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority for approval. Certification is to be provided by a suitably qualified and experienced Water Engineer.

The applicant is to lodge a bond with Council of \$150,000 as security to ensure the basin is completed as designed under this approval and its conditions. Details demonstrating payment of the bond are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Protection of bio-retention basin(s)/water quality infrastructure from the impacts of sediment.

09. **Title Encumbrances**

All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Northern Beaches Council as the sole authority empowered to release or modify. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate

Reason: To ensure proper management of land

10. **Garbage and Recycling Facilities**

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management with the following requirements:

- Space for one (1) Northern Beaches Council green, red, blue and yellow waste bin per dwelling is to be provided within the bin holding facility. The bin room is to be sufficiently sized for construction as required.
- The bulk waste "cleanup waste" shown on the approved plans is to be a separate room to the bin storage.
- Suitable landscape screen planting shall be provided to substantially screen to bin room and any adjacent service 'kiosk' from the road.
- All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.
- Prior to the issue of the Community Subdivision Certificate the Neighbourhood / Community Management Statement shall include wording in relation to the provision of waste services in accordance with Council's standard requirements (available from Warringah Council).

Reason: Waste servicing

11. **Retained Vegetation**

Prior to the issue of the Community Title Subdivision Certificate, a report prepared by an AQF Level 5 Arborist with qualifications in horticulture/arboriculture, shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be

retained as a result of the proposed subdivision works, including the following information:

- i) Compliance to Arborist recommendations for tree protection and excavation works.
- ii) Extent of damage sustained by vegetation as a result of the construction works.
- iii) Any subsequent remedial works required to ensure the long term retention of the vegeta

Reason: to retain and protect significant planting on development sites.

12. **Subdivision Tree Planting**

Canopy tree planting prior to the issue of a Subdivision Certificate shall be completed in accordance with the tree planting recommendations of the Biodiversity Development Assessment Report prepared by GIS Environmental Consultants, under section 5.2.2, including:

- i) 50 canopy trees (20 *Corymbia maculata*, 10 *Eucalyptus paniculata*, 10 *Eucalyptus umbra* and 10 *Eucalyptus punctata*) to be planted in canopy gaps in the Environmental Protection Area for screening planting in the Native Revegetation Area, at 150mm pot size under the direction of an Arborist or Ecologist,
- ii) a double row of screen planting tree is to be planted along the western boundary of Lot 5. The first row is to consist of 7 *Elaeocarpus reticulatus* in 75 litre pots planted at 4m centres. The second row in this screening is to consist of 9 *Ceratopetalum apetalum* in 75litres planted at 3m centres,
- iii) the second screening planting area is on the western side of the main access driveway to screen the rear of the house on Lot 2 from the cars entering the site. The screen is to consist of a row of 7 *Elaeocarpus reticulatus* in 75 litre pots planted at 3m centres,

Prior to the issue of an Community Title Subdivision Certificate, a report prepared by an Arborist or Ecologist shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any site instructions.

Note: This tree planting is separate to the tree planting proposals within the landscape areas as indicated on the Landscape Plans for each Lot developments, which is not part of this subdivision application.

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

13. **Weed Removal and Management**

No weeds are to be imported on to the site.

All invasive and priority weeds on the site are to be removed and managed continuously, in accordance with the Biosecurity Act 2015.

Details demonstrating the removal and management of weeds are to be prepared by the project ecologist in writing and submitted to the Principal Certifying Authority prior to the Community Subdivision certificate.

Reason: Weed management and biosecurity

14. **Post Construction Certification by Coastal Engineer**

Post construction certification that all recommended works as relevant, including the seawall repairs, have been constructed in accordance with the intent of the approved Estuarine Risk Management Report (Horton Coastal Engineering Pty Ltd, 10/12/2018) shall be prepared and signed by a specialist coastal engineer, with coastal engineering as a core competency who is a registered professional engineer with chartered professional status (CP Eng), and shall be submitted to Council prior to the issue of the subdivision certificate.

Reason: To ensure development achieves the acceptable risk management criteria for estuarine tidal inundation and wave action defined in P21 DCP (DACNEHPS1)

15. **Compliance with Ecologist Recommendations**

All biodiversity-related measures are to be implemented at the appropriate stage of development, as specified in the approved ecological report, Biodiversity Management Plan Ongoing Maintenance Manual (GIS Environmental April 2019) and these conditions of consent. Satisfactory establishment/initiation of post-construction measures is to be certified by the project ecologist prior to issue of the Community Subdivision Certificate

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

16. **Draft Community Management Statement**

The draft Community Management Statement (CMS) must define the specific Lots to which it applies and whether any particular lots are all Parts of the CMS or only a specific part / section for the final subdivision plans. The Schedule plans to accompany the CMS are to be updated to correlate with any changes required by condition of consent.

Reason: Consistency between environmental site management details and the approved plans. (DACPLHPS1)

17. **Public Domain Works**

The applicant is to construct all public domain works, in accordance with the Council Approved Stamped plans. Works are to be installed by the developer at no cost to Council. Works are to be completed prior to the issue of the community title subdivision certificate.

All necessary compliance certificates are to be submitted to Council for review, prior to approving the works. Upon completion of the works, the applicant shall engage Council to attend the site to review the works and provide final sign off.

Final sign off from Council is required prior to the issue of the Community Title Subdivision Certificate pursuant to the *Roads Act 1993*.

Reason: To ensure works are constructed to an acceptable level for hand-over to the road authority (DACPLHPS2)

18. **Provision of Turning Head within Access Road**

The internal access road design shall incorporate an appropriately located turning head within the site to the satisfaction of Council Engineers. A swept path analysis demonstrating the largest truck accessing the site will be able to make the maneuver at the turning area is to be provided to Council for approval prior to the issue of the Community Title subdivision certificate.

Reason: To provide a safe environment within the internal driveway (DACTRHPS1)

19. **Provision of Passing Opportunities**

The provided plans indicate inadequate widths for passing when a truck is utilizing the access road. Passing bay opportunities shall be provided within the access road to enable vehicles to wait to one side whilst the truck maneuvers along the access road.

Details demonstrating compliance are to be provided to Council with the plans for the Community

Title subdivision certificate.

Reason: To prevent reversing within the access road and improve safety (DACTRHPS2)

RESIDENTIAL SUBDIVISION

996-104 CABARITA ROAD AVALON BEACH

1:250 @ A1 1:500 @ A3
NOVEMBER 2018

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DESIGN PRACTICE
Monday, 11 September 2012