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Conditions of Approval

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

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

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 1. the name, address and telephone number of the Principal Certifying Authority for the work, and
 2. the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 3. that unauthorised entry to the work site is prohibited.

The sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 1. in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 2. in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
 3. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information

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5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) 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.
6. Refer to the requirements set out in Schedule 3A of the *Environmental Planning Assessment Regulation* for the use of a building as an entertainment venue
7. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
8. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

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

1. The following amendments shall be made to the approved plans
 1. Prior to issue of the construction certificate, the entertaining terrace be reduced so that the finished level of the terrace is less than 1 metre above the existing ground level. This is to be maintained for the life of the development.
 2. Prior to issue of the construction certificate, the associated roof form above the outdoor terrace be deleted and the roof be recessed such so that provides an eave to the adjoining dining and family room.
2. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
3. 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.
4. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.
5. No environmental weeds are to be planted on the site. Refer to Pittwater Council website www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
6. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.

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7. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
 - a. Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
 - b. Species listed from the Endangered Ecological Community
 - c. Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website
http://www.pittwater.nsw.gov.au/environment/species_lists
8. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
9. As part of an integrated on-site stormwater management system a minimum 9,000 litre on-site detention tank is to be installed, operated and maintained in association with the development.
10. As part of the integrated stormwater management plan, suitably positioned stormwater quality improvement devices shall be installed and operated in accordance with Manufacturer's Specifications and associated operational guidelines.
11. The stormwater quality improvement devices shall be maintained and emptied of spoil materials at regular intervals. Spoil materials removed from the stormwater quality improvement devices shall be disposed of as dry household mixed waste.
12. The internal driveway finish is:
 1. to be a stable surface for all weather conditions
 2. to be constructed of materials that blend with the environment and are of dark or earthy tones or natural materials.
13. Landscaping is to be implemented in accordance with the approved Landscape Plan (Landscapes by Jo, 19/2/15). The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.
14. In accordance with Pittwater Council's DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
15. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pools Act 1992, Regulation and Australian Standard 1926.1-2012, Safety barriers for swimming pools
16. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool / spa.

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1. The warning notice (i.e. sign) must contain all of the following words:
 1. "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" and
 2. "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
 3. "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",
 2. In addition, the notice must contain a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
 1. that are set out in accordance with the relevant provisions of that Guideline, and
 2. that comply with the other relevant guidelines of the Australian Resuscitation Council, and
 3. that are illustrated by drawings with key words only in bold print,
 3. a statement to the effect that formal instruction in resuscitation is essential,
 4. the name of the teaching organisation or other body that published the sign and the date of its publication.
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17. Materials and colour schemes are to be in accordance with the sample scheme approved by Council. These colours are as follows:
 - Colorbond Woodland Grey for the roof, gutters and downpipes.
 - Resene double napa for the walls.
 - Banded sandstone for the garage piers.
 - White for the windows, doors, fascia, soffit, gutters and downpipes.
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18. The pool concourse, walkway or deck is to be a minimum 900mm clear of the boundary.
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19. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.

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

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

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.

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3. The applicant is to consult with Sydney Water to establish whether there are any Section 73 Compliance Certificate requirements for this proposal, under the provisions of the *Sydney Water Act, 1994*. A copy of any Notice of Requirements letter which may be issued by Sydney Water, is to be provided to the Private Certifying Authority with the Construction Certificate application.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site 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 Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

4. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 1. after excavation for, and prior to the placement of, any footings, and
 2. prior to pouring any in-situ reinforced concrete building element, and
 3. prior to covering of the framework for any floor, wall, roof or other building element, and
 4. prior to covering waterproofing in any wet areas, and
 5. prior to covering any stormwater drainage connections, and
 6. after building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

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

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7. A Schedule of Works prepared by a qualified practising Structural 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 is to be submitted to the Accredited Certifier or Council in respect of the following items:
 1. The details and location of all intercept drains, provided uphill of the excavation, to control runoff through the cut area.
 2. The proposed method of disposal of collected surface waters is to be clearly detailed
 3. Procedures for excavation and retention of cuts, to ensure the site stability is maintained during earthworks.
8. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate plans and specifications are fulfilled.
9. 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.
10. Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council 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 B5.7 of Pittwater 21 DCP.

Note: Where Council is the Principal Certifying Authority, 3 sets of engineering plans are to be submitted.
11. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.
12. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.

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1. Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
 2. All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
 3. Council's Fees and Charges apply to driveway profiles.
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13. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
 14. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

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

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

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

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

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

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

1. Protection of site workers and the general public.
2. Erection of hoardings where appropriate.
3. Asbestos handling and disposal where applicable.
4. Any disused service connections shall be capped off.

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

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

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4. The following facilities must be provided on the site:

1. toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
2. a garbage receptacle for food scrapes and papers, with a tight fitting lid.

Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.

5. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
6. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
7. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
8. 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.
9. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

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10. 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.
11. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.
12. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
13. No skip bins or materials are to be stored on Council's Road Reserve.
14. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 1. The builder's name, builder's telephone contact number both during work hours and after hours.
 2. That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 3. That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit

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must be visibly displayed at the site.

4. That no skip bins or materials are to be stored on Council's Road Reserve.
 5. That the contact number for Pittwater Council for permits is 9970 1111.
15. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Naturally Trees, dated 25 February 2014 are required to be complied with before and throughout the development period, particularly with regard to the following:
- i. Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - ii. Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - iii. All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
 - iv. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
 - v. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
16. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.
- Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.
17. All works within 5 metres of the existing trees to be retained including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand under the supervision of an experienced and qualified Arborist. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.

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

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

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

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. A copy of the Section 73 Compliance Certificate issued under the provisions of the *Sydney Water Act, 1994*, is to be forwarded to Council or the Private Certifying Authority with the Occupation Certificate.
3. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
4. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
5. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
6. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

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

7. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

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

8. The applicant must obtain written confirmation from Council that all works in the road reserve have been completed in accordance with the conditions of the Roadworks Permit

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9. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
10. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report (Naturally Trees, 25 February 2015) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.

G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or www.1100.com.au
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.

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8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.

This is a detailed plat map of a residential subdivision. The map shows a network of streets including Prince, Alfred, PDE, Elvina, Ave, Herbert, and H. Numerous lots are numbered, with a central lot (14) highlighted with a cross-hatch pattern. The map also shows lot dimensions and street names.

Streets and Directions:

- PRINCE (top left)
- ALFRED (top right)
- PDE (middle right)
- ELVINA (middle right)
- AVE (center)
- HERBERT (bottom left)
- H (bottom right)

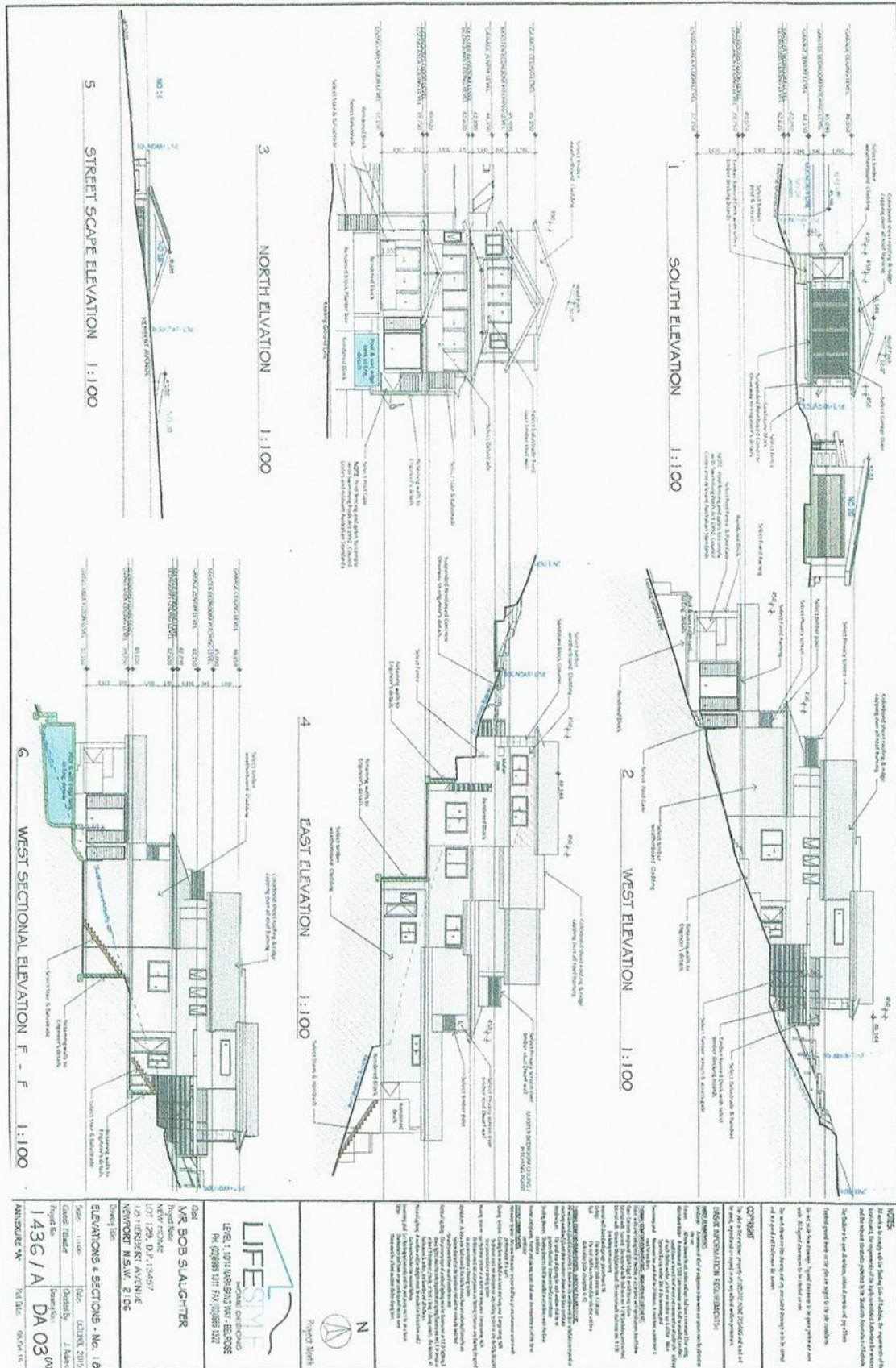
Highlighted Lot:

- Lot 14 (center, cross-hatched)

Other Lots and Dimensions:

- Lot 112B (top center)
- Lot 112A (top right)
- Lot 114, 116, 116A, 118, 118A, 120 (top right)
- Lot 92, 94, 96, 98, 100, 102, 104, 106, 108, 110, 112 (top left)
- Lot 71, 73, 75, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97 (middle left)
- Lot 69, 67, 65, 63, 61, 59 (middle left)
- Lot 14, 14, 18, 22, 24, 26, 30, 36, 38, 44, 46 (middle right)
- Lot 2, 3, 5, 7, 9, 11, 13, 15, 17, 19 (middle right)
- Lot 15, 17, 19, 21, 21A, 23, 25 (center)
- Lot 11, 9, 7, 5, 1, 1, 55, 53, 49 (bottom left)
- Lot 175, 173, 171, 169, 167, 165 (bottom left)
- Lot 156, 158, 160, 162, 164, 154, 152, 150, 148, 146A, 166, 27, 29, 31, 33, 35, 37 (bottom right)

NOTIFICATION PLANS



C12.3	N0076/15 - 20 Herbert Avenue, Newport NSW 2106 - new single dwelling - Demolition of site structures and construction of a dwelling, swimming pool and landscaping
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Meeting: Sustainable Towns & Villages Committee

Date: 21 December 2015

COMMUNITY STRATEGIC PLAN STRATEGY: Land Use & Development

COMMUNITY STRATEGIC PLAN OBJECTIVE:

- To deliver a comprehensive suite of development controls that improve the liveability of the area

DELIVERY PROGRAM ACTION:

- To provide an effective development assessment and determination process
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1.0 EXECUTIVE SUMMARY

1.1 SUMMARY

The Development Unit at its meeting held on the 5 November 2015 considered the Assessing Officers report (refer **Attachment 1**) for determination of N0076/15 - 20 Herbert Avenue, Newport NSW 2106 - new single dwelling - Demolition of site structures and construction of a dwelling, swimming pool and landscaping.

1.2 This application has been called to Council by Cr Young.

1.3 Discussion of issues is contained within Section 8.0 of the Assessing Officer's report.

1.4 Two objectors and the applicant were present at the meeting. The Development Unit considered the issues raised by the objectors and the applicant as well as the issues addressed in the Assessing Officer's report and supported the Officer's recommendation for approval subject to the conditions contained in the draft consent and an amendment to Condition B 13.

2.0 RECOMMENDATION

That the recommendation of the Development Unit be endorsed and Development Application N0076/15 – 20 Herbert Avenue, Newport NSW 2106 for a new single dwelling, demolition of site structures and construction of a dwelling, swimming pool and landscaping be granted development consent subject to the conditions contained in the draft conditions of consent.

3.0 BACKGROUND

3.1 PURPOSE

To seek endorsement of the Development Unit's recommendation following consideration of Development Application - N0076/15 - 20 Herbert Avenue, Newport NSW 2106 - new single dwelling - Demolition of site structures and construction of a dwelling, swimming pool and landscaping.

3.2 BACKGROUND

The Development Unit at its meeting held on the 5 November 2015 considered the Development Officer's report (refer **Attachment 1**) for determination of Development Application N0076/15.

The objectors raised issue in relation to size, bulk and site cover which were taken into consideration by the DU panel in making their determination.

3.3 POLICY IMPLICATIONS

The matter has been called to Council in accordance with Council policy.

3.4 RELATED LEGISLATION

Council is the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979.

3.5 FINANCIAL ISSUES

3.5.1 Budget

No implications unless Council's decision is challenged in the Land and Environment Court.

3.5.2 Resources Implications

No implications.

4.0 KEY ISSUES

- Refer to the issues addressed within the assessing officer's report

5.0 ATTACHMENTS / TABLED DOCUMENTS

Attachment 1: Assessing Officer's report to the Development Unit meeting of 5 November 2015.

6.0 SUSTAINABILITY ASSESSMENT

The relevant sustainability assessments have been addressed in the attached assessing officer's report.

Report prepared by

Warwick Lawrence

MANAGER, ADMINISTRATION & GOVERNANCE

SUBJECT: N0076/15 - 20 Herbert Avenue Newport NSW 2106 - new single dwelling - Demolition of site structures and construction of a dwelling, swimming pool and landscaping

Meeting: Development Unit

Date: 5 November 2015

SUMMARY OF RECOMMENDATION

Consent with Conditions

REPORT PREPARED BY:	Erin Dyer
APPLICATION SUBMITTED ON:	3/03/2015
APPLICATION SUBMITTED BY:	BOSTON BLYTH FLEMING PTY LTD
OWNER(S):	BOBBIE J SLAUGHTER

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0076/15 for new single dwelling - Demolition of site structures and construction of a dwelling, swimming pool and landscaping at 20 Herbert Avenue, Newport NSW 2106 subject to the draft conditions of consent attached.

Report prepared by
Erin Dyer, Planner

Andrew Pigott
MANAGER, PLANNING & ASSESSMENT

SUBJECT: N0076/15 – 20 Hebert Ave, Newport (Lot 130 Deposited Plan 13457)
New single dwelling – Demolition of site structures and construction of a dwelling, swimming pool and landscaping.

Determination Level: Development Unit

Date: 28 October 2015

SUMMARY OF RECOMMENDATION

CONSENT WITH CONDITIONS

REPORT PREPARED BY:	Erin Dyer
APPLICATION SUBMITTED ON:	3 March 2015
APPLICATION SUBMITTED BY:	Boston Blyth Fleming Pty Ltd 1/9 Narrabang Way Belrose NSW 2085
OWNER:	Mr Bobbie James Slaughter
ESTIMATES COST OF WORKS:	\$877,500
NO. OF SUBMISSIONS:	15 (in total)

1.0 SITE DETAILS

The site is known as 20 Herbert Avenue, Newport and has a legal description of Lot 130 in Deposited Plan 13457. The site is rectangular in shape and has a total area of 556m². Vehicular and pedestrian access is gained via the 10.815m wide frontage of Herbert Avenue. The site is located on the northern side of Herbert Ave. The site falls 14.4m from the southern road frontage of the site, down towards the northern rear boundary of the site, with a slope of approximately 35%. The site is currently occupied by remanet's of the dwelling house destroyed by fire. The property is surrounded by other residential properties.

2.0 PROPOSED DEVELOPMENT

This development application seeks consent for the demolition of the existing site structures and the construction of a new dwelling house, swimming pool and landscaping.

3.0 LEGISLATION, PLANS AND POLICIES

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

- Environmental Planning and Assessment Act, 1979 (the Act);
- Environmental Planning and Assessment Regulation 2000 (the Regulation);
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX);
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Class 5
 - Biodiversity Map
 - Geotechnical Hazard Map
 - Height of Buildings - 8.5m; and
- Pittwater 21 Development Control Plan (P21 DCP)

- Newport Locality
- Geotechnical Risk Management Policy for Pittwater.

4.0 ZONING

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

5.0 BACKGROUND OF APPLICATION

A search of council's records revealed no previous development applications on the subject site.

This application went before the Development Unit (DU) on 10 September 2015.

At the DU meeting, determination of the application was deferred for amended information including:

- **An amended floor plan and roof configuration for the top floor (RL 43.25) that does not breach the building envelope control. This requirement does not relate to the eastern wall of the garage. Roof eaves are permitted to breach the control for all elevations at this level.**
- **Submission of amended plans that reduce the extent of development such that a minimum 60% landscape area consistent with the Landscape Area Control for Environmentally Sensitive Land is provided (subject to permitted variations).**
- **Submission of an amended landscape plan that provides for screen planting generally to a height of 3m to 4m along the eastern elevation at RL 36.980.**
- **Submission of amended plans that provide for a roof pitch of 10 degrees over Bedroom 4/Living Area and a reduction in the balcony depth to 1.3m off the Master Bedroom.**
- **Amended landscape plans deleting the fill and rock wall in the rear yard below the 34m contour.**

These amendments were received and are discussed in bold under the relevant headings in this report.

6.0 NOTIFICATION

The application was originally notified to ten (10) adjoining property owners for a period of fourteen (14) days from 9 March 2015 to 23 March 2015 in accordance with Council's Notification Policy. During this time, five (5) submissions were received.

These original submissions raised concerns with regard to the following:

- Consistency with the E4 zone, Scenic Protection control and the Newport Locality.
- Concerns about the bulk and scale of the development, the character of the development from the waterway and Herbert Parade and the loss of existing vegetation and landscape amenity.
- Concerns about the impacts of the developments on surrounding residents properties including runoff, view loss, privacy and solar access.
- Concerns about areas of non-compliance with the height clause, landscaped area, building envelope, side setbacks and front building line requirements.

- Concerns about inadequate car parking facilities and loss of market value.
- Concerns about the accuracy of the Statement of Environmental Effects.

Amended plans were provided to Council on 17 July 2015 following a request for additional information. The amended application was notified to ten (10) adjoining property owners for a period of fourteen (14) days from 22 July 2015 to 5 August 2015 in accordance with Council's Notification Policy. During this time, five (5) additional submissions were received. These submissions raised the same concerns identified in the original submissions noted above.

The submissions noted above were identified in detail in the previous report. The assessment provided in this report continues to consider these matters.

The amended plans submitted in response to the DU Meeting on 10 September 2015 were re notified to adjoining property owners from 12 October 2015 to 26 October 2015. As at the time of finalising this report (27 October 2015 and therefore out of the notification period), five (5) additional submission was received.

These submissions raised concern with regards to the following:

24 Herbert Avenue:

- Council should follow their rules.
- Two canopy trees felled to make way for the development. Council has confirmed that the site exceeds an 18degree slope therefore making tree felling under the 10/50 rule then in force, subject to prior agreement with Council. It seems that Council have no records regarding this matter which is disappointing as a Council Officer attended the site and spoke to the owner of the property and the contractors engaged for the removal on the day the trees came down.

89 Prince Alfred Parade, Newport

- Plans inconsistent with Council's vision. Specific question regarding whether replanting trees is part of the DA.
- Proposed height and proximity of the building to the boundary reduces privacy and aesthetic view.
- Water management on the site.
- General concern that the approval of this DA would appear to be supporting a tendency for properties to increase in size and visibility and have a serious impact on the waterfront appearance and therefore the attractiveness of the area.

85 Prince Alfred Parade, Newport

- Building envelope noncompliance in areas of red hatching.
- Question whether landscaped area is compliant.
- Bulk and scale of this development means that it remains as an overdevelopment of the site and does not achieve the outcomes of the desired future character of the Newport Locality.

87 Prince Alfred Parade, Newport

- Belief that the points raised from the previous meeting where this DA was discussed were as follows:
 - Inadequate amount and type of landscaping – plans non-compliant.
 - Non-compliant building envelopes, site coverage, roof height and set back issues

- How consistent the size and scale of the proposed structures are to the E4 zoning, seemed not to be of low impact or sympathetic to the site.
 - The excavation (cut and fill) proposed being excessive and significant.
 - Views from, into and around existing properties area a significant concern notably the loss of views across to Scotland Island and Church point from number 22 Herbert Avenue.
- Sheer size and scale of the development relative to the size of the block and compliance with the E4 zoning.
- What changes have been made to the plans and how the plans address the highlighted non compliances.

22 Herbert Avenue, Newport

- Belief that the points discussed by the Development Unit and that needed to be addressed in any amended plans were as follows:
 - Inadequate amount and type of landscaping – plans submitted were non-compliant.
 - Non-compliant building envelopes, site coverage and setback issues including noncompliant roof height issues.
 - How the consistent the size and scale of the proposed structures are to the E4 zoning, deemed not to be of low impact or sympathetic to the site.
 - The excavation (cut and fill) proposed is extensive and significant.
 - Views from – into and around the existing properties are a significant concerns and preservation of iconic views to Scotland Island – south wharf, Church Point and beyond need to be preserved.
 - The setback at the end of the balcony to the master bedroom on level 1 or RL 42.890 be reduced by 1m to reduce the view impact from No 22 Herbert Avenue living areas and balcony to Pittwater (Scotland Island – South Wharf “Carols Wharf” on southern tip of Scotland Island, Church Point and beyond to the National Park).
- Sheer size and scale of the development relative to the size of the block and compliance with the E4 zoning.
- What changes have been made to the plans and how the plans address the highlighted areas of non-compliance.

7.0 REFERRALS

Development application N0076/15 was lodged at Council on 3 March 2015, and subsequently referred to Council's Development Engineer and Council's Natural Resources Officer for comments and/or recommendations.

The application is supported subject to conditions by Council's Development Engineer and Council's Natural Environment Officer.

8.0 COMPLIANCE TABLE

T - Can the proposal satisfy the technical requirements of the control?

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
1.9A Suspension of covenants, agreements and instruments			Y	Y	Y

Control	Standard	Proposal	T	O	N
E4 Environmental Living			Y	Y	N
4.3 Height of Buildings	8.5m	7.9m	Y	Y	N
4.6 Exceptions to development standards			-	-	-
5.10 Heritage conservation			Y	Y	Y
7.1 Acid sulphate soils			Y	Y	Y
7.2 Earthworks			Y	Y	Y
7.6 Biodiversity Protection			Y	Y	Y
7.7 Geotechnical Hazards			Y	Y	Y
7.10 Essential Services			Y	Y	Y
Pittwater 21 Development Control Plan					
3.1 Submission of a Development Application and payment of appropriate fee			Y	Y	Y
3.2 Submission of a Statement of Environmental Effects			Y	Y	N
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings			Y	Y	Y
3.4 Notification			Y	Y	Y
3.5 Building Code of Australia			Y	Y	Y
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)			Y	Y	Y
A4.10 Newport Locality			Y	Y	N
B1.3 Heritage Conservation – General			Y	Y	Y
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.1 Landslip Hazard			Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community			Y	Y	Y
B5.2 Waste Water Disposal			Y	Y	Y
B5.7 Stormwater Management – On-site Stormwater Detention			Y	Y	Y
B5.8 Stormwater Management – Water Quality – Low Density Residential			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System			Y	Y	Y
B6.1 Access Driveways and Works on the Public Road Reserve – Low Density Residential			Y	Y	Y
B6.3 Internal Driveways – Low Density Residential			Y	Y	Y
B6.5 Off-Street Vehicle Parking Requirements – Low Density Residential			Y	Y	Y
B8.1 Construction and Demolition – Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition – Erosion and Sediment Management			Y	Y	Y
B8.5 Construction and Demolition – Works in the Public Domain			Y	Y	Y
C1.1 Landscaping			Y	Y	Y
C1.2 Safety and Security			Y	Y	Y
C1.3 View Sharing			Y	Y	N
C1.4 Solar Access			Y	Y	N
C1.5 Visual Privacy			N	Y	N
C1.6 Acoustic Privacy			Y	Y	Y

Control	Standard	Proposal	T	O	N
C1.7 Private Open Space			Y	Y	Y
C1.9 Adaptable Housing and Accessibility			-	-	-
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures			-	-	-
C1.17 Swimming Pool Safety			Y	Y	Y
C1.19 Incline Passenger Lifts and Stairways			-	-	-
C1.23 Eaves			Y	Y	Y
C1.24 Public Road Reserve – Landscaping and Infrastructure			Y	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run			Y	Y	Y
D10.1 Character as viewed from a public place			Y	Y	N
D10.4 Building colours and materials			Y	Y	Y
D10.7 Front building line (excluding Newport Commercial Centre)			N	Y	N
D10.8 Side and rear building line (excluding Newport Commercial Centre)			N	Y	N
D10.11 Building envelope (excluding Newport Commercial Centre)			N	Y	N
D10.13 Landscaped Area – Environmentally Sensitive Land	60%	54%	N	Y	N
D10.15 Fences – Flora and Fauna Conservation			-	-	-
D10.16 Construction, Retaining Walls, terracing and undercroft areas			Y	Y	Y
D10.18 Scenic Protection Category One Areas			Y	Y	N

Controls marked with a (-) are not applicable in relation to the proposal.

Controls marked with a (N) are discussed in further detail in the discussion section, below.

9.0 DISCUSSION

E4 Environmental Living

Submissions were received which raise concerns that the proposed development is inconsistent with the E4 Environmental Living zone. The development application proposes a residential dwelling which responds sensitively to the subject site. The development is designed such that it is sympathetic to the special ecological and aesthetic values of the E4 Environmental Living Zone. Although the development is large by comparison to some adjoining properties, the development is low density and is largely consistent with the LEP2014 and P21DCP. The design is stepped down the 35% slope such that it integrates well with the existing landform and surrounding landscape. The built form will be softened through the use additional of landscaping, ensuring that the development retains and enhances wildlife corridors. For these reasons, the development proposed is considered to meet the outcomes of the E4 Environmental Living zone and is supported.

Additional submissions received raise concern about the inconsistency of the development with the E4 zone objectives. Following the amendments and the conditions imposed, the development (save for a minor building envelope non-compliance along the eastern side of the garage wall) is entirely compliant with the built form requirements and is consistent with the development anticipated for the subject site.

4.3 Height of Buildings

Submissions were received which raise concerns about the proposed height of the dwelling. The dwelling is proposed to step with the slope of the land, reaching a maximum height of 7.9 metres. The building is consistent with surrounding and nearby development, appearing as a single storey when viewed from Herbert Avenue, and similar to surrounding developments when viewed from Prince Alfred Parade and the waterway. The building provides a minimum 3 hours of sunlight to the private open space areas of all adjoining properties, and ensures a reasonable level of view sharing amongst the surrounding properties. The building steps with the land, responding to the topography of the site and is softened by extensive landscaping, particularly on the along the eastern, rear and southern part of the western, minimising the visual impact on the natural environment. For these reasons, the height proposed is considered acceptable and is supported.

Additional submission received raised concern about the dwellings compliance with height requirements. The building height proposed is less than the 8.5m maximum permitted under clause 4.3 Height of Buildings of Pittwater LEP2014 and was not raised as an issue in the minutes of the DU meeting.

3.2 Submission of a Statement of Environmental Effects

Submissions received from 24 Herbert Avenue and 14 Herbert Avenue state that Council should commission and provide expert reports in the cases of the development outside their guidelines, given that these are paid through rates. In accordance with P21 DCP, this application is accompanied by a Statement of Environmental Effects (SEE), prepared by Boston Blyth Fleming Pty Ltd, dated February 2015. The SEE demonstrates how the development satisfies the relevant policies in the DCP and LEP controls and seeks to justify any non-compliance. The SEE, and the accompanying Arboricultural Impact Appraisal and Method Statement, prepared by Naturally Trees, dated 25 February 2015, and the Geotechnical Report, revised P-11-263268-2, prepared by Civil & Structural Engineering Design Services Pty. Ltd, dated 9 July 2015 provide expert opinion on the development proposed.

Additionally, the submissions received from 87 Prince Alfred Parade state that the SEE writes "it is considered that the development will result in a significant addition of good design to the locality. The development is consistent with the adopted planning regime. Approval would not be apathetic to public interest" and questions what public were sampled to make this conclusion. The SEE is prepared in support of the application, and should therefore aim to justify to Council why the application should be supported. Although it is unclear what members of the public were sampled, if any, the context of the sentence is that it is the opinion of the author of the SEE that the development would be in the public interest. That is, the development is consistent with Council's policy and therefore would not be inconsistent with public interest.

A4.10 Newport Locality

Submissions were received which raised concerns that the proposal is inconsistent with the desired future character of the Newport Locality. In particular, that the bulk and scale of the three storey developments may not achieve the outcomes of the desired future character of the Newport locality.

The desired character of Newport locality is that it will remain primarily low – density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. The proposed dwelling does sit at three storeys at one point; however the stepped design of the dwelling against the

steep slope of the site and significant landscaping proposed will mitigate the visual impact of the dwelling. The dwelling is compliant with clause 4.3 PLEP 14 Height of Buildings clause and meets all outcomes of the relevant P21DCP controls. Given that the development application proposes a dwelling that is stepped to integrate with the landform and sensitive landscaping to ensure that the subject site maintains a natural landscaped setting, it would be unreasonable to require the maximum number of storeys to be only two (2) at any one place.

A submission was received which raised concern about the inconsistency of the development with the desired future locality and in particular the two storey desired character. While this development does propose over two (2) stories over part of the dwelling, the built form proposed, save for the building envelope along the eastern portion of the garage is entirely compliant and reflects a development that is anticipated by the controls and policies.

B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community

Council's Natural Resources Officer provided the following comments:

The property contains a cleared lot with some partial structures on site and is sloping steeply away from the road. The proposed works include construction of a new dwelling and associated landscaping. An arborist report has been submitted (Naturally Trees, 25 February 2015) which assesses seven (7) trees potentially impacted by the proposed works. One (1) tree is proposed for removal, Tree 12, which is located within the Council road reserve. This tree was found to be leaning heavily and has been given a very low retention value. Removal of this tree is approved subject to replacement planting of at least two (2) locally native canopy trees. Tree protection measures have been recommended for the retention of Tree 2, 5 and 6 and these are to be adopted. This arborist report is supported. A landscape plan has been submitted (Landscapes by Jo, 18/2/15) which provides a good selection of native small trees, shrubs and ground covers which will provide habitat and increase amenity. This is acceptable. The landscape plan shows retention of Cotoneaster within the Council road reserve. This species is an environmental weed and its removal and replacement with locally native species is encouraged. There are no further natural environment issues.

B6.5 Off-Street Vehicle Parking Requirements – Low Density Residential

Submissions have been received from 22 Herbert Avenue which raises concerns regarding inadequate parking facilities on the site. The control requires two (2) parking spaces for a large dwelling. The development application proposes a double garage and therefore satisfies the control. Based on Council's P21DCP, the parking facilities onsite are therefore considered adequate.

C1.1 Landscaping

The following additional information was requested:

- **Amended landscape plans deleting the fill and rock wall in the rear yard below the 34m contour.**

An updated landscape plan has been provided which has deleted the proposed fill and rock wall in the rear yard. The applicant has specifically requested that a smaller area be reinstated to provide for a level area under the clothes line, however for the reasons explained at the DU meeting, this level of fill is inconsistent with the E4 zone objectives.

Concern was raised about trees previously on the site which were allegedly cut down under the 10/60 rule. This application does not seek to rely on the 10/60 rule, and any previous works undertaken on the site prior to lodgement of this development application, are not considered relevant to this determination process. This application does seek to significantly improve the existing vegetation and landscaping, and in doing so will improve the overall landscape amenity of the subject site.

Submissions were received which identified the level of excavation (cut and fill) as issues raised by the DU. The deletion of the fill and rock wall in the rear yard will assist in reducing the level of excavation proposed. It will also help ensure that the development anticipated does not result in an unnecessary amount of cut and fill, and instead strikes a balance between a stepped design on a steep slope that is compliant with the built form controls and a reasonable level of excavation required to achieve this.

C1.3 View Sharing

Submissions have been received from 22 Herbert Ave and 24 Herbert Ave which object to the development on the basis that the proposal does not demonstrate view sharing principles.

The control requires that all new development be designed to achieve a reasonable sharing of views from surrounding and nearby properties. It is acknowledged that loss of view will be experienced by the dwellings at 22 Herbert Ave and 24 Herbert Ave. The current lots at 18 Herbert Ave and 20 Herbert Ave currently only have remnants of the previous dwelling which straddled both lots, meaning that the views from across the subject site are currently entirely unobstructed.

At the request of Council, the applicant erected height poles on the site to better understand the impact of the proposed dwelling on views from these two properties. As an initial assessment, Council requested that the applicant amend the master/garage level and setback the northern façade. In response, the applicant reconfigured the internal layout of the garage/master bedroom level and setback the northern façade by 1.6m.

To determine whether or not view sharing is reasonable, the planning principle requires a four step assessment.

1. Assessment of the views to be affected.

22 Herbert Avenue

The views at 22 Herbert Ave in a westerly direction are water views of Pittwater and Carol's Wharf, and land views of Scotland Island, Elvina Bay and Church Point. The views available in a north western direction are water views of Pittwater, the eastern face of Scotland Island and partial views of Eastern Wharf and Salt Pan Cove. The views available in a northerly direction are largely obstructed by existing vegetation and built structures, and include glimpses of Salt Pan Cove. There are no views available in an easterly or southern direction.

24 Herbert Avenue

The views at 24 Herbert Ave in a westerly direction are water views of Pittwater and Carol's Wharf, and land views of Church Point, Elvina Bay and Scotland Island. The views available in a north western direction are water views of Pittwater, the eastern face of Scotland Island. The views available in a northerly direction are significantly obstructed by existing vegetation

and built structures. There are no views available in an easterly or southern direction.

2. Consider what part of the property the views are obtained.

22 Herbert Avenue

The dwelling at 22 Herbert Ave is sited on the southern higher side of the lot. They currently experience views across the western side boundary over the subject sites and over the northern rear boundary. The views are largely available from standing positions, with seated views available from part of the rear deck.

24 Hebert Avenue

The dwelling at 24 Herbert Ave is sited on the southern higher side of the lot. They currently experience views across the western side boundary over the subject sites and over the northern rear boundary. The views are largely available from standing positions, with seated views available over the balustrade on the ground level and first floor.

3. Extent of the impact

22 Herbert Avenue

The current views available from the first floor verandah and rear yard will be impacted by the proposed development. The most significant impact will be the current views available from the western portion of the first floor verandah. The first floor verandah is located off a living area and is the main area of private open space for the residents. While views to Scotland Island and parts of the waterway will be retained from this verandah, the view of part of Carol's Wharf and the interface between the land and water along the foreshore area of Elvina Bay will be lost.

24 Herbert Avenue

The current views are available from the lower ground level (home office) will be significantly impacted by the proposal. However, views from the middle level will still be available over the proposed roof lines and the views from the upper level will be retained over the proposed roof lines. The impact on the views lost from the home office while detrimental to the occupants who utilise this space, the dwelling as a whole retains a large portion of their views on both the middle level off the living area and the top level off the main bedroom.

4. The fourth step is to assess the reasonableness of the proposal that is causing the impact.

The dwelling is compliant with Clause 4.3 Height of Buildings in PLEP14. The dwelling is non-compliant with the building envelope control. While the areas of non-compliance include of the roof form along the eastern elevation, rectifying these non-compliances would result in a built form which most likely has a further setback from the boundary and a higher roof line, thereby reducing the ability to overlook the roof line and causing a more substantial view loss. The side setback on the western elevation is non-compliant; however the noncompliance is directly related to the increase in the eastern side setback. Technical compliance with the western side setbacks would not improve the views available under this proposal.

The dwelling at 22 Herbert Avenue will have views obstructed from the rear yard and directly west of the subject site, however largely the view currently available from the verandah off the living area on the first floor will remain unobstructed. The master bedroom/garage floor

has been reconfigured and the northern façade has been setback by 1.6m. The balustrade will intrude into the existing view however the built form is setback so as to retain views across the subject site. From a seated position, while the balustrade at 20 Herbert Avenue will be visible, the built form is setback far enough south that it will not unreasonably obstruct the existing views available from the rear deck of 22 Herbert Avenue. This is considered acceptable and is supported.

The dwelling at 24 Herbert Avenue will have views obstructed from the study on the lower ground floor, however will retain the views from the verandah off the living area on the ground floor and the views from the verandah off the master bedroom. This is considered acceptable and is supported.

The adjoining properties have had the benefit of the amenity of a vacant double lot and any form of development on these two sites will have an impact. The design itself is skilful and on balance, provides the applicants with the amenity sought while retaining views to the living area of 22 Herbert Avenue, and the living area and master bedroom of 24 Herbert Avenue. The views which both properties are seeking to retain are over side boundaries which are more difficult to retain than views over front and rear boundaries. The view, save for the lower ground floor study at 24 Herbert Avenue, will be retained from both a seated and standing position. For these reasons, the current proposal ensures a reasonable sharing of views and is therefore supported.

The following additional information was requested:

- **Submission of amended plans that provide for a roof pitch of 10 degrees over Bedroom 4/Living Area and a reduction in the balcony depth to 1.3m off the Master Bedroom.**

The amended plans show the balcony off the master bedroom as having a depth of 1.3m and a roof pitch of 10 degrees above bedroom 4/living area.

Submissions raise concern that views from, into and around the existing properties are a significant concerns and preservation of iconic views to Scotland Island – south wharf, Church Point and beyond need to be preserved. Based on the analysis provided above, this development application ensures a reasonable preservation of views amongst properties.

A submission received also requested that no privacy screen be included along the eastern elevation of the balcony adjacent to the master bedroom. This is notated on the plans, but for the sake of clarity, the following condition will be recommended:

- **No privacy screen is to be included on the eastern façade of the top floor balcony adjacent to the master bedroom. This is to be maintained for the life of the development.**

C1.4 Solar Access

Submissions have been received from 22 Herbert Avenue which raises concerns about loss of sunlight. The control requires that a minimum of three (3) hours of sunlight be provided to private of open spaces between 9am and 3pm on 21 June. The application is accompanied by Shadow Diagrams, prepared by Lifestyle Home Designs, dated February 2015, which illustrates that private open spaces of adjoining properties receive the minimum 3 hours of sunlight between 9am and 3pm on 21 June as required by the control. A shadow will be cast on a portion of the first floor deck at 22 Herbert Avenue by 3pm, however this is not considered unreasonable or inconsistent with Council's control.

Amended plans were received which site the dwelling a further 0.5m to the eastern boundary, thereby further reducing the extent of the shadow cast on the first floor deck at 22 Herbert Avenue.

C1.5 Visual Privacy

Private open space areas including swimming pools and living rooms of proposed and any existing dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation. The pool area proposed is 2.5m from the proposed entertaining area at 18 Herbert Avenue. The entertaining area is 7.5m from the first floor deck at 22 Herbert Avenue. These distances are less than 9m and therefore need to be protected from direct overlooking.

Along the eastern boundary, the Landscape Planting Plan, prepared by Landscapes by Jo, dated 18 February 2015, proposes 11 *Eleaocarpus Reticulatus* with a height of 6m, 9 *Dorantes excelsa* with a height of 1.6m and 12 *Hardenbergia Violacea* with a height of 1m.. The plant species and varied heights will prevent direct overlooking between the proposed pool at 20 Herbert Avenue and the proposed entertaining area at 18 Herbert Avenue. This is considered acceptable.

The proposed entertaining area is 7m away and 6m below the first floor deck at 22 Herbert Avenue. In consideration of the change in level, the vertical distance between the floor level of the proposed entertaining area and the floor level of the first floor deck is approximately 9.2m. In addition, the proposed entertaining area has an enclosed roof and adjoins the built form, and will only a portion of the western side of the entertaining area be visible at an angle from the rear deck at 22 Herbert Avenue. The rear deck at 22 Herbert is also orientated as to best capture views of Pittwater from both a seated and standing position, with the focal point being across the roof line of 20 Herbert Avenue, and not the paved entertaining area. For these reasons, the built form prevents direct overlooking between the two areas of private space and is therefore considered acceptable and is supported.

The submission received from 22 Herbert Avenue raise concerns regarding visual privacy. The proposed balcony off the master bedroom at 20 Herbert Avenue will be located 4.5m from the first floor deck at 22 Herbert Avenue. A privacy screen on the eastern elevation would provide a solution to prevent direct overlooking between the two properties. However, the notation on the plans states no privacy screen over the eastern balustrade as requested by Neighbour so as to not impede sea views. As such, given the balcony is off a bedroom and not a living area, and both the applicant and objector agree to no privacy screen, the proposal is considered adequate and is supported.

The following additional information was requested:

- **Submission of an amended landscape plan that provides for screen planting generally to a height of 3m to 4m along the eastern elevation at RL 36.980.**

The amended landscape plan proposes four (4) *Callistemon 'Kings Park Special'* which have a spread of 2m and a height of 4m along the eastern elevation at RL 36.980. This is consistent with what the minutes of the DU requested.

An additional submission was received from 89 Prince Alfred which raised concerns about the privacy implications regarding the proposed dwelling. The proposed outdoor terrace at 20 Herbert Avenue is setback 16m from the rear boundary of 89 Prince Alfred Parade. Due to the distance between the two spaces and the existing landscaping, the development is consistent with Council's policy on Visual Privacy.

D10.1 Character as viewed from a public place

Submissions received raised concerns about the appearance of the proposed dwelling from public places. The dwelling will appear as a one storey double garage and entry way nestled amongst the existing landscaping when viewed from Herbert Avenue. The dwelling will not be visible when viewed from Prince Alfred Parade.

The dwelling is proposed to sit approximately 110m from the waterway. Given the distance, and the use of dark and earthy tones, a stepped design and additional landscaping to the rear of the property, the development will integrate well with the landscape and not appear as a dominant feature when viewed from the waterway.

D10.7 Front building line (excluding Newport Commercial Centre)

The control requires a minimum front setback of 6.5m or the established building line, whichever is greater. The application proposes a varied 3.3m to 5.2m setback to the front porch, a varied 4.5m to 4.6m setback to the double garage and a varied setback of 7.7m to 7.8m to the front entry. This is technically non-compliant.

Notwithstanding; the control permits variations where car parking is to be provided on steeply sloping sites, reduced or nil setbacks for car parking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable. The subject site has a slope of approximately 35% and proposes a double garage within the front building line. The front porch is also set within the front building line, with a varied setback of 3.3m to 5.2m. The roof form of the garage extends to cover the front porch and has a varied setback of 5.5m to 5.7m. The varied setbacks of the garage and porch are a result of the irregular shaped lot.

The proposal is not uncharacteristic of adjoining properties, with parking structures located forward of the 6.5m setback. The proposal utilises an existing concrete driveway to service both 18 and 20 Herbert Ave, which reduces the level of disruption to the road reserve, while improving the overall amenity to the road. When viewed from the street, the double garage and porch are characteristic of the scale and density of the surrounding natural environment. The setback of the dwelling is entirely compliant with the 6.5m front setback requirement. The porch creates a safe and visible entry, and is well articulated and integrates well to visually connect the garage in the front setback to the dwelling. For these reasons, the front setback proposed is supported.

A submission from 85 Prince Alfred Parade raised issue with the proposed front building line. For the reasons explained above, the proposal is capable of meeting the outcomes of this control and is therefore supported.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

The control requires a minimum side setback of 2.5m on one side, 1m to the other side and 6.5m to the rear. The application proposes a varied 1.5m to 3.1m setback on the eastern side, a varied 1.5m to 2.3m setback to the western side and a varied 13.7m to 14.5m setback to the rear boundary. The rear setbacks are compliant however the western and eastern side setbacks are technically non-compliant.

Notwithstanding; the control permits flexibility in the siting of buildings and access. The plans originally submitted to Council proposed a 1m to 2.6m eastern side setback and a varied 2.1m to 3.1m setback to the western side. Following a submission received from 22 Hebert

Avenue, the applicant offered to amend the plans and increase the eastern side setback by 0.5m. Amended plans were submitted which propose a dwelling located in the middle of the subject site.

On the eastern side, the bulk of the building maintains a 2m setback and only corners of the building are sited closer than 2m. The varied eastern side setbacks are a result of the angle of the boundary. On the western side, the master bedroom, bedroom 3 and study, and kitchen maintain a 1.5m setback, the master bedroom balcony maintains a 3.1m setback, and bedroom 4 and balcony maintain a 2.2m setback. The lot is only 10.185m at the Herbert Avenue frontage and only 15.235 at the rear, and still proposes to maintain a minimum setback of 1.5m on each side of the dwelling. The bulk and scale of the dwelling is minimised through the use of landscaping along the eastern elevation and upper part of the western elevation. Although concerns have been raised about view loss, the proposal ensures a reasonable level of views amongst properties. All adjoining properties maintain a reasonable level of amenity with the side setbacks proposed not resulting in unreasonable overshadowing or unreasonably impacting on privacy.

Submissions were received from 22 Herbert Avenue which requested that the dwelling be setback 2.5m from the eastern boundary. The owner at 22 Herbert Avenue was concerned that their dwelling was sandwiched between 20 and 24 Herbert Avenue. The side and rear building line control looks at the setback of the proposed dwelling. It does not consider the setback of adjoining properties. If an existing dwelling maintains a 1m setback from their property boundary, as is the case for 22 Herbert Avenue to the western side boundary, the control does not require Council to impose a 2.5m side setback for the adjoining property. Therefore, as stated above the proposed setbacks meet the outcomes of the control and are supported.

Submissions were received which raised concern about the non-compliance with the side setbacks. This was not raised as an issue in the minutes of the DU and for the reasons stated above, the setbacks proposed are supported.

Please note, under D10.11 Building envelope conditions imposed relate to reducing the western side setback for the top floor of the dwelling to ensure compliance with the building envelope control, not the side setback control.

D10.11 Building envelope (excluding Newport Commercial Centre)

The control requires that plans are to be projected at 45 degrees from a height of 3.5 metres above the ground level (existing) at the side boundaries to the maximum building height. The proposed development is non-compliant with the building envelope on an eastern portion of the master bedroom, the western portion of the ensuite and the eastern portion of the garage.

The three (3) areas of non-compliance are minor and do not detract from the existing streetscape. The landscaping proposed along both the western boundary and upper eastern boundary will reduce the bulk of the dwelling and the dark colours will ensure that scale of the dwelling is minimised. The western portion of the ensuite and the eastern portion of the garage ensure a reasonable preservation of views ad vistas from public and private places.

The eastern portion of the master bedroom is adjacent to the rear outdoor deck of 22 Herbert Avenue. This non-compliance does cause an impact on views currently experienced from 22 Herbert Avenue. However, this non-compliance does not result in an unreasonable loss of views for 22 Herbert Avenue as the rear deck still maintains seated views across the side boundary. A compliant building envelope would likely result in a building which is higher and set further back from the rear deck at 22 Herbert. A higher building will result in more

overshadowing for all adjoining residence. It would also impact on the views currently retained from Herbert Avenue of Pittwater. Given that the impact of the current proposal is reasonable and given that a design with a compliant building envelope would likely cause additional impacts, the current building non-compliance is considered reasonable and is supported.

The following additional information was requested:

- **An amended floor plan and roof configuration for the top floor (RL 43.25) that does not breach the building envelope control. This requirement does not relate to the eastern wall of the garage. Roof eaves are permitted to breach the control for all elevations at this level.**

The plans provided do not show a compliant building envelope for the top floor (amended RL 42.890) along the western elevation. The numeric indicators on the plans do not properly reflect the side setbacks proposed between the built form and the western side boundary; instead the western setbacks reflect the setbacks proposed prior to amendments which saw the development shift by 0.5m from east to west. As such, in order to ensure a development that is compliant with the building control for the top floor (amended RL 42.890) the following conditions of consent will be recommended:

- **Prior to issue of the construction certificate, the western elevations of the entry and ensuite are to be set back by an additional 500mm so as to not breach the building envelope control. The roof eaves are permitted to breach this control.**
- **Prior to issue of the construction certificate, the western elevation of the foyer is to be squared off such that it is compliant with the building envelope control. The roof eaves are permitted to breach this control.**

These conditions will result in a floor plan and roof configuration for the top floor (RL 42.890) which is compliant with the building envelope along the western elevation.

D10.13 Landscaped Area – Environmentally Sensitive Land

The control requires that the total landscaped area on land zoned E4 Environmental Living be 60% of the site area. This development application proposes a landscaped area of 54% of the site area. This is technically non-compliant.

Notwithstanding; the control allows that provided the outcomes of the control are met, impervious areas less than 1 metre in width, and up to 6% of the total site area may be provided as impervious landscape treatments provided these areas are used for outdoor recreational purposes only. Excluding the pathways on the eastern and western boundary, and the part of the outdoor terrace less than 1 metre above existing ground level, the landscaped area increases to 57%. This is still technically non-compliant with the control. Largely the outdoor entertaining area is unable to be calculated as part of the 6% for outdoor recreational space because it is higher than 1 metre above the existing ground level. The proposal is designed to step with the 35% slope of the land and provides for a reasonable level of amenity and solar access for adjoining properties. While some existing landscaping is proposed to be removed, the application includes a large amount of replacement landscaping which reduces the bulk and scale of the development. The application is also supported by a Stormwater Management Plan, drawing numbers SW01 Revision B and SW02 Revision A, all prepared by Mitchell Howes Civil and Structural Engineers, all dated 15 January 2015, and accompanied by a Letter of Hydraulic Performance, reference number 7258-001-cl, dated 16 July 2015 certifying that the stormwater system drainage design is hydraulically adequate for its intended purpose. As such, stormwater and runoff are able to adequately managed on the site, in spite of the non-compliant landscaped area. Therefore,

for the reasons outlined above, the landscaped area proposed meets the outcomes of the control. As such the landscaped area is considered acceptable and is supported.

A submission was received from 22 Herbert Avenue regarding loss of landscape amenity. This development application only seeks to remove one (1) tree that is in poor health from Council's road reserve. The application seeks to retain existing trees on the site. The application also includes a landscape plan which provides a good selection of native small trees, shrubs and ground covers which will provide habitat and increase amenity. As such, Council does not agree that the proposal results in a loss of landscape amenity as the proposal seeks to retain and improve the landscaping across the subject site.

The following additional information was requested:

- **Submission of amended plans that reduce the extent of development such that a minimum 60% landscape area consistent with the Landscape Area Control for Environmentally Sensitive Land is provided (subject to permitted variations).**

A portion of the swimming pool has been lowered to less than 1m above existing ground level. Notwithstanding this change; the terrace area to be used as private open space is still largely above 1m from the existing ground level. As such, it will be recommended as a condition of consent that the entertaining terrace be reduced from a height of RL 36,980 to RL 35, 980 so that the finished level of the terrace is less than 1 metre above the existing ground. It will also be recommended that the associated roof form above the outdoor terrace be deleted and the roof be recessed such so that provides an eave to the adjoining dining and family room. This condition will mean that the outdoor recreational space definitively meets the definition of an uncovered deck no higher than 1m above ground level (existing) and the will result in an overall landscaped area of 63 per cent of the total site area.

A submission was received which raised concerns about water management on the site. As identified in the above discussion, the application is also supported by a Stormwater Management Plan, drawing numbers SW0a and SW02, all revision A, all dated 12 January 2015, all prepared by Mitchell Howes Civil and Structural Engineers, and accompanied by a Letter of Hydraulic Performance, reference number 7257-001-cl, dated 16 July 2015 certifying that the stormwater system drainage design is hydraulically adequate for its intended purpose. As such, stormwater and runoff are able to adequately managed on the site.

D10.18 Scenic Protection Category One Areas

Submissions received raised concerns that the development application is inconsistent with the requirements under the scenic protection control. The application proposes to retain existing landscaping along the northern elevation, and enhance landscaping along the western and upper part of the eastern elevation. This landscaping is specifically designed and located to reduce the visual of the built form. The application is accompanied by Arboricultural Impact Appraisal and Method Statement, prepared by Naturally Trees, dated 25 February 2015. The report and recommendation have been supported by Council's Natural Resources Officer, which assesses seven (7) trees potentially impacted by the proposed works. One (1) tree is proposed for removal, Tree 12, which is located within the Council road reserve. This tree was found to be leaning heavily and has been given a very low retention value. Removal of this tree is approved subject to replacement planting of at least two (2) locally native canopy trees. Tree protection measures have been recommended for the retention of Tree 2, 5 and 6 and these are to be adopted. Therefore, the development is considered to have minimal impact on existing vegetation. Council's Natural Resources

Officer also notes that the landscape plan submitted (*Landscapes by Jo, 19/2/15*) provides a which provides a good selection of native small trees, shrubs and ground covers which will provide habitat and increase amenity. The colours proposed are dark and earthy and will assist in reducing the visibility of the dwelling from public places. For these reasons, the proposal is considered consistent with the requirements of this control and is therefore supported.

10.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan 2014, Pittwater 21 DCP and other relevant plans and policies.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Council, as the consent authority, pursuant to section 80 of the Environmental Planning and Assessment Act, 1979, approve with conditions Development Application N0076/15 for the demolition of site structures and construction of a dwelling, swimming pool and landscaping at 20 Hebert Avenue, Newport (Lot 130, DP 13457) for the reasons contained in the attached draft determination.

Report prepared by

Erin Dyer
PLANNER

Date of Report: 28 October 2015

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**CONSENT NO: N0076/15
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS
AMENDED)
NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION**

Applicant's Name and Address:
Boston Blyth Fleming Town Planners

1/9 Narrabang Way
Belrose NSW 2085

Being the applicant in respect of Development Application No N0076/15

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application No **N0076/15** for:

new single dwelling - Demolition of site structures and construction of a dwelling, swimming pool and landscaping

At: 20 HERBERT AVENUE, NEWPORT NSW 2106 (Lot 130 DP 13457)

Decision:

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

- **Architectural Drawings, DA 01B dated 8 October 2015, DA 02B dated 8 October 2015, DA 03B dated 8 October 2015, DA 04B dated 8 October 2015, DA 05 dated February 2015 and DA 06 dated February 2015, all prepared by Lifestyle Home Designs.**
- **Landscape Planting Plan, drawing number 1/2, revision C, prepared by Landscapes by Jo, dated 28 September 2015; and Landscape Details/Specification, drawing number 2/2, revision A, prepared by Landscapes by Jo, dated 18 February 2015.**
- **Aboricultural Impact Appraisal and Method Statement, prepared by Naturally Trees, dated 25 February 2015.**
- **Stormwater Drainage Plan, SW01 Revision B and SW02 Revision A, all prepared by Mitchell Howes Civil and Structural Engineers, all dated 12 January 2015.**
- **Geotechnical Report - Proposed New Dwelling at 20 Herbert Avenue, Newport, revised P-11-263268-2, prepared by Civil and Structural Engineering Design Services Pty Ltd, dated 9 July 2015.**
- **BASIX Certificate, 606120S, dated 23 February 2015.**

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

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

Endorsement of date of consent _____

Mark Ferguson
GENERAL MANAGER
Per:

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Conditions of Approval

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

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

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
 1. the name, address and telephone number of the Principal Certifying Authority for the work, and
 2. the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 3. that unauthorised entry to the work site is prohibited.The sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 1. in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 2. in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and

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- ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
3. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information
5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) 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.
6. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
7. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

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

1. The following amendments shall be made to the approved plans:
 1. Prior to issue of the construction certificate, the western elevations of the entry and ensuite are to be set back by an additional 500mm so as to not breach the building envelope control. The roof eaves are permitted to breach this control.
 2. Prior to issue of the construction certificate, the western elevation of the foyer is to be squared off such that it is compliant with the building envelope control. The roof eaves are permitted to breach this control.
 3. Prior to issue of the construction certificate, the entertaining terrace be reduced from a height of RL 36,980 to RL 35, 980 so that the finished level of the terrace is less than 1 metre above the existing ground.
 4. Prior to issue of the construction certificate, the associated roof form above the outdoor terrace is to be deleted and the roof be recessed such so that provides an eave to the adjoining dining and family room.

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2. No privacy screen is to be included on the eastern façade of the top floor balcony adjacent to the master bedroom. This is to be maintained for the life of the development.
3. 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.
4. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by Civil and Structural Design Services Pty Ltd are to be incorporated into the construction plans.
5. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.
6. No environmental weeds are to be planted on the site. Refer to Pittwater Council website www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
7. 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.
8. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
9. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
 - a. Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
 - b. Species listed from the Endangered Ecological Community
 - c. Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website http://www.pittwater.nsw.gov.au/environment/species_lists

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10. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
11. As part of an integrated on-site stormwater management system a minimum 9,000 litre on-site detention tank is to be installed, operated and maintained in association with the development.
12. As part of the integrated stormwater management plan, suitably positioned stormwater quality improvement devices shall be installed and operated in accordance with Manufacturer's Specifications and associated operational guidelines.
13. The stormwater quality improvement devices shall be maintained and emptied of spoil materials at regular intervals. Spoil materials removed from the stormwater quality improvement devices shall be disposed of as dry household mixed waste.
14. The internal driveway finish is:
 0. to be a stable surface for all weather conditions
 1. to be constructed of materials that blend with the environment and are of dark or earthy tones or natural materials.
15. Landscaping is to be implemented in accordance with the approved Landscape Plan (*Landscapes by Jo, 18/2/15*). The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.
16. In accordance with Pittwater Councils DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
17. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pools Act 1992, Regulation and Australian Standard 1926.1-2012, Safety barriers for swimming pools
18. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool / spa.
 0. The warning notice (i.e. sign) must contain all of the following words:

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1. "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL" and
 2. "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
 3. "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",
1. In addition, the notice must contain a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
 1. that are set out in accordance with the relevant provisions of that Guideline, and
 2. that comply with the other relevant guidelines of the Australian Resuscitation Council, and
 3. that are illustrated by drawings with key words only in bold print,
 2. a statement to the effect that formal instruction in resuscitation is essential,
 3. the name of the teaching organisation or other body that published the sign and the date of its publication.
19. Materials and colour schemes are to be in accordance with the sample scheme approved by Council. These include the following:
- Colorbond monument for the roof, fascia, gutters and down pipes.
 - Resene double tapa for the walls.
 - White for the windos and doors.
 - Merbau for the garage door.

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

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

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.

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3. The applicant is to consult with Sydney Water to establish whether there are any Section 73 Compliance Certificate requirements for this proposal, under the provisions of the *Sydney Water Act, 1994*. A copy of any Notice of Requirements letter which may be issued by Sydney Water, is to be provided to the Private Certifying Authority with the Construction Certificate application.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site 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 Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

4. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
 1. after excavation for, and prior to the placement of, any footings, and
 2. prior to pouring any in-situ reinforced concrete building element, and
 3. prior to covering of the framework for any floor, wall, roof or other building element, and
 4. prior to covering waterproofing in any wet areas, and
 5. prior to covering any stormwater drainage connections, and
 6. after building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

5. Construction works approved by this consent must not commence until:
 1. Construction Certificate has been issued by a Principal Certifying Authority
 2. a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 3. at least 2 days notice, in writing has been given to Council of the intention to commence work.
6. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service

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levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.

7. A Schedule of Works prepared by a qualified practising Structural 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 is to be submitted to the Accredited Certifier or Council in respect of the following items:
 1. The details and location of all intercept drains, provided uphill of the excavation, to control runoff through the cut area.
 2. The proposed method of disposal of collected surface waters is to be clearly detailed
 3. Procedures for excavation and retention of cuts, to ensure the site stability is maintained during earthworks.
8. 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.
9. Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council 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 B5.7 of Pittwater 21 DCP.

Note: Where Council is the Principal Certifying Authority, 3 sets of engineering plans are to be submitted.
10. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

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

11. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
 1. Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
 2. All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
 3. Council's Fees and Charges apply to driveway profiles.
12. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
13. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

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

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

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

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

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

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

1. Protection of site workers and the general public.
2. Erection of hoardings where appropriate.
3. Asbestos handling and disposal where applicable.
4. Any disused service connections shall be capped off.

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

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. The following facilities must be provided on the site:
 1. toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 2. a garbage receptacle for food scrapes and papers, with a tight fitting lid.

Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.

5. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
6. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
7. 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.
8. 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.

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9. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
10. 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.
11. 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.
12. No works are to be carried out in Council's Road Reserve without the written approval of the Council.
Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.
13. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water,

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sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.

14. No skip bins or materials are to be stored on Council's Road Reserve.
15. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 1. The builder's name, builder's telephone contact number both during work hours and after hours.
 2. That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
 3. That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 4. That no skip bins or materials are to be stored on Council's Road Reserve.
 5. That the contact number for Pittwater Council for permits is 9970 1111.
16. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Naturally Trees, dated 25 February 2015 are required to be complied with before and throughout the development period, particularly with regard to the following:
 - i. Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
 - ii. Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
 - iii. All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.

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- iv. Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
- v. Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

17. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.

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

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

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

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

- 1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
- 2. A copy of the Section 73 Compliance Certificate issued under the provisions of the *Sydney Water Act, 1994*, is to be forwarded to Council or the Private Certifying Authority with the Occupation Certificate.
- 3. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any

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appropriately qualified electrician prior to the issue of any Occupation Certificate.

4. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
5. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

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

6. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

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

7. The applicant must obtain written confirmation from Council that all works in the road reserve have been completed in accordance with the conditions of the Roadworks Permit
8. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
9. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report (Naturally Trees, 25 February 2015) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.

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G. Advice:

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

This is a detailed plat map of a residential subdivision. The map shows a network of streets including Prince, Alfred, PDE, Elvina, Ave, Herbert, and Prince. Numerous lots are numbered, with a central lot (lot 18) highlighted with a cross-hatch pattern. The map also shows lot dimensions and street names.

Streets:

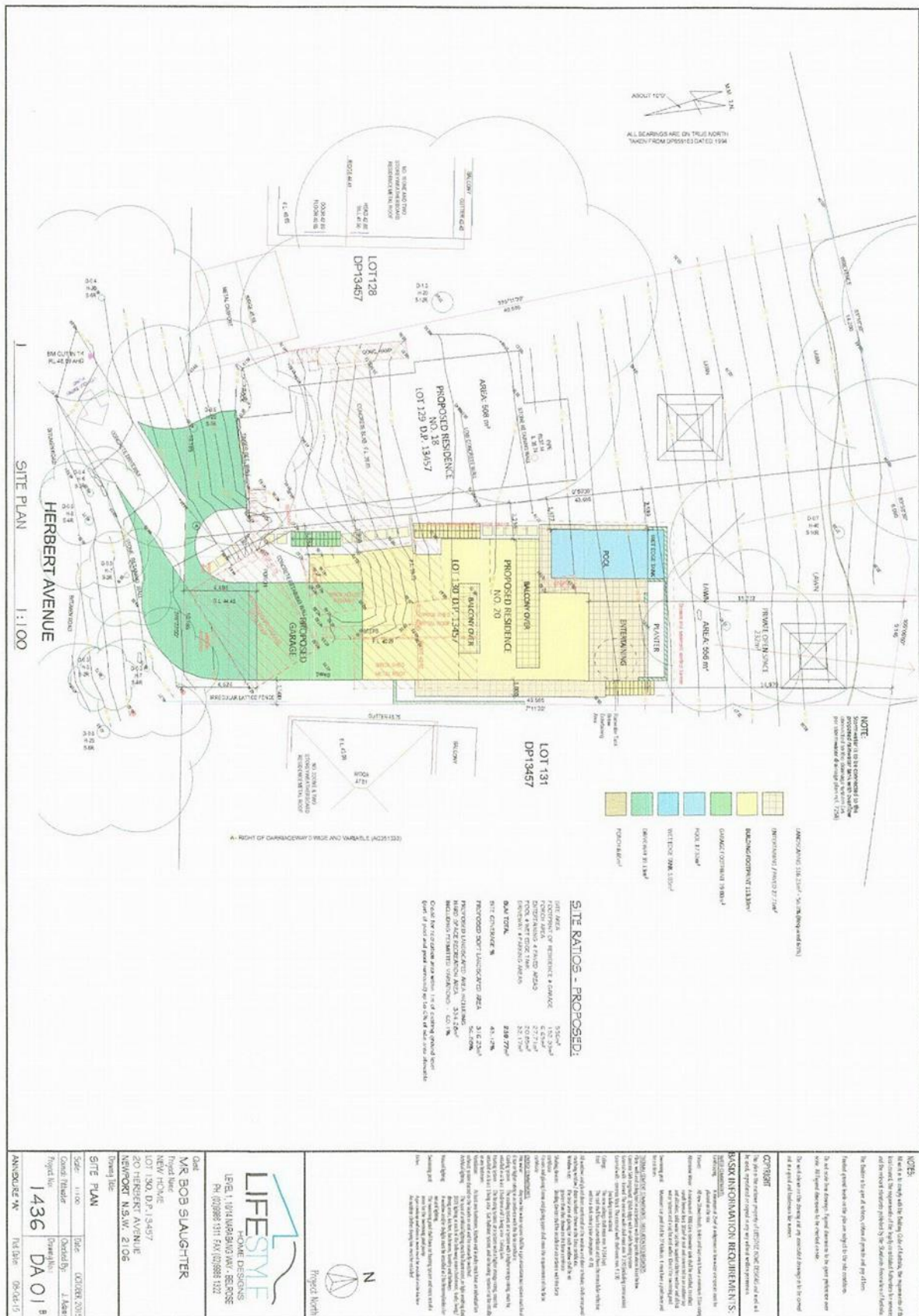
- PRINCE
- ALFRED
- PDE
- ELVINA
- AVE
- HERBERT
- PRINCE

Highlighted Lot: Lot 18, located in the center of the map, is highlighted with a cross-hatch pattern.

Lot Numbers:

- Top row: 92, 94, 96, 98, 100, 102, 104, 106, 108, 110, 112, 112A, 114, 116, 116A, 118, 118A, 120
- Second row: 71, 73, 75, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97, 3, 5, 7, 9, 11, 13, 15, 17, 19
- Third row: 69, 67, 65, 63, 61, 59, 4, 6, 8, 10, 12, 14, 14, 18, 22, 24, 26, 30, 36, 38, 44, 46
- Fourth row: 15, 17, 19, 21, 21A, 23, 25, 177, 175, 173, 171, 169, 167, 165, 156, 158, 160, 162, 164, 166, 27, 29, 31, 33, 35, 37
- Fifth row: 11, 13, 15, 17, 19, 21, 21A, 23, 25, 177, 175, 173, 171, 169, 167, 165, 156, 158, 160, 162, 164, 166, 27, 29, 31, 33, 35, 37
- Sixth row: 9, 7, 5, 1, 1, 55, 53, 49, 163, 161, 148, 146A, 146
- Seventh row: 56, 53, 49, 163, 161, 148, 146A, 146

NOTIFICATION PLANS





C12.4	N0365/15 - 13 Monash Avenue Great Mackerel Beach - Alterations and additions to the existing dwelling
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Meeting: Sustainable Towns & Villages Committee

Date: 21 December 2015

COMMUNITY STRATEGIC PLAN STRATEGY: Land Use & Development

COMMUNITY STRATEGIC PLAN OBJECTIVE:

- To deliver a comprehensive suite of development controls that improve the liveability of the area

DELIVERY PROGRAM ACTION:

- To provide an effective development assessment and determination process
-

1.0 EXECUTIVE SUMMARY

1.1 SUMMARY

The Development Unit at its meeting held on 10 December 2015 considered the Assessing Officers report (refer **Attachment 1**) for determination of Development Application N0365/15 for alterations and additions to an existing dwelling at 13 Monash Avenue Great Mackerel Beach NSW 2108 - alterations and additions to existing dwelling.

- 1.2 It is a policy requirement of the NSW Department of Planning that applications involving a variation to a development standard of more than 10% be referred to the elected Council for determination.
 - 1.3 The proposed dwelling is calculated to rise up to 10.13m above existing ground level and 9.4m above the Flood Planning Level, resulting in a variation of 17.5% to the height development standard.
 - 1.4 Discussion in relation to variations is contained within Section 10.0 (Discussion – Height of Buildings) of the Assessing Officer's report.
 - 1.5 The Development Unit considered the issues addressed in the Assessing Officer's report and supported the Officer's recommendation for approval subject to the conditions contained in the draft consent.
 - 1.6 There were no objections to this application.
-

2.0 RECOMMENDATION

That the recommendation of the Development Unit be endorsed and Development Application - N0365/15 – 13 Monash Avenue Great Mackerel Beach NSW 2108 for alterations and additions to existing dwelling be granted approval pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act 1979 and subject to the conditions contained in the draft consent attached to the report.

3.0 BACKGROUND

3.1 PURPOSE

To seek endorsement of the Development Unit's recommendation following consideration of Development Application - N0365/15 – 13 Monash Avenue Great Mackerel Beach NSW 2108 for alterations and additions to existing dwelling.

3.2 BACKGROUND

The Development Unit at its meeting held on the 10 December 2015 considered the Development Officer's report (refer **Attachment 1**) for determination of Development Application N0365/15 – 13 Monash Avenue Great Mackerel Beach NSW 2108 for alterations and additions to the existing dwelling.

Despite the height variation the Development Unit considered that the merits of the application warranted support of the Assessing Officer's recommendation for approval. (Refer to discussion at Section 10.0 of the Assessing Officer's report).

3.3 POLICY IMPLICATIONS

There are no policy implications in relation to this application.

3.4 RELATED LEGISLATION

Council are the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979.

3.5 FINANCIAL ISSUES

3.5.1 Budget

No implications unless Council's decision is challenged in the Land and Environment Court.

3.5.2 Resources Implications

No implications.

4.0 KEY ISSUES

- Variation of the Development standard for height
- Other issues as addressed within the assessing officer's report

5.0 ATTACHMENTS

Attachment 1: Assessing Officer's report to the Development Unit meeting of 10 December 2015.

6.0 SUSTAINABILITY ASSESSMENT

The relevant sustainability assessments have been addressed in the attached assessing officer's report.

Report prepared by

Warwick Lawrence

MANAGER, ADMINISTRATION & GOVERNANCE

**SUBJECT: N0365/15 - 13 Monash Avenue Great Mackerel Beach -
Alterations and additions to existing dwelling**

Meeting: Development Unit

Date: 10 December 2015

SUMMARY OF RECOMMENDATION

Consent with Conditions

REPORT PREPARED BY:	Michael Doyle
APPLICATION SUBMITTED ON:	8/09/2015
APPLICATION SUBMITTED BY:	TARA MICHELLE BOYLE JAMES RUSSELL BOYLE
OWNER(S):	TARA M BOYLE

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0365/15 for alterations and additions to existing dwelling at 13 Monash Avenue Great Mackerel Beach NSW 2108 subject to the draft conditions of consent attached.

Report prepared by
Michael Doyle, Planner

Andrew Pigott
MANAGER, PLANNING & ASSESSMENT

ASSESSMENT REPORT

SUBJECT: N0365/15 - 13 MONASH AVENUE, GREAT MACKEREL BEACH NSW 2108 (Lot 59 DP 10000) Alterations and additions to existing dwelling

SUMMARY OF RECOMMENDATION: Consent with Conditions

REPORT PREPARED BY:	Michael Doyle
APPLICATION SUBMITTED ON:	8 September 2015
APPLICATION SUBMITTED BY:	MRS TARA MICHELLE BOYLE MR JAMES RUSSELL BOYLE
OWNER(S):	MRS TARA MICHELLE BOYLE
ESTIMATED COST OF WORKS:	\$ 494,982
DETERMINATION LEVEL:	Development Unit and Council
NO. OF SUBMISSIONS:	0

1.0 SITE DETAILS

Great Mackerel Beach is an enclave of residential development enclosed by Ku-ring-gai Chase National Park bushland and slopes. Development Application N0365/15 is for 13 Monash Avenue, Great Mackerel Beach which is Lot 59 in Deposited Plan 10 000. Monash Ave is an unformed road leading from the beach.

The subject site is on Monash Ave's western side. The front of the site lies flat at street level before the site rises steeply.

The site is long and rectangular and has a total site area of 569m². Over the existing and proposed building footprint, there is an approximate fall of 7.8m, equating to a 27.0% slope.

The site is occupied by a three-storey dwelling (including lowest floor store), water tanks, decks and side retaining wall. The existing dwelling comprises lower ground floor store, first floor living, dining, kitchen, bathroom and laundry, and second floor bedroom 1, bedroom 2 and bathroom. Although the dwelling comprises three floors (including the store), the slope over the building footprint and site enables all floors to connect to the land.

The rear of the site is unmanaged bushland. The middle of the site is managed vegetation, and the front part of the site comprises the dwelling and garden. The rear, middle and underneath the dwelling include rocky outcrops.

Residential dwellings neighbour the property. Neighbouring dwellings sit similarly forward upon their sites with the exception that western side neighbour no. 15 sits high upon its site. The subject and surrounding sites have significant east and north views encompassing Pittwater waterway and Great Mackerel Beach and, further afield, the western side of Palm Beach, Barrenjoey Lighthouse and headland, and Ku-ring-gai Chase National Park.

2.0 PROPOSAL IN DETAIL

The application seeks consent for alterations and additions to the existing dwelling comprising

Lower ground floor

- new store
- altered existing store into watercraft garage

First floor

- altered and extended kitchen and living areas

Second floor

- altered main bedroom to lower roof line
- additional bedrooms and bathroom through a rear extension

The proposed lower ground floor works are within the existing building footprint. The proposed first floor works are largely within the existing building footprint. The second floor works discernibly extend the building footprint upon the site.

3.0 STATUTORY AND POLICY CONSIDERATIONS

Under Pittwater Local Environmental Plan 2014, the site is zoned E3 - Environmental Management. Pursuant to the land use table in Part 2 of this instrument, dwelling houses are permissible with consent.

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

- Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- State Environmental Planning Policy No 71 - Coastal Protection (SEPP 71)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Area 5
 - Biodiversity Map
 - Foreshore Building Line Map
 - Geotechnical Hazard Map - H1
 - Height of Buildings Map I - 8.5m
 - Lot Size Map Y2 - 11,000m²
- Pittwater 21 Development Control Plan (P21 DCP)
 - Upper Western Foreshores Locality
 - Geotechnical Risk Management Policy for Pittwater
 - Flood Risk Management Policy for Development in Pittwater - Mackerel Beach (low hazard and H3)
 - Bushfire-prone property
 - Unsewered land - On-site wastewater management required
 - Landscaped area map 1
 - Estuarine Risk Management Policy for Pittwater ->Land subject to wave action & tidal inundation / Estuary Planning Level
 - Land containing areas of Saltmarsh Endangered Ecological Community
 - Land within 40m of foreshore

4.0 BACKGROUND

Council's electronic document management system records no previous building or development applications for the subject site.

A pre-lodgement meeting was undertaken for the proposal on 30.04.14.

The application was notified in accordance with Council's notification policy.

The application was referred to

- Council's Development Engineer,
- Council's Natural Resources Officer,
- Council's Catchment Management & Climate Change (Floodplan Management) (CM&CC) Officer, and
- Council's Environmental Health & Compliance (Health) Officer

for comment, and the Rural Fire Service for the Bushfire Risk Assessment Report nominating the proposal as requiring Alternative Solutions to comply with the Act s79BA.

The site was inspected on 24.09.15.

A series of amendments to PDCP came into force on 14.11.15. Given that the application was lodged prior to these policy amendments, it is necessary to consider both the prior and new versions of PDCP. In this regard, clauses which have been repealed are marked as 'amended 14/11/2015' in the following report. Their superseding clauses are also included in the following report.

5.0 NOTIFICATION

Council wrote to five adjoining property owners, as well as the Mackeral Beach Association Inc. and Pittwater Council, to notify them of the application.

A notification sign was displayed at the property for 14 days during the nominated notification period. The application was otherwise notified in accordance with Council's Notification Policy.

Council received no submissions.

6.0 PLEP COMPLIANCE TABLE

T - Can the proposal satisfy the technical requirements of the control?

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Clause	T	O	N	Numerical Standard	Numerical Proposal
1.9A Suspension of covenants, agreements and instruments	-	-	-		
Zone E3 Environmental Management	Y	Y	Y		
4.3 Height of buildings	N	Y	Y		10.13m above ex. grd level, or 9.4m above the FPL
4.6 Exceptions to development standards	Y	Y	Y		1.4m, or 17.5%, over 8.0m height development standard.
5.5 Development within the coastal zone	Y	Y	Y		

Clause	T	O	N	Numerical Standard	Numerical Proposal
7.1 Acid sulfate soils	Y	Y	Y	(Considered by Council's Nat. Res. Officer.)	Acid Sulphate Region 5.
7.3 Flood planning	Y	Y	-	(Considered by Council's CM&CC Officer.)	
7.7 Geotechnical hazards	Y	Y	Y		
7.10 Essential services					

Issues marked with a - are not applicable to this Application.

Issues marked with a **N** are discussed in the compliance table or discussion

7.0 P21 DCP COMPLIANCE TABLE

T - Can the proposal satisfy the technical requirements of the control?

O - Can the proposal achieve the control outcomes?

N - Is the control free from objection?

Clause	T	O	N	Numerical Standard	Numerical Proposal
3.1 Submission of a Development Application and payment of appropriate fee	Y	Y	Y		
3.2 Submission of a Statement of Environmental Effects	Y	Y	Y		
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings	N	Y	Y	Survey plan 1:100 scale	Survey plan 1:200 scale
3.4 Notification	Y	Y	Y		
3.5 Building Code of Australia	Y	Y	Y		
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)	Y	Y	Y		
4.2 Integrated Development: Rivers, Streams and Foreshores	-	-	-		
4.6 Integrated Development: Aboriginal Places of Heritage Significance and Aboriginal Objects	-	-	-		
5.3 Referral to NSW Office of Environment and Heritage	-	-	-		
A1.7 Considerations before consent is granted	Y	Y	Y		
A4.13 Upper Western Foreshores Locality	N	Y	Y	Two stories in any one place	Three stories.
B1.3 Heritage Conservation - General	-	-	-		
B1.3 Heritage Conservation - General (Amended 14/11/15 See B1.3)	-	-	-		
B1.4 Aboriginal Heritage Significance	Y	Y	Y		

Clause	T	O	N	Numerical Standard	Numerical Proposal
B1.4 Aboriginal Heritage Significance (Amended 14/11/15 See B1.4)	Y	Y	Y		
B3.1 Landslip Hazard	Y	Y	Y		
B3.2 Bushfire Hazard	Y	Y	Y		The site is in a designated 10/50 veg. entitlement cl. area, however the site is <100m of NSW coastline/estuaries: The site is excluded from using the 10/50 Code. The bushfire report nominates that the app. relies on alternative solutions. The app. was referred to the RFS. RFS' recommendations are included as consent conditions.
B3.6 Contaminated Land and Potentially Contaminated Land	-	-	-		
B3.7 Estuarine Hazard - Low density residential	Y	Y	Y		
B3.11 Flood Hazard - Flood Category 1 - Low Hazard - Low Density Residential	Y	Y	-		
B3.25 Flood Hazard - Flood Emergency Response planning	Y	Y	-		
B4.15 Saltmarsh Endangered Ecological Community	Y	Y	Y		
B5.2 Wastewater Disposal (Amended 14/11/15 See PLEP 7.10)	Y	Y	-		
B5.3 Greywater Reuse	-	-	-		
B5.6 Rainwater Tanks - Water Supply	Y	Y	Y		
B5.10 Stormwater Discharge into Public Drainage System	Y	Y	Y		
B5.13 Development on Waterfront Land					
B8.2 Construction and Demolition - Erosion and Sediment Management	Y	Y	Y		
B8.5 Construction and Demolition - Works in the Public Domain	Y	Y	Y		
C1.1 Landscaping	Y	Y	Y		
C1.2 Safety and Security	Y	Y	Y		
C1.3 View Sharing	Y	Y	Y		
C1.4 Solar Access	Y	Y	Y		
C1.5 Visual Privacy	N	Y	Y	No overlooking within 9m	Proposed kitchen window opp. no. 13's kitchen window. Consent conditions shall require screen or glazing.

Clause	T	O	N	Numerical Standard	Numerical Proposal
C1.6 Acoustic Privacy	Y	Y	Y		
C1.7 Private Open Space	N	Y	Y	PPOS to be positioned at rear	PPOS is at front but sufficiently elevated above street and away from neighbours for privacy.
C1.9 Adaptable Housing and Accessibility	Y	Y	Y		
C1.9 Adaptable Housing and Accessibility (Amended 14/11/15 See C1.9)	Y	Y	Y		
C1.12 Waste and Recycling Facilities (Amended 14/11/15 See C1.12)	Y	Y	Y		
C1.12 Waste and Recycling Facilities	Y	Y	Y		
C1.13 Pollution Control	Y	Y	Y		
C1.14 Separately Accessible Structures	N	Y	Y	No cooking facilities	Fish-cleaning sink/bench
C1.17 Swimming Pool Safety	-	-	-		
C1.19 Incline Passenger Lifts and Stairways	-	-	-		
C1.23 Eaves	Y	Y	Y		
C1.24 Public Road Reserve - Landscaping and Infrastructure	N	Y	Y	Street trees at 6m centres	No trees within road reserve proposed
C1.25 Plant, Equipment Boxes and Lift Over-Run	-	-	-		
D13.1 Character as viewed from a public place	Y	Y	Y		
D13.2 Scenic protection - General	Y	Y	Y		
D13.3 Building colours and materials	Y	Y	Y		
D13.5 Front building line	N	Y	Y	6.5m	For comment, see 8.0 D13.5
D13.6 Side and rear building line	N	Y	Y	1m one side, 2.5m the other	Ex. - 1.47m and 1.765m Proposed - 1.22m and 1.765m
D13.8 Building envelope	N	Y	Y	From existing ground level, 3.5m high at 45 deg. angle	2.7m outside envelope
D13.9 Landscaped Area	Y	Y	Y	182.1m ²	157.0m ²
D13.11 Fences - Flora and Fauna Conservation Areas	-	-	-		
D13.12 Construction, Retaining walls, terracing and undercroft areas	Y	Y	Y		
D13.13 Companion animals	Y	Y	Y		
D13.16 Stormwater overflow	Y	Y	Y		
D13.17 Parking management	Y	Y	Y		
D13.18 Site disturbance	Y	Y	Y		

Issues marked with a - are not applicable to this Application.

Issues marked with a N are discussed in the compliance table or discussion

10.0 DISCUSSION

4.3 Height of buildings

The proposed dwelling is calculated to rise up to

- 10.13m above existing ground level (Survey level 2.13 AHD cross-referenced with Section drawing 3), or
- 9.4m above the Flood Planning Level.

This height is greater than 8.0m above the Flood Planning Level and, over the dwelling footprint, there is an approximate fall of 7.8m, equating to a 27.0% slope. The applicant must make a cl. 4.6 statement. For comment, see cl. 4.6

4.6 Exceptions to development standards

1. Development standard to be varied

PLEP Part 4 Principal Development Standards Cl. 4.3 Height of Buildings requires buildings to be either no more than 8.5m high, measured from existing ground level, or not greater than either

- 8.0m above the FPL, or
- 10m high for minor portions of the building if slope exceeds 30% and development steps with the slope.

The proposed dwelling is calculated to rise up to 9.4m above the FPL. The proposed dwelling is also calculated to rise up to 10.13m above existing ground level. The applicant must make a cl. 4.6 statement. For comment, see cl. 4.6

2. Means to vary the development standard

Cl. 4.6 of PLEP 2014 provides a mechanism for varying the 8.0m height limit above the FPL. The development must comply with the standard's objectives, the applicable zone's objectives and make compliance with the standard unreasonable/ unnecessary.

3. The applicant's Clause 4.6 statement

The applicant made a written request justifying the height development standard contravention. The statement describes that

- the neighbouring dwelling appears significantly higher,
- the majority of the proposed built form is below the height limit,
- there shall be no material impacts in terms of views, solar access or bulk,
- where not constrained by the existing footprint, the proposed dwelling responds sensitively to the existing topography, and
- the proposal reduces the existing building height to Monash Ave.

The Statement of Environmental Effects which forms part of the application also describes

- the existing height is 1.64m over 8.5m,
- the altered, twisted roof form is interesting and reduces overall building height to 0.825m over 8.5m, and
- the height makes bedroom fully compliant with ceiling height required under the National Construction Code and practical.

4. Clause 4.6 assessment

The Height of Buildings development standard aims to ensure development meets the area's desired character, is compatible with surrounding development, minimises appearance and reasonably retains surrounding sun and views. The E3 - Environmental Management zone provides for dwelling houses of low density and scale, integrated with land form and landscape,

and that protects, manages and restores areas with special ecological and aesthetic values.

Notwithstanding that the applicant's Cl. 4.6 statement and the application assessment differ in their finding of the existing and proposed building heights, the application does demonstrate that the proposed dwelling is consistent with the standard's objectives, the applicable zone's objectives and makes compliance with the standard unreasonable/unnecessary. The application references neighbouring 15 Monash Ave which sits high: The proposed dwelling shall sit well below this neighbour. The twisted roof form balances minimising height, bulk and appearance, including to the street & when compared to the existing roof form, together with providing necessary ceiling levels and the slope of the land.

Proposed building height is calculated to be greatest in the middle of the dwelling, however the twisted form does not lead the eye to sit upon this point: The eye is drawn to the rear and where height is reduced. The development also seeks to retain part of the existing building and so is considered to be constrained by the existing lower ground floor store and dwelling floor levels.

The dwelling is considered, where constrained by the existing building, to be sensitive of the natural topography and its context. The proposed works are consistent with both the development standard and the zone objectives. The particular development, through constraint of the existing building, makes compliance with the height standard unreasonable. It is therefore the circumstances of the existing building, and the application retaining parts of the existing building, which make the cl. 4.6 variation to be well-founded and is supported.

A1.7 Considerations before consent is granted

The application proposes significant changes, yet

- is classified as alterations and additions to the existing dwelling, and
- this assessment has made concessions to compliance with development standards and controls on the basis of retaining floors, walls and posts.

Should the application be approved, consent conditions shall advise that the approval is based on retaining floors, walls and posts, and shall warn that any future modification application deleting these elements may no longer allow the development to be classified as 'alterations and additions'.

A4.13 Upper Western Foreshores Locality

Buildings are to be a maximum of two storeys in a single place, below the tree canopy and integrated with new trees and the landform.

The existing building is a three-storey dwelling (including lowest floor store). The application proposes to retain the first and second floors and some internal and external walls.

The Flood Planning Level is 2.9m AHD. There is insufficient height between

- this level on the lower ground floor, and
- the underside of the existing first floor

for the lower ground floor to be habitable. The lowest ground floor is subsequently proposed for storage and as a watercraft garage and shall appear ancillary to the upper floors.

The application proposes to retain the existing palm trees, including a Cabbage Palm tree, in the front yard and complement this existing landscaping with a number of shrubs.

The proposed second floor additions are stepped across the across the slope.

The proposal is consistent with desired character.

B3.11 Flood Hazard - Flood Category 1 - Low Hazard - Low Density Residential

Council's CM&CC Officer commented:

13 Monash Ave, Great Mackerel - for the purpose of this assessment focused on the proposed storage and Watercraft garage.

Under the B3.11 control a variation can be applied to floor levels for car parking facilities - which outlined than consideration may be given to a floor level of an enclosed garage at or above the 1% AEP flood level where it can be demonstrated that:

- the enclosed garage is not connected internally to the dwelling, and*
- the enclosed garage will be used for carparking purposes only,*
- the entrance will not face in the direction of the floodwaters,*
- that it is not located in a floodway.*

for the purpose of this development 'carparking' has been interchanged with 'watercraft' as there are no vehicles on Great Mackerel.

So in order for the proposed development to comply with the B3.11 control the minimum floor level of the 'watercraft' garage needs to be at or above 2.4m AHD - this will be outlined through a condition of consent.

B4.15 Saltmarsh Endangered Ecological Community

Council's Natural Resources Officer commented:

The property contains a modified landscape which slopes steeply up into the adjacent national park and contains rocky outcrops. The proposed works include internal alterations and additions to the existing dwelling.

No trees are proposed for removal. One (1) tree is within close proximity on the western side of the dwelling however there are no proposed works which will impact on this tree. At the rear of the site an exempt Jacaranda species is present which may be removed without consent if required.

A landscape plan has been submitted (Envirotexture, 11 A, 27/8/15) which proposes a small number of native plants at the front of the dwelling which will increase amenity and provide screening. No existing palms are proposed to be removed. Natural vegetation at the rear of the site will remain untouched except for weed removal. This is acceptable.

There are no further natural environment issues.

Council's Natural Resources Officer applied a consent condition requiring any new fencing to be passable to native wildlife, however the application did not propose fencing and there is no existing fencing. Should the application be approved, this condition shall not be included in the consent.

B5.6 Rainwater Tanks - Water Supply

Dwellings not connected to a Sydney Water main must include a 45,000 litre water tank.

The application has demonstrated four tanks totalling 55,000L on an amended landscape plan, however the application has not otherwise shown the tanks. The amended landscape plan

positions two 22,500L tanks at the top rear of the site and two 5,000L tanks within the building footprint.

Should the application be approved, consent conditions shall require a stormwater plan showing water tanks of at least 45,000L and in accordance with bushfire requirements. Consent conditions shall also disallow any excavation for the tanks within the building footprint and require the geotechnical engineering report be updated with reference to the water tanks.

C1.3 View Sharing

The Survey's levels for neighbouring 15 Monash Ave and Elevation drawings nominating the proposed roof ridge level show that the proposed roof shall rise to the mid-point of no. 15's kitchen window, however the proposal vastly retains the neighbouring view including from the living area. Significant east and north views encompassing Pittwater waterway and Great Mackerel Beach and, further afield, the western side of Palm Beach, Barrenjoey Lighthouse and headland, and Kuring-gai Chase National Park remain. The Statement of Environmental Effects also depicts the negligible view loss (for detail, see the Statement of Environmental Effects) and application assessment also considered the layout of neighbouring 15 Monash Ave through information which is publicly available. Consequently, the southeastern view loss is considered minor.



Figure 1: Neighbouring 15 Monash Ave's kitchen window with respect to the existing dwelling at 13 Monash Ave (Figure devised by assessment officer)

D13.5 Front building line

Development must be setback 6.5m, however Council may make variation considering established building lines, cut and fill, vegetation, irregular lots, topography and on-site wastewater treatment systems and rainwater tanks not more than 1m high. Development outcomes relate to vegetation reducing built form, pedestrian amenity and sensitivity to the existing area.

The application proposes

- a 1.1m setback to the below ground WWTS,
- a 4.1m setback to the first floor, 2.9m-wide deck, and
- a 6.5m setback to the external wall.

The deck encroaches into the building line in order to provide, from the main living area, a 16m²PPOS.

The existing dwelling and site topography pushes development forward. Neighbouring dwellings are similarly positioned. The deck shall also be unroofed, reducing its presence, and vegetation at street level shall screen it.

The proposed front building line is acceptable.

D13.8 Building envelope

The proposed second floor extends outside of the prescribed building envelope by up to 2.7m on each side. These building envelope non-compliances do not reduce neighbours' views and southern neighbour 11 Monash Ave continues to receive 3 hours sunlight midwinter to its main living area and PPOS.

The second floor is existing and the proposed roof reduces the presence of the dwelling to the street. The proposed roof reaches 10.13m high but the proposal is constrained by the existing building yet improves the building's form and appearance. Existing palm trees reduce the built form and are proposed to be complemented with native shrubs.

The application is considered consistent with this clause's outcomes where constrained by the existing building.

11.0 CONCLUSION

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

The proposal is consistent with the relevant statutory and policy controls and outcomes. The impacts of the alterations and additions to the existing dwelling to the natural environment, local area, public domain, neighbouring properties and the property itself are acceptable subject to the recommended conditions. The proposed design reduces real and perceived building height at the street, shall blend in with the natural environment through use of dark colours, and equitably preserves views and sun to neighbours.

The application proposes to vary the building height development standard by over 10% and so must be determined by full Council.

The application is recommended for approval.

RECOMMENDATION OF PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0365/15 for the Alterations and additions to existing dwelling at 13 Monash Avenue, Great Mackerel Beach subject to the conditions of consent.

Report prepared by

Michael Doyle
Planner