
COMMITTEE RECOMMENDATION

That the Internal Audit Charter be endorsed subject to the following minor amendments:

- Organisational Chart to be reconfigured to include reporting to Council, A&RC and General Manager;
- Annual In Camera Meetings to be included in KPI's;
- KPI relating to number of audits completed against approved Internal Audit Plan to be revised so that it is measurable.

(Mr John Gordon / Mr Robert Dobbie)

5.3 Revised Internal Audit Manual

Proceedings in Brief

The Internal Auditor addressed the meeting on this item.

ACTION ITEMS:

- *That a bibliography is included at the conclusion of the document.*
 - *Internal Auditor to review the Internal Audit Manual to ensure it is broadly compliant with the IIA's IPPF (internal audit standards).*
 - *Biennial review of Internal Audit Charter to be amended to read Annual review (on Page 8).*
-

COMMITTEE RECOMMENDATION

That the Audit & Risk Committee endorse the revised Internal Audit Manual subject to minor changes as below:

- That a bibliography is included at the conclusion of the document;
- Internal Auditor to review the Internal Audit Manual to ensure it is broadly compliant with the IIA's IPPF (internal audit standards);
- Biennial review of Internal Audit Charter to be amended to read Annual review (on Page 8).

(Mr John Gordon / Mr Robert Dobbie)

6.0 Risk Management

6.2 Council's Risk Profile

Proceedings in Brief

The Risk Officer presented a brief PowerPoint to members.

6.1 Risk Management Report

Proceedings in Brief

The Risk Officer addressed the meeting on this item.

ACTION ITEMS:

- *Risk Officer to investigate the emerging Operational Risk associated with Fit for the Future: staff motivational strategies during any transitional stages.*
 - *Risk Officer to present an overview to future meetings delineating the movement and control of identified risks.*
-

7.0 Complaints & Compliments Register

Proceedings in Brief

The Principal Officer - Governance addressed the meeting on this item.

ACTION ITEMS:

- *That future reports include a brief summary identifying any trends in complaints, mitigation measures and learnings, so as to provide a more detailed level of assurance to the Committee.*
-

7.1 Report in relation to GIPA, PID and ICAC

Proceedings in Brief

The Principal Officer - Administration addressed the meeting on this item.

ACTION ITEMS:

- *That an update on the outstanding ICAC matter be brought to the next meeting.*
-

8.0 Report on Internal Audit Activities

8.1 2015 Internal Audit Program & Status Report

Proceedings in Brief

The Internal Auditor addressed the meeting on this item.

ACTION ITEMS:

- *Contracts Register to be included in the scope of the Asset Management System Review scheduled for 2016.*
- *Childcare Management System to be removed from the task list/audit universe.*

8.2 Implementation of Audit Recommendations

Proceedings in Brief

The Internal Auditor addressed the meeting on this item.

8.3 Internal Audit – Parking Ticket Machines

Proceedings in Brief

The Internal Auditor addressed the meeting on this item. The General Manager advised that the Manager – Environmental Compliance & Waste has sought legal advice and is awaiting the outcome.

ACTION ITEMS:

- *Follow up on recommendations to be brought to the next meeting.*
-

8.4 Fraud Health Check – Draft Fraud Control Procedures

Proceedings in Brief

The Internal Auditor addressed the meeting on this item.

ACTION ITEMS:

- *That the wording of the rules concerning Probity Audits in the final paragraph of Section 2.8 be investigated.*
-

COMMITTEE RECOMMENDATION

1. That the Committee notes the findings of the Fraud Health Check and recommends endorsement of the Draft Fraud Control Procedures by the Senior Management Team (subject to any revisions).
2. That a Council Fraud Policy Statement be developed and brought to the next A&RC Meeting.

(Mr John Gordon / Cr Julie Hegarty)

8.5 Investment Policy Review

Proceedings in Brief

The Internal Auditor addressed the meeting on this item.

9.0 General Business

9.1 Fit for the Future Update

Proceedings in Brief

The General Manager addressed the meeting on this item.

9.2 A&RC Annual Operations Report

Proceedings in Brief

Mr John Gordon addressed the meeting on this item. A copy of the Draft Annual Operation Report was circulated to members for comment.

ACTION ITEM:

- *That the A&RC Annual Operations Report be presented at a Council Meeting in February 2016.*
 - *That members with additional comments contact John Gordon by 18 December 2015.*
-

Proceedings in Brief

The General Manager addressed the meeting on this item.

10.0 Proposed Meetings Schedule 2016

The following schedule was confirmed by members:

- Tuesday, 16 February 2016 at 3.00pm
- Tuesday, 17 May 2016 at 3.00pm
- Tuesday, 09 August 2015 at 6.00pm
- Tuesday, 15 November 2016 at 3.00pm

Note:

There being no further business the Audit & Risk Committee Meeting closed at 6.03pm.

4.0 Matters Arising & Action Items from Minutes:

- 17/1.8 - Internal Auditor to clarify with Manager, Administration & Governance, concerning inclusions on Compliance Checklist for Business Unit Managers.
- 19/1.11 – Internal Audit Summary Report - Outcome to be determined by next meeting.
- 21/1.9 – Risk Officer to provide an update on progress on 'Working with Children' risk mitigation measures across Council.

5.1 Internal Audit Quality Assurance and Improvement Program:

- Internal Auditor to provide an Internal Audit Annual Report to the next Committee Meeting.

5.2 Revised Internal Audit Charter:

- Organisational Chart to be reconfigured to include reporting to Council, A&RC and General Manager.
- Annual In Camera Meetings to be included in KPI's.
- KPI relating to number of audits completed against approved Internal Audit Plan to be revised so that it is measurable.

5.3 Revised Internal Audit Manual:

- That a bibliography is included at the conclusion of the document.
- Internal Auditor to review the Internal Audit Manual to ensure it is broadly compliant with the IIA's IPPF (internal audit standards).
- Biennial review of Internal Audit Charter to be amended to read Annual review (on Page 8).

6.1 Risk Management Report:

- Risk Officer to investigate the emerging Operational Risk associated with Fit for the Future: staff motivational strategies during any transitional stages.
- Risk Officer to present an overview to future meetings delineating the movement and control of identified risks.

7.0 Complaints & Compliments Register:

- That future reports include a brief summary identifying any trends in complaints, mitigation measures and learnings, so as to provide a more detailed level of assurance to the Committee.

7.1 Report in relation to GIPA, PID and ICAC:

- That an update on the outstanding ICAC matter be brought to the next meeting.

8.1 2015 Internal Audit Program & Status Report:

- Contracts Register to be included in the scope of the Asset Management System Review scheduled for 2016.
- Childcare Management System to be removed from the task list/audit universe.

8.3 Internal Audit – Parking Ticket Machines:

- Follow up on recommendations to be brought to the next meeting.

8.4 Fraud Health Check – Draft Fraud Control Procedures:

- That the wording of the rules concerning Probity Audits in the final paragraph of Section 2.8 be investigated.

9.2 A&RC Annual Operations Report:

- That the A&RC Annual Operations Report be presented at a Council Meeting in February 2016.
- That members with additional comments contact John Gordon by 18 December 2015.

| | |
|--------------|---|
| C11.7 | Minutes of the Leading and Learning Reference Group Meeting held on 25 November 2015 |
|--------------|---|

Meeting: Leading & Learning Committee

Date: 21 December 2015

COMMUNITY STRATEGIC PLAN STRATEGY: Corporate Management

COMMUNITY STRATEGIC PLAN OBJECTIVE:

- To provide leadership through ethical, accountable and legislative decision-making processes
- To ensure local democratic representation
- To engage proactively with the community in a way that is consistent, appropriate and effective

DELIVERY PROGRAM ACTION:

- Maintain and Service Council's Range of Committees
-

1.0 EXECUTIVE SUMMARY

1.1 SUMMARY

The 25 November 2015 Meeting of the Leading & Learning Reference Group considered the following discussion topics:

- Pittwater Tree Management
 - Demography in Pittwater
 - Discussion Point Survey Results
-

2.0 RECOMMENDATION

1. *That Council note the Minutes of the Leading & Learning Reference Group Meeting held on 25 November 2015 that relate to the discussion on:*

- *Pittwater Tree Management*
- *Demography in Pittwater*
- *Discussion Point Survey Results*

2. *That Council note the following reference point from that meeting:*

2.1 Demography In Pittwater

- *That Council investigates providing the forecasting information via a link on Council's website.*
-

3.0 BACKGROUND

3.1 PURPOSE

To present to Council for consideration, the Minutes of Leading and Learning Reference Group Meeting held on 25 November 2015 (refer **Attachment 1**).

3.2 BACKGROUND

The Leading and Learning Reference Group was established by Council to consider matters involving goals and initiatives contained in the key directions 3 & 5 of Council's Strategic Plan – Leading and Learning.

The strategic objectives within the associated key direction are:

- Corporate Management Strategy
- Disaster, Risk and Emergency Management Strategy
- Community Education and Learning Strategy

To fulfil its role, the Leading and Learning Reference Group provides:

- a link between Council and the community which enhances communication about the strategic direction of Council initiatives
- input from Council and the community (historical, social and environmental) when considering possible solutions
- consideration of implications from strategic initiatives and their likely impact on the local community; and feedback to Council on behalf of the community

3.3 POLICY IMPLICATIONS

Nil

3.4 RELATED LEGISLATION

Nil

3.5 FINANCIAL ISSUES

3.5.1 Budget

Nil

4.0 KEY ISSUES

- Pittwater Tree Management
- Demography of Pittwater
- Discussion Points Survey Results

5.0 ATTACHMENTS

Attachment 1: Minutes of the Leading and Learning Reference Group Meeting held on 25 November 2015.

6.0 SUSTAINABILITY ASSESSMENT

A sustainability assessment is not required for Minutes of Meetings.

Report prepared by

Warwick Lawrence
MANAGER - ADMINISTRATION & GOVERNANCE



LEADING & LEARNING REFERENCE GROUP

MINUTES

25 November 2015

Meeting commenced at 4.02pm

M J Ferguson
General Manager



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ATTENDANCE:

Members of the Committee:

Cr Sue Young, Chairperson
Mr Frank Adshead, Mona Vale Residents Association
Ms Suzanne Atteridge, Pittwater Resident Representative
Ms Sandra Blamey, Pittwater Resident Representative
Mr Neil Evers, Aboriginal Support Group
Mr Phil Ingram, Anglers Action Group (Sydney Northside)
Mr Graeme Jessup, Sustainability Pittwater
Mr Gareth Jones, Avalon Palm Beach Chamber of Commerce
Mr Peter Middleton, Pittwater Resident Representative
Mr David Shields, Bayview Church Point Residents Association
Mr Tony Tenney, Clareville and Bilgola Plateau Residents Association

The following Council Advisors:

Mr Warwick Lawrence, Manager, Administration & Governance
Mr Steve Lawler, Acting Manager, Reserves & Recreation
Mr Andrew Thor, Tree Preservation Officer
Mr Russell Peake, Community Development Officer
Mr David Bremner, Community Engagement Officer
Ms Pamela Tasker, Administration Officer/Minute Secretary

LEADING & LEARNING REFERENCE GROUP

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1.0 Apologies

REFERENCE GROUP RECOMMENDATION

That apologies be accepted from the following members and leave of absence from the Leading and Learning Reference Group Meeting on 25 November 2015 be accepted:

- Mr David Hegarty, Scotland Island Residents Association
- Mr Jim Boyce, Manly Warringah and Pittwater Historical Society
- Mr Gavin Butler, Newport Residents Association
- Mr Andrew Tiede, Anglers Action Group (Sydney Northside)
- Mr Gary Grocott, Pittwater Resident Representative

(Mr Neil Evers / Mr Gareth Jones)

Notes:

1. Mr Phil Ingram attended as alternative delegate on behalf of the Anglers Action Group (Sydney Northside).
2. Mr Gary Grocott, Pittwater Resident Representative, has tendered his resignation from the Reference Group due to a conflicting commitment. This matter is further discussed under Item 5.1 – Membership Matters.

2.0 Declarations of Pecuniary and Non-Pecuniary Conflict of Interest

Nil.

3.0 Confirmation of Minutes

REFERENCE GROUP RECOMMENDATION

That the Minutes of the Leading & Learning Reference Group meeting held on 26 August 2015, copies of which were provided to all members, are hereby accepted as a true and accurate record of that meeting.

(Mr David Shields / Ms Suzanne Atteridge)

4.0 Discussion Topics

LL4.1 Pittwater Tree Management

Proceedings in Brief

At the meeting of the Leading & Learning Reference Group held on 26 August 2015 a discussion was held on responses to the April storm event. The following reference point came out of that discussion:

"That Council consider a long-term strategy in regard to the safety and viability of street trees, including the assessment and safe removal of vulnerable trees where appropriate."

Mr Andrew Thor, Tree Preservation & Management Officer in Council's Reserves and Recreation Business Unit, addressed the meeting on this item. A copy of the PowerPoint presentation provided by Mr Thor is at **Appendix 1** to these Minutes.

DISCUSSION POINTS:

- The Database of Tree Assets only includes Council street trees, and not those trees on private property or in bushland reserves.
- Q:** Does the database categorise trees according to the risk factors they present?
- A:** On each inspection we apply an assessment template which is based on a risk matrix created by the International Society of Arborists. The outcome is recorded on the database and we refer back to previous risk assessments when inspecting trees.
- The Reference Point from the last meeting related more to how trees are managed by Ausgrid and the subsequent risks these unstable trees present especially during storms.
- The Council program doesn't really interact with the Ausgrid program although we have negotiated some special arrangements with Ausgrid in relation to certain streets and trees.
- Ausgrid employs sub-contractors especially approved to work near electricity wires.
- It is true that some Ausgrid prunings look ugly and can impact on tree health, but this has to be considered in terms of safety aspects such as fire prevention or falling trees bringing the wires down. Also some trees such as eucalypts can be really difficult to prune.
- Q:** What is Council policy on removing 'undesirable' trees, being those not covered by preservation orders?
- A:** We have removed many located on public land, but not all are noxious weeds. Some are good trees and provide amenities such as shade which is valued by residents. Certainly if the tree is causing a nuisance and residents want them gone then they are removed.
- Council will only remove 'undesirable' trees on public land in response to a request from the community. However, there are limited resources and trees identified as presenting a potential risk are prioritised according to the specific tree and the location, such as those near schools or in high pedestrian precincts.
- Q:** The community perception is that many significant trees on private properties are removed for spurious reasons. Is it possible some arborist reports cite dangerous trees to facilitate removal for views?

- A:** 'Dangerous' only refers to a tree in imminent danger of falling. Removal requests on trees under preservation orders always result in an inspection by Tree Preservation Officers (TPO). If there are obvious dangers then the removal request is approved. If the risk is not obvious Council can request further arborist reports. TPO's see a lot of arborist reports so become very good at identifying anomalies and suspect arborist reports do get challenged.
- It is extremely difficult to prosecute unlawful removal unless the culprit is caught red handed. At least changes to the tree preservation orders have enabled Council to issue fines for illegal tree works.
 - We get a lot of calls from the public whenever trees are removed and all complaints are investigated, but not all tree removal is illegal. A quick check of Council's computer records can establish if permission has been granted for removal.
 - Naming & Shaming works only to a limited extent. The erection of signs blocking views at tree poisoning sites is a temporary aggravation only to the land owner.
- Q:** Is there still a lot of clearing under the Bushfire 10/50 rule?
- A:** When it first came in there were definitely a lot of unnecessary tree removals. Removals slowed down after the rule was amended and although it is still occurring it is not on the same scale. To be fair a lot of tree and vegetation removal was actually in fire protection zones and may have been of concern to property owners.
- Q:** Community concerns have been expressed regarding the trees lost in the April storm event. Are those trees being replaced and will they be monitored for stability?
- A:** It comes down to the planting program of appropriate tree selection. Some of the big trees that came down will not be replaced with similar trees as they were simply the wrong tree in the wrong location.
- Q:** What about controlling for trees identified as being noxious weeds such as the African Olive?
- A:** We do control for noxious plants on public land. If a DA is submitted on a private property we can include removal of noxious trees in the conditions of consent. We don't have a lot of control over established trees on private property but if a tree is declared noxious and the subject of complaints from neighbours the property owner can be issued with orders for its removal.
- Managing trees in the urban environment is totally different to managing trees in the natural environment.

Notes:

1. The Chair and members thanked Mr Thor for his presentation.
2. The members noted the strategy employed by Council on Tree Management in Pittwater.

LL4.2 Demography of Pittwater

Proceedings in Brief

Mr Russell Peake, Community Development Officer, addressed the meeting on this item. Mr Peake demonstrated the ABS Census information compiled by Profile ID and now available on the Pittwater Council website. This can be accessed via the following link:

<http://atlas.id.com.au/pittwater/#MapNo=10173&SexKey=3&datatype=1&thetype=3&topicAlias=population-density&year=2011>

If you have any questions or require assistance accessing data please contact:
russell_peake@pittwater.nsw.gov.au - Ph: 9970 1671

DISCUSSION POINTS:

- Forecast ID can be used to demonstrate suburb comparisons on population growth over next 20 years.
- The data provides lots of ammunition for arguing against LGA boundary changes. It enables access to the appropriate data to prove points.

Q: What needs to happen for Pittwater to include this forecast information onto the Council website?

A: Mr Peake indicated that this will be investigated administratively.

Time Lag:

- The next census will be in mid 2016.
- ABS will provide the statistical analysis in early 2017.
- Profile ID then have to reconfigure the new data.
- It is expected we will have the 2016 data in a couple of years.

REFERENCE POINT:

- *That Council investigates providing the forecasting information via a link on Council's website.*

Note:

The discussion on the demographic characteristics of Pittwater was noted and the members extended their thanks to Mr Russell Peake, Community Development Officer, for his presentation on profile.id.

LL4.3 Discussion Points Survey Results

Procedures in Brief:

Mr David Bremner, Community Engagement Officer, addressed the meeting on this item. The survey to identify the Reference Group priorities across Leading and Learning's three key strategies were as follows:

Corporate Management Strategy:

- Rating 4.6:** Council to remain financially sustainable despite cost shifting from State & Federal Governments.
- Rating 4.4:** Enhanced Regional partnerships to share costs and increase productivity.
- Rating 4.3:** Pressure from aging infrastructure with decreasing funding sources to maintain and renew existing assets to required standard

Disaster, Emergency & Risk Management Strategy:

- Rating 4.38:* Impact of climate change and sea level rise on the coastline and low lying areas
Rating 4.10: Managing the fuel load to reduce the rate of spread and intensity of bush fires, while minimising environmental/ ecological impacts
Rating 4.00: Raising the risk awareness of the community through community education
Access to essential services such as the hospital in emergency situations with only two arterial roads
Reducing the community's vulnerability to bushfires by improving preparedness
Utilise technology to communicate emergencies

Community Education & Learning Strategy;

- Rating 4.4:* Partnerships with local businesses to provide student mentoring, internships, traineeships and apprenticeship opportunities
Rating 4.3: Support business to government partnerships eg Northern Sydney Institute TAFE Brookvale, Destination NSW to attract investment, vitalisation, local business growth and employment generation
Rating 4.2: Increased utilisation of the Council website to increase awareness of local learning opportunities
National Broadband Network roll-out and its potential to increase connectivity both locally and globally

DISCUSSION:

- Q:** Weighted averages don't show a lot of differentiation between topics. Is it enough to establish a hierarchy?
A: It is just a snapshot but it is enough to provide a framework for future topic planning. The Community Strategic Plan identifies a massive number of issues and the survey hopefully drilled down to what was most important to the group.

It is easier for the other groups as their strategic aims are much sharper, but Leading & Learning has a wider focus. Also, this group more than any other has been focused on Fit for the Future. This was of great value to Council but it will be good to get back to topics concentrating on L&L strategic aims.

REFERENCE GROUP RECOMMENDATION

That the results of the survey be noted and that Mr Bremner be thanked for his presentation.

(Mr Tony Tenney / Mr Graeme Jessup)

5.0 Business Arising

5.1 Membership Matters

1. The Chair extended a warm welcome to Mr Peter Middleton who has replaced Mr Joe Mills as Pittwater Resident Representative.
2. Mr Gary Grocott has tendered his resignation from the Reference Group. He has indicated that he would like to remain in contact with the group and the Chair asked that he continue to be included in group emails. The Chair extended her thanks to Mr Grocott for his past participation in the group.

5.2 Access and Linkages Open House

Pittwater Council is holding an open house on Saturday 28 November at the Mona Vale Memorial Hall from 10am to 2pm. Representatives from Transport NSW and Council staff will be available to answer questions on the Mona Vale Traffic Flow and Parking Strategy, the Walk Mona Vale pedestrian access and mobility plan, and the Pittwater Bike Plan which investigates cycling options for the Mona Vale town centre.

Information is available via the following link:

<http://places.pittwater.nsw.gov.au/events/access-linkages-open-house>

5.3 B-Line Transport

Transport for NSW has announced two **B-Line specific** drop in community information sessions:

- Warriewood – 2 December, 630-830pm, Nelson Heather Centre, Jacksons Road
- Narrabeen – 3 December, 5-7pm, North Narrabeen Community and Tennis Centre, Woorarra Ave

Representative from Transport NSW will be in attendance at the Access and Linkages Open House (see Item 5.2 above) and can provide information on B-Line Transport initiatives.

Further information can be accessed on B-Line Transport via the following link:

<http://yoursay.b-line.transport.nsw.gov.au/get-involved>

5.4 Australia Day Awards

Nominations close on Friday 27 November 2015. Forms were distributed and members provided some details on potential nominees to Mr Bremner.

6.0 Proposed Meetings Schedule 2016

The 2015 meetings schedule of the Leading & Learning Reference Group was confirmed as follows:

- Wednesday 24 February 2016 at 4.00pm
- Wednesday 25 May 2016 at 4.00pm
- Wednesday 24 August 2016 at 4.00pm
- Wednesday 23 November 2016 at 4.00pm

**There being no further business the
Leading & Learning Reference Group Meeting
closed at 5.50pm on Wednesday 26 November 2015**



Tree Management

Leading and Learning Reference Group Reference Point

"That Council consider a long-term strategy in regard to the safety and viability of street trees, including the assessment and safe removal of vulnerable trees where appropriate."



1



What does Council currently do with trees.

Brief overview.

1. Manage/maintain tree assets on road reserves and reserves.
2. Planting Programs
3. Planning advice/ DA and Council infrastructure
4. Private tree applications
5. Insurance claims
6. Illegal Tree Removals/poisoning

2

Tree Maintenance

– Pro Active

- Database of tree assets
- Reinspections
- Preventative maintenance



– Reactive

- Resident inquiries/ requests
- Storms

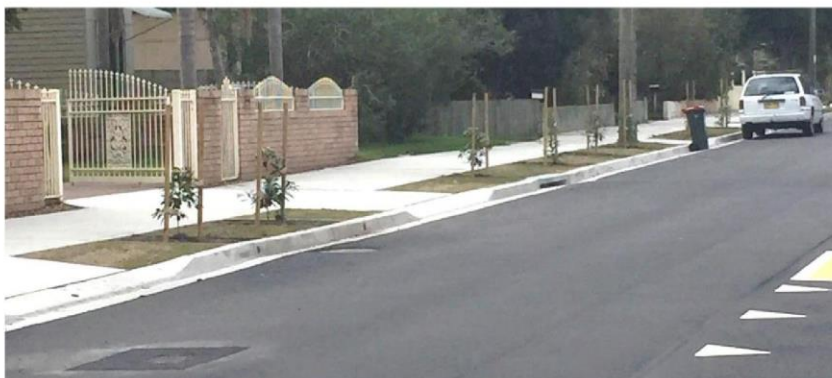




5

Tree Planting Program

- New Street Trees
 - Resident consultation
 - Appropriate species selection



6

Warriewood Master Plan

- Appropriate species selection
- Landscape specification for developers



7

Replacement Trees

- Preserving tree amenity
- Sensible species selection



8

Illegal Tree Removals/poisoning



9



10

Sustainable Towns and Villages Committee

12.0 Sustainable Towns and Villages Committee Business

| | |
|--------------|--|
| C12.1 | 47 Wallumatta Road Newport - Partial demolition of existing dwelling and construction of new dwelling |
|--------------|--|

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 the 10 December 2015 considered the Assessing Officers report (refer **Attachment 1**) for determination of N0288/15 - 47 Wallumatta Road Newport - Partial demolition of existing dwelling and construction of new 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.

The assessing officer has indicated within his report that the maximum height control for this development has been breached by 1.4m which represents a height variation to policy of 16.5%.

Council did not receive any letters of objection to this application.

- 1.3 Discussion in relation to these variations is also contained within Section 8.0 (Discussion of Issues) of the Assessing Officer's report.

- 1.4 The applicant and her representative were present at the meeting. The Development Unit considered the issues raised by the applicant's representative 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.
-

2.0 RECOMMENDATION

That the recommendation of the Development Unit be endorsed and Development Application N0288/15 - 47 Wallumatta Road Newport for the partial demolition of existing dwelling and construction of new dwelling be granted development consent pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act 1979 and subject to the draft conditions of consent attached to this report.

3.0 BACKGROUND

3.1 PURPOSE

To seek endorsement of the Development Unit's recommendation following consideration of Development Application - N0288/15 - 47 Wallumatta Road Newport - Partial demolition of existing dwelling and construction of new 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 N0288/15 - 47 Wallumatta Road Newport - Partial demolition of existing dwelling and construction of new dwelling.

Despite the height variation to policy of 16.5% 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 8.0 of the Assessing Officer's report)

3.3 POLICY IMPLICATIONS

The NSW Department of Planning requires that applications involving a variation to a development standard of more than 10% be referred to the elected Council for determination.

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 / TABLED DOCUMENTS

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: N0288/15 - 47 Wallumatta Road Newport - Partial demolition of existing dwelling and construction of new dwelling

Meeting: Development Unit

Date: 10 December 2015

SUMMARY OF RECOMMENDATION

Consent with Conditions

| | |
|----------------------------------|--|
| REPORT PREPARED BY: | Michael Doyle |
| APPLICATION SUBMITTED ON: | 6/08/2015 |
| APPLICATION SUBMITTED BY: | D BONNER & A PORRET |
| OWNER(S): | DAVID BONNER & AMBRE N PORRET |

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 N0288/15 for partial demolition of existing dwelling and construction of new dwelling at 47 Wallumatta Road Newport NSW 2106 subject to the draft conditions of consent attached.

Report prepared by

Michael Doyle
PLANNER

Andrew Pigott
MANAGER, PLANNING & ASSESSMENT

ASSESSMENT REPORT

SUBJECT: N0288/15 - 47 WALLUMATTA ROAD, NEWPORT NSW 2106 (Lot 2 DP 12797)
Partial demolition of existing dwelling and construction of new dwelling

SUMMARY OF RECOMMENDATION: Consent with Conditions

| | |
|----------------------------------|--|
| REPORT PREPARED BY: | Michael Doyle |
| APPLICATION SUBMITTED ON: | 6 August 2015 |
| APPLICATION SUBMITTED BY: | VAUGHAN MILLIGAN DEVELOPMENT CONSULTING PTY LTD |
| OWNER(S): | AMBRE NATHALIE PORRET MR DAVID BONNER |
| ESTIMATED COST OF WORKS: | \$ 423,818 |
| DETERMINATION LEVEL: | Development Unit, Council |
| NO. OF SUBMISSIONS: | 0 |

1.0 SITE DETAILS

Development Application N0288/15 is for 47 Wallumatta Road, Newport which is Lot 2 in Deposited Plan 12797. The site is long, four-sided and has a total site area of 1,140m². The site has a 15.545m frontage to the southern side of Wallumatta Rd and falls below street level.

The site falls 25.5m across 87.7m including, over the proposed building footprint (including carport, dwelling and rear decks), 11.6m or 33.1%.

The site is occupied by a two-storey dwelling, driveway, high front fencing, retaining walls and elevated decks. A pipe lies underneath the dwelling and diverts a natural watercourse. The Geotechnical Report which accompanies the application describes that the pipe discharges below the house as well as on the western property boundary. Residential dwellings neighbour the property on either side. Bushland lies within the site to the south.

2.0 PROPOSAL IN DETAIL

The application seeks consent for partial demolition of the existing dwelling for construction of a new dwelling. In particular, the application seeks

1. Lower ground floor - New decks, internal alterations and external additions; retaining wall below a detached double carport and 0.5m from the front property boundary
2. 'Upper ground' floor - New deck, internal alterations and external additions; detached double carport 0.5m from the front property boundary; external driveway; 1m high solid wall as a balustrade to either side of the external driveway
3. 'First' floor - Addition

The application proposes to retain existing floor levels, lower ground floor eastern and southern walls and 'upper ground' floor external, kitchen and entry walls.

3.0 STATUTORY AND POLICY CONSIDERATIONS

Under Pittwater Local Environmental Plan 2014, the site is zoned E4 - Environmental Living. 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)
- 10/50 Vegetation Clearing Code of Practice
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Area 5
 - Biodiversity
 - Geotechnical Hazard Map - H1
 - Height of Buildings Map - I ~ 8.5m
 - Lot Size Map - Q ~ 700m²
- Pittwater 21 Development Control Plan (P21 DCP)
 - Newport Locality
 - Geotechnical Risk Management Policy for Pittwater
 - Bushfire prone
 - Land requiring on-site detention
 - Land containing or adjoining Pittwater Spotted Gum Forest
 - Landscaped Area Map 1

4.0 BACKGROUND

N0148/15

N0148/15 proposed alterations and additions to the existing dwelling. In particular, the application proposed internal alterations and additions to the existing two floors, including new decks, as well as a 'first' floor.

Council identified height, character, side setback and building envelope non-compliances. Council requested the applicant amend the design reducing the first floor and demonstrating greater regard to policy and to provide additional information regarding stormwater drainage and proposed driveway works.

The applicant submitted an amended design reducing the 'upper ground' floor to the rear 0.6m and reduced the 'first' floor to the rear 1.5m. Council continued to identify height, character, side setback and building envelope non-compliances as well as visual privacy, bulk & scale and amenity concerns. Subsequently, the applicant elected to withdraw the application.

Subject N0288/15

Subject application N0228/15 proposed alterations and additions to the existing dwelling. The proposal departed from the amended plans in withdrawn application N0148/15 by, on the lower ground floor on the western side, deck reduced 0.5m in width and the 'first' floor reduced a further 1m from the rear.

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

The application was referred to Council's Development Engineer and Council's Natural Resources Officer for comment. The application was also referred to Council's Catchment Management and Climate Change Officer for comment, however the piped watercourse was considered by Council's Development Engineer in accordance with PDCP B5.14 and as appropriate.

The site was inspected on 18.08.15 and 03.09.15.

Initial application assessment found that

- the proposed building constituted a new dwelling,
- for the purposes of street views, the carport height must be reduced and balustrade must allow through-sight,
- for the purposes of the prescribed building envelope, the proposed building must be brought-in from the western side on the 'upper ground' floor and the eastern side on the 'first' floor, and
- the proposed building was three stories and up to 9.9m. This height must be reduced.

Council requested that the applicant provide additional information addressing these points.

The applicant submitted additional information comprising amended plans

- agreeing to re-classify the proposal as 'new dwelling',
- reducing the carport 0.1m and describing that the proposed carport height maintains minimum clearance required for the owner's trades vehicles,
- bringing the building in on two sides, and
- reducing the building height 0.15m and thereby reducing the first floor height to the 2.4m, the minimum height required for habitable rooms.

The application was re-notified in accordance with Council's notification policy. The application was re-referred to Council's Development Engineer.

Neighbouring site 26 Wallumatta Rd was visited on 24.11.15.

The amended plans are considered in the following assessment.

A series of amendments to P21 DCP 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 P21 DCP. 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

The application was notified to six adjoining property owners, as well as the Newport Residents Association, for a period of 14 days

- between 12.08.15 and 26.08.15, and
- between 14.10.15 and 28.10.15

in accordance with Council's Notification Policy.

Council did not receive any 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 E4 Environmental Living | Y | Y | Y | | |
| 4.3 Height of buildings | N | Y | Y | 8.5m | 9.9m (including eaves) |
| 4.6 Exceptions to development standards | Y | Y | Y | | |
| 7.1 Acid sulfate soils | Y | Y | Y | | |
| 7.2 Earthworks | Y | Y | Y | | |
| 7.7 Geotechnical hazards | Y | Y | Y | | |
| 7.10 Essential services | Y | Y | Y | | |

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

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 ~1:400 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 | - | - | - | | |

| Clause | T | O | N | Numerical Standard | Numerical Proposal |
|--|---|---|---|------------------------------|---|
| 5.3 Referral to NSW Office of Environment and Heritage | - | - | - | | |
| A1.7 Considerations before consent is granted | Y | Y | Y | | |
| A4.10 Newport Locality | N | Y | Y | Two stories in any one place | Three stories, yet shall mostly appear as two from the street |
| B1.4 Aboriginal Heritage Significance | Y | Y | Y | | |
| 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 | | |
| B3.6 Contaminated Land and Potentially Contaminated Land | - | - | - | | |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community | Y | Y | Y | | |
| B5.2 Wastewater Disposal (Amended 14/11/15 See PLEP 7.10) | Y | Y | Y | | |
| B5.3 Greywater Reuse | - | - | - | | |
| B5.10 Stormwater Discharge into Public Drainage System | Y | Y | Y | | |
| B5.12 Stormwater Drainage Systems and Natural Watercourses | Y | Y | Y | | |
| B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System) | Y | Y | Y | | |
| B6.1 Access Driveways and Works on the Public Road Reserve - Low Density Residential (Amended 14/11/15 See B6.1) | Y | Y | Y | | |
| B6.1 Access driveways and Works on the Public Road Reserve | Y | Y | Y | | |
| B6.2 Internal Driveways | Y | Y | Y | | |
| B6.3 Off-Street Vehicle Parking Requirements | Y | Y | Y | | |
| B6.3 Internal Driveways - Low Density Residential (Amended 14/11/15 See B6.2) | Y | Y | Y | | |
| B6.5 Off-Street Vehicle Parking Requirements - Low Density Residential (Amended 14/11/15 See B6.3) | Y | Y | Y | | |

| Clause | T | O | N | Numerical Standard | Numerical Proposal |
|--|---|---|---|--|---|
| B8.1 Construction and Demolition - Excavation and Landfill (Amended 14/11/15 See B8.1) | 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 | N | Y | Y | The proposal must demonstrate view sharing through L&E Court principles. | The proposal did not address view sharing through L&E Court principles. |
| C1.4 Solar Access | N | Y | Y | 3hrs mid-winter sun to main POS | Southern orientation, topography and surrounding dev. reduce main POS sun |
| C1.5 Visual Privacy | N | Y | Y | No overlooking within 9m | 'First' floor bed west window faces no. 49 deck but is 7.6m away and a level higher |
| C1.6 Acoustic Privacy | Y | Y | Y | | |
| C1.7 Private Open Space | Y | Y | Y | | |
| 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 | - | - | - | | |
| C1.17 Swimming Pool Safety | - | - | - | | |
| C1.19 Incline Passenger Lifts and Stairways | - | - | - | | |
| C1.23 Eaves | N | Y | Y | 450mm eaves on all elevations | Parapet walls face side boundaries. Eaves face the street. |
| C1.24 Public Road Reserve - Landscaping and Infrastructure | N | Y | Y | Street trees at 6m centres | Plans show street tree which is no longer there. Consent conditions shall require replacement planting. |
| C1.25 Plant, Equipment Boxes and Lift Over-Run | - | - | - | | |

| Clause | T | O | N | Numerical Standard | Numerical Proposal |
|---|---|---|---|---|--|
| D10.1 Character as viewed from a public place | N | Y | Y | Parking shall not be dominant site feature | Slope limits parking placement. Consent conditions shall require open balustrade |
| D10.3 Scenic protection - General | Y | Y | Y | | |
| D10.4 Building colours and materials | N | Y | Y | Dark & earthy tones | 'Surfmist' is light grey. Consent conditions shall require dark & earthy tones. |
| D10.7 Front building line (excluding Newport Commercial Centre) | N | Y | Y | 6.5m | 0.5m to carport 5.8m to dwelling |
| D10.8 Side and rear building line (excluding Newport Commercial Centre) | N | Y | Y | 1m one side, 2.5m the other side | 0.5m to carport side 1m & 2m to deck sides |
| D10.11 Building envelope (excluding Newport Commercial Centre) | N | Y | Y | From the side boundaries at ground level, 3.5m high and 45 deg. angle | 1.6m & 3.45m outside envelope |
| D10.13 Landscaped Area - Environmentally Sensitive Land | Y | Y | Y | | |
| D10.15 Fences - Flora and Fauna Conservation Areas | Y | Y | Y | No front fences | The 1.8m front fence needs to be partly destroyed for the carport. Consent conditions shall disallow replacing destroyed fencing. |
| D10.16 Construction, Retaining walls, terracing and undercroft areas | N | Y | Y | Undercroft areas - max. 3.5m high | Ex. deck undercroft - 4m Proposed deck undercroft - 5.7m The undercroft is screened by surrounding bushland, and consent conditions shall require screen planting. |

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

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

8.0 DISCUSSION

4.3 Height of buildings

Buildings must not exceed 8.5m high, or 10m high if

- slope beneath the building exceeds 30%,
- the portion of building exceeding 8.5m high is minor, and
- the building is consistent with surrounding buildings and the desired character for the area, is sensitive of slope, minimises visual impact and reasonably retains sun and views.

The existing building appears to reach 9.9m high. The application does not propose to extend the 'upper ground' floor further to the rear, although the application does propose to replace the existing roof and a new, 'first' floor. The 'first' floor varies between 8.8m and 9.9m high.

The slope underneath the existing dwelling itself is also 24.9% and the whole of the first floor exceeds 8.5m. The western elevation development drawing also appears to suggest the proposed 'upper ground' flood deck balustrade is up to 10.6m high, however this height is only at the southwest corner, over a slope exceeding 30% and is considered to be a minor portion of building.

The applicant must make a cl. 4.6 statement for the 'first' floor. For comment, see cl. 4.6

4.6 Exceptions to development standards

1. Development standard to be varied

PLEP Part 7 Additional local provisions Cl. 4.3 Height of Buildings requires buildings to be no more than 8.5m high.

The existing building reaches 9.9m high. The application proposes to replace the existing roof and a new, 'first' floor. Development drawings show the 'first' floor varies between 8.8m and 9.9m high.

The proposal seeks to vary the 8.5m development standard by 1.4m (16.5%).

2. Means to vary the development standard

Cl. 4.6 of PLEP 2014 provides a mechanism for consideration of a variation to the 8.5m height limit.

3. The applicant's Cl. 4.6 statement

The applicant made a written request justifying the height development standard contravention. The statement identified proposed building height as 9.8m and provided the following reasons to justify the design:

1. bulk & scale and height in keeping with neighbours.
2. the design responds to the slope of the land.
3. the articulated form distributes the floor area.
4. the first floor minimises built upon area on the site.
5. the significant majority of the roof complies with the height control.
6. the dwelling shall appear as two stories.
7. there shall be no significant neighbouring or public domain view loss or loss of sun.
8. the dwelling meets the E4 Environmental Living zone objectives.

4. Cl. 4.6 assessment

E4 Environmental Living provides for low-impact development and recognises areas' aesthetic values. Cl. 4.3 Height of Buildings aims to ensure buildings are in scale with and sensitive to the surrounding environment.

The applicant's finding that the proposed structure will have minimal impact on the environment and amenity are agreed with. The application nominates the middle and top levels as 'upper ground' and 'first' floors, however these levels actually resemble first and second stories. Notwithstanding this, the application proposes a new carport which is before the building and shall screen its three-level appearance.

The 'first' floor shall reach 10.3m long and, unlike neighbours, comprises another level and is not designed within the roof form. However, the floor is modulated on three sides, reducing its floor area and appearance from other angles.

From the street, there is a southwest view over the property to Pittwater Waterway. The proposed 'first' floor does not extend further east than the existing building and will retain this public view (including through, should the application be approved, consent conditions requiring open balustrades to the carport), thereby preserving the area's aesthetic, natural values and meeting zone and the development standard aims.

The application proposes to retain part of the existing building form. This form increases the subsequent 'first' floor height.

The proposed 'first' floor distributing floor space over existing building is recognised to reduce built upon area across the site. The floor shall also not unreasonably overlook or overshadow neighbours.

The 'first' floor, to the extent proposed, shall not be inconsistent with the development standard and zone objectives and shall not be significantly different to surrounding development. The circumstances of the case, and particular building design involving retaining part of the existing building, lead to the added height. The cl. 4.6 application is considered to be well-founded and is supported.

A1.7 Considerations before consent is granted

The application proposes to retain existing floor levels, lower ground floor eastern and southern walls and 'upper ground' floor external, kitchen and entry walls.

This assessment has made concessions to compliance with development standards and controls on the basis of the proposal being restricted by and retaining floors, walls and posts.

Should the application be approved, consent conditions shall advise that the approval is based on retaining floors and walls, and shall warn that any future modification application deleting these elements may no longer allow either the development to be classified as a partial demolition or the development to be accepted.

B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Council's Natural Resources Officer commented:

The property contains a modified landscape typical of a suburban garden sloping down from the road. The proposed works include additions to the existing dwelling and construction of a carport. No trees are proposed for removal.

The rear deck is within close proximity to an existing tree however it is a Jacaranda species and listed as exempt from the B4.22 control in the DCP.

The driveway is proposed to be extended on both sides. The north western edge was in close proximity to a large tree however the site visit (14/5/15) revealed the tree has failed in the recent storms.

The south eastern edge of the driveway is within close proximity to a road reserve tree. Impacts should be minimal provided no excavation is required. The plans indicate the driveway is to be suspended above ground level therefore provided a suitably qualified arborist (Level 5) supervises construction there should be no detrimental impacts on the trees health.

New landscaping has been proposed (J.D. Evans and Company Pty Ltd, 1671-14 Issue B, 7/7/15) which is acceptable as they are native and will increase amenity.

There are no further natural environment issues.

B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)

Council's Development Engineer commented:

The site contains a 540mm diameter storm water pipe that appears to have replaced a natural water course through the site. A 'storm water assessment' has been submitted by the applicant

that concludes the pipe and water course adequately conveys runoff from the surrounding catchment through the site.

An easement will be required to be created over the piped section of the watercourse in favour of Council.

The applicant has objected to paying for an easement.

Council's Development Engineer has drafted the condition to read that:

The applicant is to contact Council regarding the process of creation of the easement prior to issue of an Occupation Certificate.

C1.3 View Sharing

Development controls include that

- All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.
- The proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing.
- Where a view may be obstructed, built structures within the setback areas are to maximise visual access through the structure e.g. by the provision of an open structure or transparent building materials.

Development outcomes include

- A reasonable sharing of views amongst dwellings. (S)
- Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S)

As a part of the application assessment, neighbouring site 26 Wallumatta Road was visited to find whether the application proposes view loss and, if so, whether that view loss is reasonable.

26 Wallumatta Rd comprises a dual occupancy divided between

- 1/26 on the ground floor at street level, and
- 2/26 on the upper ground floor.

Figures 1 & 2 below demonstrate 1/26 Wallumatta Rd's outlook.



Figure 1: 1/26 Wallumatta Rd's southerly outlook from the front terrace area outside the bedroom window from a standing position.



Figure 2: 1/26 Wallumatta Rd's southerly outlook from the front terrace area outside the living room window from a standing position. Note: The image has been zoomed in.

The application assessment also included a site visit to 2/26 Wallumatta Rd, however

- trees in the foreground at 26 Wallumatta Rd, the street and neighbouring properties further filter the southerly outlook available from this dwelling, and
- the owner and resident was satisfied with the application.

The application assessment also included consideration of 24 Wallumatta Rd and 28 Wallumatta Rd through obtaining their dwelling layout plans and assessment at the street:

- 24 Wallumatta Rd was found to rise significantly above the subject site and its Pittwater waterway views would not be impeded; and,
- 28 Wallumatta Rd was found, similarly to 2/26 Wallumatta Rd, to contain its living areas on the upper ground floor. 28 Wallumatta Rd is also oriented to the southwest away from the subject site.

The *Tenacity Consulting vs. Waringah [2004] NSWLEC 140* planning principle gives a four step process for assessing 1/26 Wallumatta Rd's potential view loss and finding whether any view loss can be accepted:

1. Views affected

The outlook is a partial, distant view of the Mona Vale suburb. Trees in the foreground at 26 Wallumatta Rd, the street and neighbouring properties reduce the outlook. The view includes canopy trees, buildings and the top of hills. The outlook does not include water or icons.

2. From where the views are obtained

The outlook is obtained from the ground floor front terrace area, bedroom window and living room window across 26 Wallumatta Rd's double hardstand area and the front property boundary. The outlook is obtained from standing and seated positions, although vehicles in the immediate foreground at 1/26 Wallumatta Rd would obstruct the outlook while seated and would reduce the outlook while standing.

3. Extent of impact

In figure 2, the area below the red line estimates the proposed additions.

The outlook is also available from

- further along the front terrace area, the kitchen window and bedroom 2 window, and
- from the rear yard.

The rear yard rises significantly and includes paved and surfaced areas with the southerly outlook.

4. How reasonable the proposal is

The proposed first floor rises up to 9.9m high.

PLEP Cl. 4.3 limits buildings to 8.5m high unless site slope exceeds 30%. In these circumstances, buildings may be permitted to reach over 8.5m high, but no more than 10m high, for minor portions of the building.

The whole of the proposed first floor exceeds the 8.5m height requirement and, therefore, the application is considered to breach the development standard and require a cl. 4.6 development standard variation.

The proposed design reduces built upon area across the site and the proposed building height will be consistent with adjoining neighbours. 1/26 Wallumatta Rd's outlook is also recognised as obtained from ground floor and therefore susceptible to loss through neighbouring development, partly dependent on 26 Wallumatta Rd not using its parking area and not to include any significant features or vistas. The outlook is also recognised as available from the rear yard.

The proposed impact on outlook is considered reasonable.

5. Conclusion

Development controls require proposals demonstrate view sharing through L&E Court principles. The application did not meet this development control, however the application assessment has found that the proposed design shall appear as two stories, shall be consistent with neighbours, and the outlook

- is, being from the ground floor, susceptible to loss, and
- does not contain notable features and is only considered to be an outlook.

The proposed impact on outlook is considered reasonable.

D10.11 Building envelope (excluding Newport Commercial Centre)

Buildings must lie within an imaginary envelope measured from the side boundaries, 3.5m above existing ground level and at a 45 deg. angle. Variation is made, however, for buildings over slopes exceeding 30% and which meet the desired character for the area, are sensitive of slope, minimise visual impact and reasonably retain sun and views.

The application also proposes a 'first' floor. This floor extends up to 1.6m on its western side and between 1.6m and 3.45m (with RL 62.85) on its eastern side outside the prescribed building envelope. On its eastern side:

1. The applicant has amended the 'first' floor eastern wall design so that it is set-in 0.8m for one room, providing modulation and a reduced building form. The front facade continues to extend 1.6m outside the envelope, however the 'first' floor is immediately set-in after this facade.
2. The 'first' floor ensuite presents a blank wall upon the eastern elevation which ranges between 2m and 3.45m outside the envelope, however this non-compliance is across a 5m-long wall and which is further from the street and does not overshadow neighbours.

The building is considered to sit at the maximum variance outside the prescribed envelope which will be considered, however the built form is recognised to be modulated, there is a large slope across the site and the dwelling will mostly appear two storeys from the street.

9.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 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 partial demolition of the existing dwelling and, in its place, construction of a new dwelling to the natural environment, local area, public domain, neighbouring properties and the property itself are acceptable subject to the recommended conditions. The conditions preserve view from the street to Pittwater Waterway and reduce the appearance of the building.

The application seeks to vary a development standard by over 10%, and so must be determined by 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 N0288/15 for partial demolition of existing dwelling and construction of new dwelling at 47 Wallumatta Road, Newport subject to the conditions of consent.

Report prepared by

Michael Doyle
Planner

CONSENT: N0288/15

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)

NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

DRAFT

Applicant's Name and Address:

**VAUGHAN MILLIGAN DEVELOPMENT CONSULTING PTY LTD
PO BOX 49, NEWPORT NSW 2106**

Being the applicant in respect of Development Application **N0288/15**

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 **N0288/15** for:

Partial demolition of existing dwelling and construction of new dwelling

At: 47 WALLUMATTA ROAD, NEWPORT NSW 2106 (Lot 2 DP 12797)

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

1. **Architectural drawings 1671-1 to 1671-11 rev. C dated 24/09/2015 & 1671-14 rev. B dated 07/07/2015, prepared by J.D. Evans and Company, dated 18/03/2015.**
2. **BASIX Certificate A 225 126, prepared by J. D. Evans & Co Pty Ltd, dated 24/07/2015.**
3. **Bushfire Risk Assessment Report, 47 Wallumatta Road, Newport, prepared by Bush Fire Planning Services, dated 07/04/2015.**
4. **Flood Investigations at 47 Wallumatta Road Newport letter, ref. no PDS 17 06 2015: 47 WA NEW, prepared by Pittwater Data Services Pty Ltd, dated 19/06/2014 and 22/06/2015.**
5. **Geotechnical Risk Management Report, ref. no. J0 402, prepared by White Geotechnical Group, dated 30 March 2015.**
6. **Schedule of finishes, unsigned, undated.**

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

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

Endorsement of date of consent:

Mark Ferguson
GENERAL MANAGER
Per:

Conditions of Approval

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This consent is not an approval to commence building work. The works associated with this consent can only commence following the issues 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 to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 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
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

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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.

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

1. 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.
2. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by White Geotechnical Group are to be incorporated into the construction plans.
3. At the commencement of building works and in perpetuity the entire property shall be managed in accordance with the requirements of the Bushfire Risk Assessment Report, prepared by Bush Fire Planning Services, dated 07/04/2015.
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. 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.
7. 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.
8. 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
9. 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.

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10. 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.
11. At least two (2) canopy trees are to be provided in the front yard and one (1) in the rear yard area, which at maturity will achieve a canopy height greater than 8.5 metres, to visually reduce the height, bulk and scale of the building. Species selection is to incorporate locally native species. This screen planting is to be retained over the life of the development and replaced if they should die or be destroyed or removed.
12. All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.
13. 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.
14. The first floor roof shall be no greater than RL 62.85.
15. A privacy screen with a minimum height of 1.8m, when measured from the finished floor level of the lower ground floor deck at RL 54.10, is to be incorporated into the design and maintained for the life of the development. This privacy screen is to run the full length of the eastern elevation of the deck at RL 54.10 and should consist of a solid translucent screen or perforated panels or trellises which have a maximum of 20% openings, and which are:
 - permanent and fixed;
 - made of durable materials and;
 - designed and painted or coloured to blend in with the house.
16. A privacy screen with a minimum height of 1.8m, when measured from the finished floor level of the upper ground floor deck, is to be incorporated into the design and maintained for the life of the development. This privacy screen is to run the full length of the eastern elevation and should consist of a solid translucent screen or perforated panels or trellises which have a maximum of 20% openings, and which are:
 - permanent and fixed;
 - made of durable materials and;
 - designed and painted or coloured to blend in with the house.
17. No water pollution shall result from the operation of any plant or equipment or activity carried out.
18. The operation of any plant or equipment or any procedure carried out at the premises shall not cause land pollution.
19. Two (2) Sydney Red Gum/Smooth-barked Apple (*Angophora costata*), Bangalay Gum (*Eucalyptus botryoides*), Spotted Gum (*Eucalyptus maculata*), Grey Gum (*Eucalyptus punctata*) or Bastard Mahogany (*Eucalyptus umbra*) trees are to be planted in the Council road reserve on the western side of the driveway. All native trees are to be retained for the

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life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree here listed.

20. All sanitary drainage must be concealed in service ducts or otherwise hidden from external view to the satisfaction of the Responsible Authority.
21. All plumbing, electrical wiring and drainage fixtures are to be concealed and not exposed to public view on buildings over one storey in height.
22. To increase through-sight from the street to the dwelling, bushland and views of Pittwater Waterway, the carport balustrades shall not be solid. The carport balustrades must be either post-and-wire or glass.
23. New electrical connections are to be carried out using underground cabling.
24. Materials and colour schemes are to be in accordance with the sample scheme approved by Council with the exception that
 - 'surfmist' is too light. 'Surfmist' is not authorised. The exterior must instead be of dark & earthy tones (mid-grey or darker, green, brown or dark-blue) and non-glare and of low reflectivity in accordance with *Pittwater Development Control Plan D9.3 Building colours and materials*.
25. No new fencing is authorised, and any part of any fence which is destroyed must not be replaced.

Note: The existing front fence lies in the footprint of the proposed carport.
26. Screen planting is to be provided adjacent to the eastern, southern and western sides of the decks which are at RL 50.30 and RL 51.82. This screen planting must comprise shrubs and trees which meet the landscaping requirements associated with the bushfire hazard yet this planting must screen 50% of the undercroft area. This screen planting is to be maintained for the life of the development and is to be replaced if any part of it dies or is destroyed or removed.
27. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.

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

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

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required

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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.

4. 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.
5. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
6. Structural Engineering details relating to the development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed 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.
7. 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.
8. Dwellings in bushfire prone areas are to be designed and constructed in accordance with BAL 29/19 of AS 3959 Construction of Buildings in Bush Fire Prone Areas. Construction specification to achieve this are to be provided to Principal Certifying Authority with the Construction Certificate application.
9. Details in the Construction Certificate are to reflect the recommendations/requirements of the Bushfire Risk Assessment Report prepared by Bush Fire Planning Services, dated 07/04/2015.
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

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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.

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. A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete finish).
 3. All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
 4. Council's Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.
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 and landscaping.
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.
14. The application was amended so as to lower building height, however the first floor roof is still shown to be RL 63.00. The development drawings must be updated to show the first floor roof shall be no greater than RL 62.85.
15. External glazing must be of low glare and reflectivity. The reflectivity index (expressed as a percentage of the reflected light falling upon any surface) of all external glazing is to have a maximum reflectivity index of 25%. Written confirmation of the reflectivity index of the material is to be submitted with the Construction Certificate. (Note: the reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement. This is to ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

Roofing materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and textures must be provided to the Certifying Authority.
16. An updated *Schedule of Finishes* showing that the exterior shall be finished in dark & earthy tones (mid-grey or darker, green, brown or dark-blue), and is non-glare and of low reflectivity, shall be submitted to the Accredited Certifier or Council with the Construction Certificate application.

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

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

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

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

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

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

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

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.

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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.
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. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
12. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
13. 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.
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. All construction in the public road reserve must be undertaken by a Council authorised contractor.

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17. No storage of building materials, 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.

18. 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.

19. Demolition works must be carried out in compliance with WorkCovers *Short Guide to Working with Asbestos Cement* and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words *DANGER ASBESTOS REMOVAL IN PROGRESS* measuring not less than 400mm x 300mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days notice in writing of the intention to disturb and remove asbestos from the development site.

20.

1. The only waste derived fill material that may be received at the development site is:
 1. virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997).
 2. Any other waste-derived material the subject of a resource recovery exemption under cl51A of the Protection of the Environmental Operations (Waste) Regulation 2005 that is permitted to be used as fill material.
2. Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

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.

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

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
3. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
4. Prior to the issue of an Occupation Certificate, a suitably qualified professional is to certify that the as-built development is consistent with the recommendations/ requirements of the Bushfire Risk Assessment Report, prepared by Bush Fire Planning Services, dated 07/04/2015.
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. Under Section 88B of the Conveyancing Act 1919 an easement to drain water that is a minimum of 2.5m wide is required to be created on the title of the land in favour of the Council over the existing 540mm diameter storm water pipe through the site. The applicant is to contact Council regarding the process of creation of the easement prior to issue of an Occupation Certificate.
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. Documented evidence of a qualified arborist supervising the works in proximity to trees being retained is required. This documentation is to be provided prior to the issue of the Occupation Certificate.
10. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.

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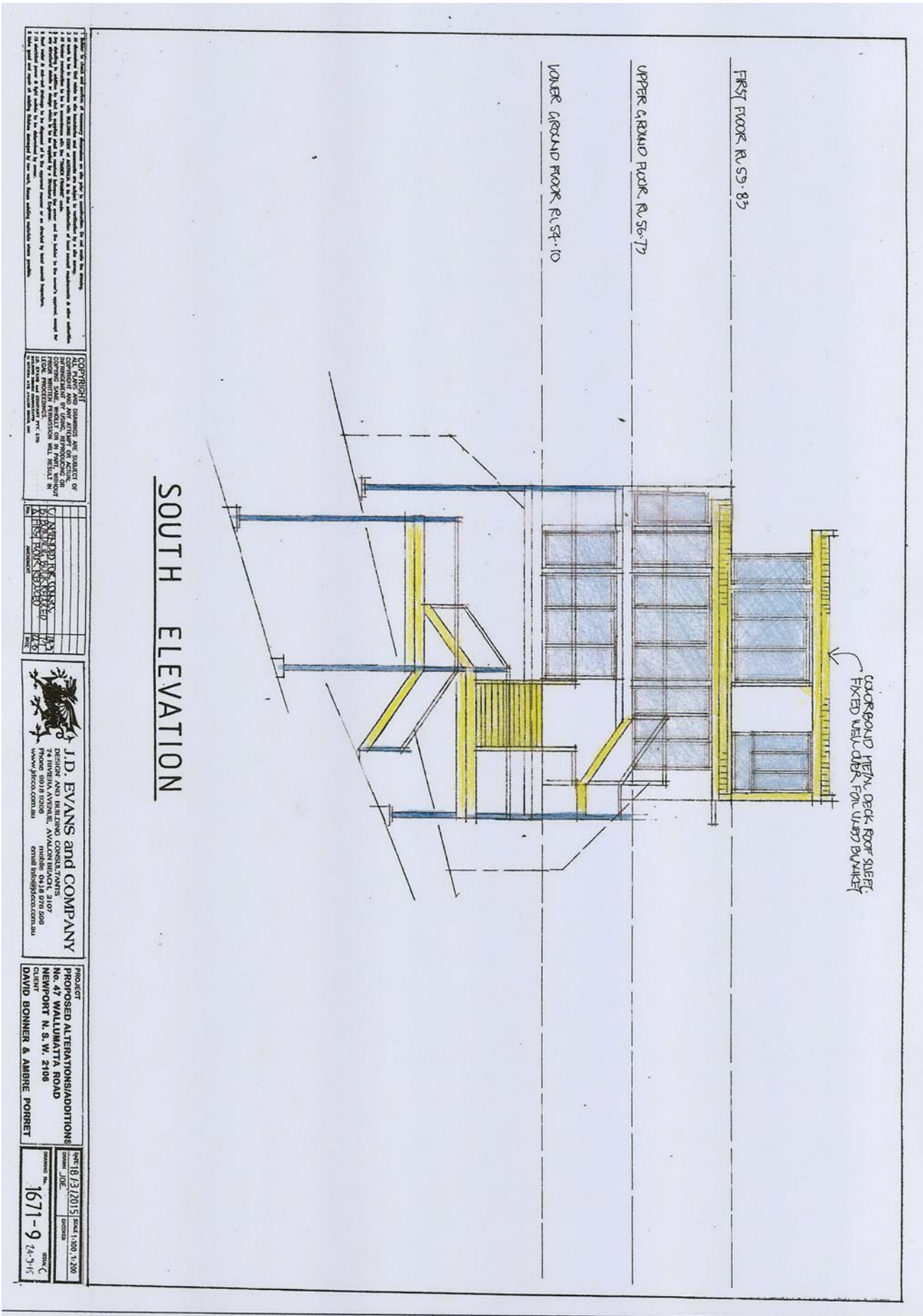
G. Advice:

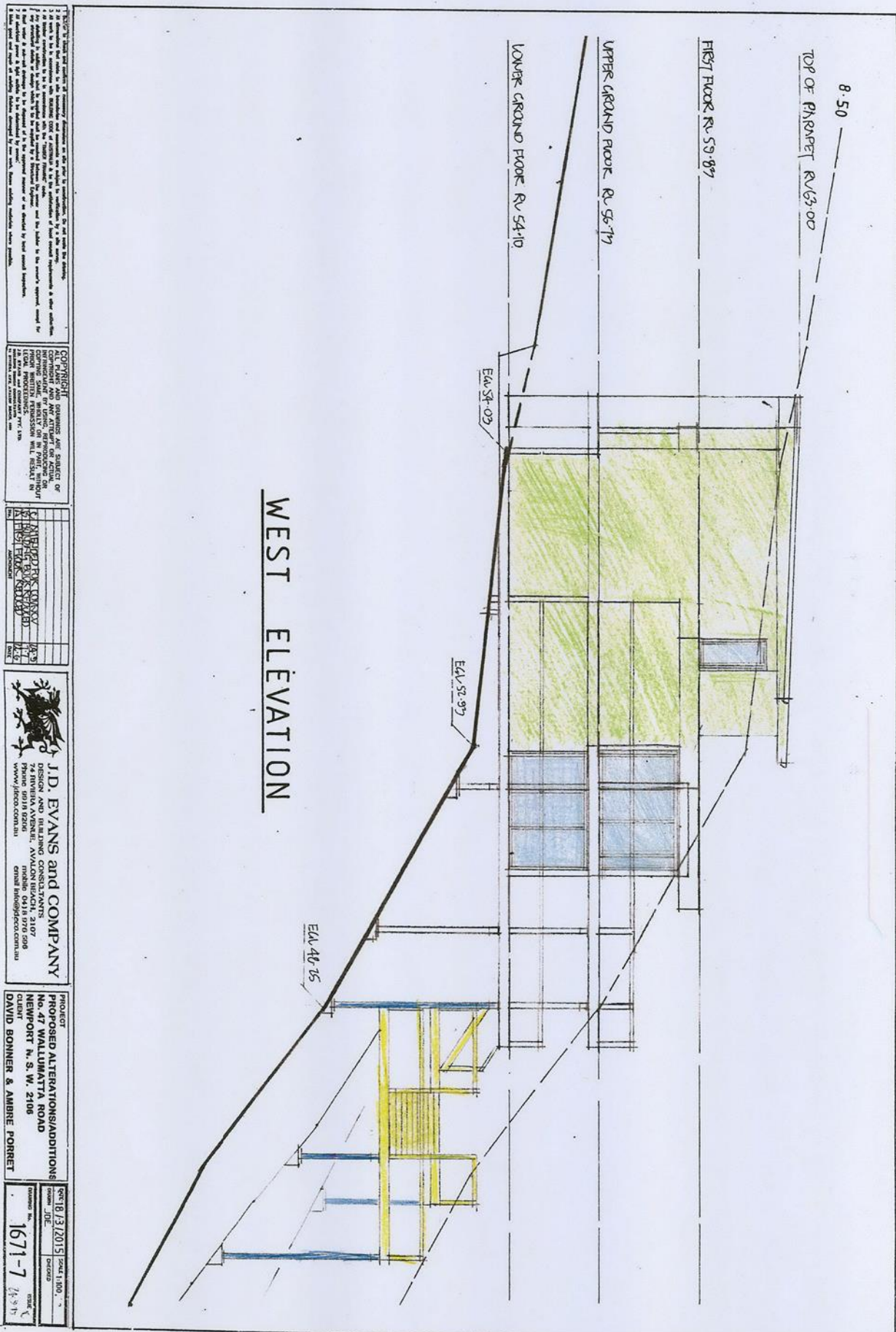
1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or 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.
9. This approval does not prejudice any action in respect of upgrading the building pursuant to the provisions of the Section 121B of the *Environmental Planning and Assessment (Amendment) Act, 1997*.
10. This approval/consent is also made on the basis of the retained floors, lower ground floor eastern and southern walls and 'upper ground' floor external, kitchen and entry walls. Any future modification application seeking to replace these elements may no longer allow either the development to be classified as a partial demolition or for the development to be accepted.

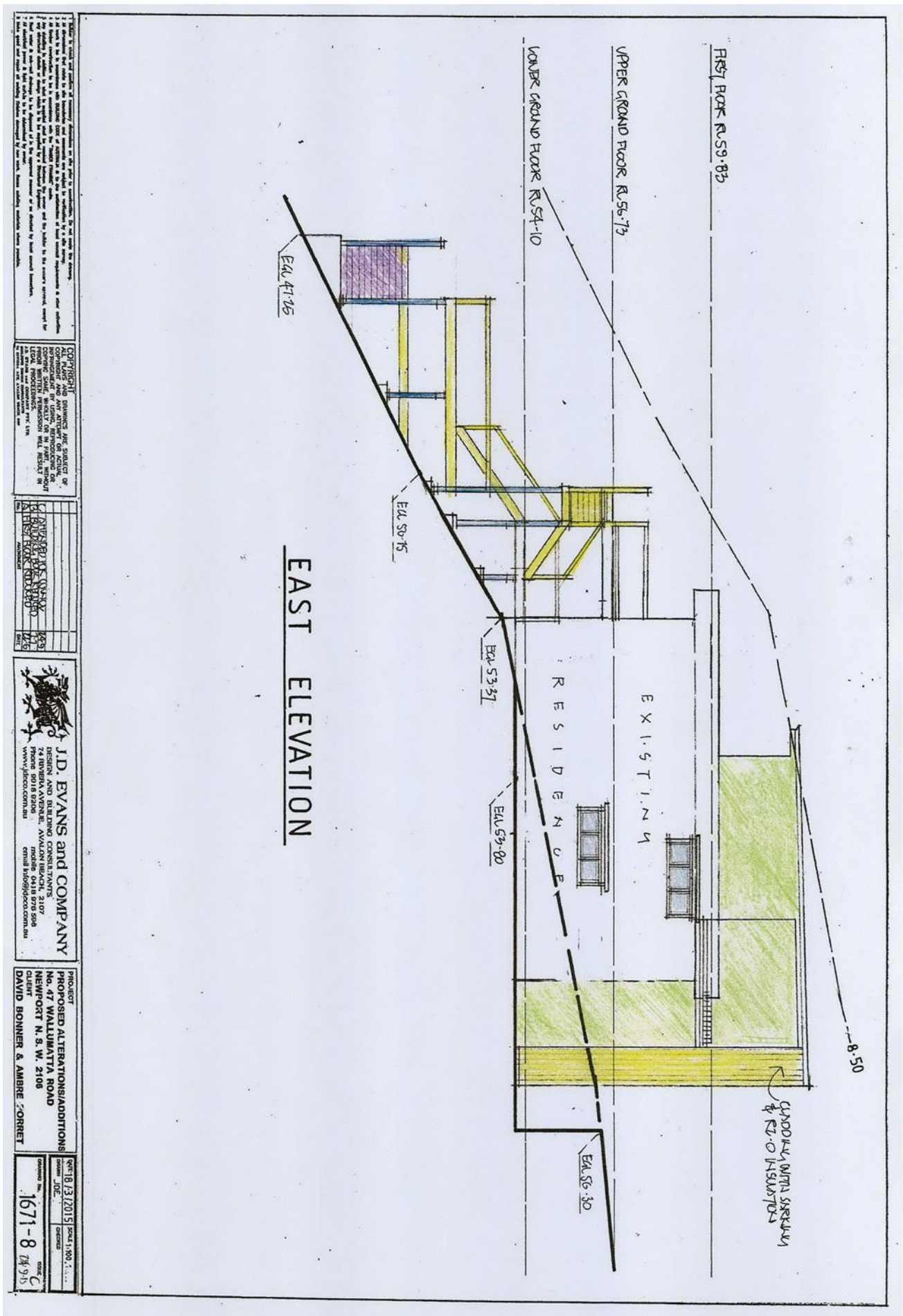
LOCALITY MAP

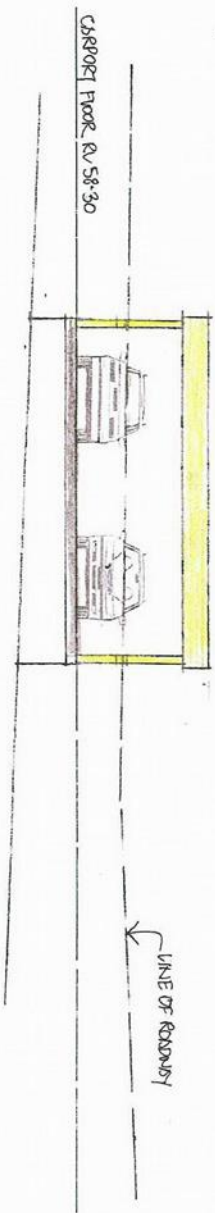


NOTIFICATION PLANS

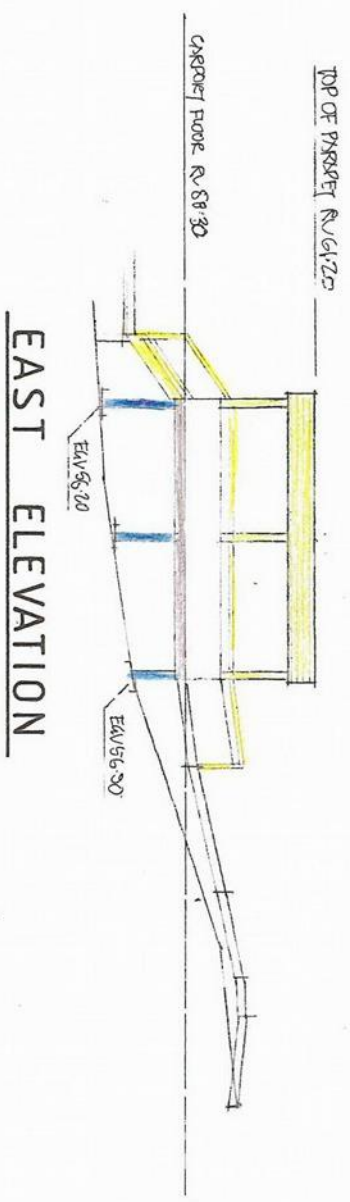




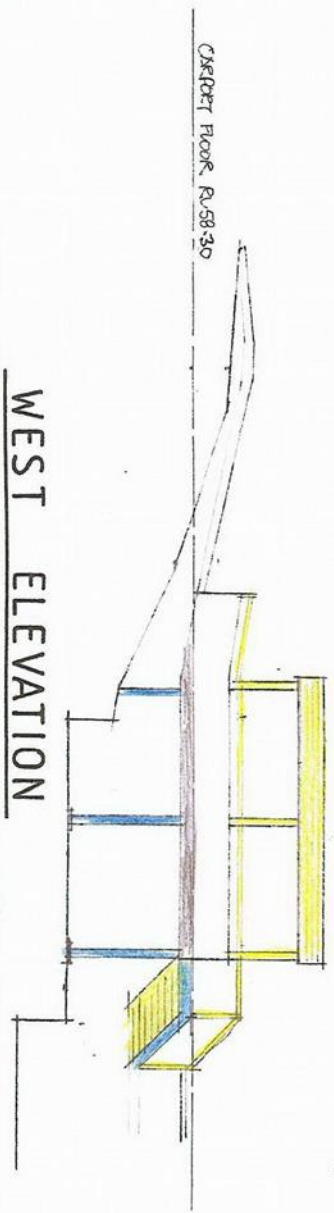




NORTH ELEVATION



EAST ELEVATION



WEST ELEVATION

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PROJECT
 PROPOSED ALTERATIONS/ADDITIONS
 No. 47 WALLUMATTA ROAD
 NEWPORT N.S.W. 2108
 CLIENT
 DAVID BONNIER & ANDRE PORRET

DATE 18/12/2015
 DRAWN J.D.E.
 CHECKED
 1671-10
 SCALE 1:100
 SHEET C

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| C12.2 | N0075/15 - 18 Herbert Avenue, Newport NSW 2106 - new single dwelling - Demolition of site structures and construction of a dwelling, swimming pool and landscaping |
|--------------|---|

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 the 5 November 2015 considered the Assessing Officers report (refer **Attachment 1**) for determination of N0075/15 - 18 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 N0075/15 – 18 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 and the following amended condition of consent:

***B13** Landscaping is to be implemented in accordance with the approved Landscaped Plan (Landscapes by Jo, 2/10/2015). 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.*

3.0 BACKGROUND

3.1 PURPOSE

To seek endorsement of the Development Unit's recommendation following consideration of Development Application - N0075/15 - 18 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 N0075/15.

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 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

- 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: N0075/15 – 18 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 N0075/15 for new single dwelling - Demolition of site structures and construction of a dwelling, swimming pool and landscaping at 18 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: N0075/15 – 18 Hebert Ave, Newport (Lot 129 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: | \$846,000 |
| NO. OF SUBMISSIONS: | 16 (in total) |

1.0 SITE DETAILS

The site is known as 18 Herbert Avenue, Newport and has a legal description of Lot 129 in Deposited Plan 13457. The site is rectangular in shape and has a total area of 508m². 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 Avenue. The site falls 13.52m 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 remnants 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 has been before the Development Unit (DU) on two occasions; 13 August 2015 and 10 September.

On 13 August 2015, the DU Panel recommended that the application be deferred to allow the DU members to undertake a site visit and assess the impact of the building envelope non-compliance proposed.

This application went before the Development Unit (DU) again 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 original 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.
- Concern about the impact on the existing spotted gum on the adjoining property.
- 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.

An additional submission was received five (5) months after the formal notification period. This submission raised the same concerns identified in the original submissions.

In response to notification of amended plans for the development application currently being assessed at 20 Herbert Avenue, Newport (DA N0076/15), four (4) additional submissions were received. This development application was not the subject of the notification, however raised issues in relation to this development application. These concerns were 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 submission 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.

The submissions received from 87 Prince Alfred Parade, Newport and 22 Herbert Avenue, Newport raise the same similar concerns including:

- Belief that the points raised from the previous meeting where this DA 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.

7.0 REFERRALS

Development application N0075/15 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 |
| E4 Environmental Living | | | Y | Y | N |
| 4.3 Height of Buildings | 8.5m | 8.1m | 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 | | | Y | Y | Y |
| 7.8 Geotechnical Hazard | | | Y | Y | Y |
| 7.10 Essential Services | | | Y | Y | Y |
| Pittwater 21 Development Control Plan | | | | | |

| Control | Standard | Proposal | T | O | N |
|--|----------|----------|---|---|---|
| 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 | Y |
| C1.5 Visual Privacy | | | N | Y | N |
| C1.6 Acoustic Privacy | | | Y | Y | Y |
| 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 |

| Control | Standard | Proposal | T | O | N |
|---|----------|----------|---|---|---|
| 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% | 53% | 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 8.1 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 height of the building does not cause any additional issues of overshadowing or unreasonably compromise existing views obtained from adjoining residences. The building steps with the land, responding to the topography of the site and is softened by extensive landscaping,

particularly on the eastern and rear boundaries, 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-11-263268-1, prepared by Civil & Structural Engineering Design Services Pty. Ltd, dated 9 July 2015, and Letter of Hydraulic Performance Proposed Residence 18 Herbert Avenue, reference 7257-001-cl, prepared by Mitchell Howes Civil and Structural Engineers, dated 16 July 2015 and associated plans, provide expert opinion on the development proposed.

Additionally, the submission received from 87 Prince Alfred Parade states 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 as the development as a whole is consistent with desired character of the Newport locality.

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 four (4) trees potentially impacted by the proposed works. Two (2) trees have been given an AA rating (Tree 3 and 4). Tree root investigation was carried out for Tree 4 and the arborist found that it can be safely retained provided the specified tree protection measures are adopted. Tree 3 can also be safely retained with tree protection measures. The other two (2) trees will not be impacted by the works and they are also not significant or worthy of special measures. This report and recommendations are supported. A landscape plan has been submitted (Landscapes by Jo, 19/2/15) which provides a good selection of trees, shrubs and ground covers which will provide habitat, screening and increase amenity. This is acceptable. There are no further natural environment issues.

The following additional information was requested:

- Submission of evidence of an agreement with the owners of 14 Herbert Avenue (Lot 128) for access to undertake the tree protection works.

A letter from the property owner at 14 Herbert Avenue, Newport has been provided to accompany this application. This letter provides consent for Mr Bob Slaughter to come onto 14 Hebert Avenue to protect the spotted gum marked as tree 4 for the duration of the works.

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 of fill be reinstated to provide for a level area, 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 Avenue and 24 Herbert Avenue which object to the development on the basis that the proposal does not demonstrate view sharing principles.

The dwelling located at 22 Herbert Avenue is sited on the southern higher side of the lot and currently experience views of Pittwater, Scotland Island including Carrol's Wharf and Eastern Wharf, and Salt Pan Cove. The view is largely across the western side boundary and is compromised by existing vegetation and dwellings in the foreground. The view is available predominately from the first floor balcony which is accessible from a living area.

The dwelling located at 24 Herbert Avenue is also sited on the southern higher side of the lot and currently experience views of Pittwater, the south eastern corner of Scotland Island including Carrol's Wharf. The view is available across the western side boundary and is compromised by existing vegetation and dwellings in the foreground. The view is available from the office on the lower ground level, the living areas on the ground level and the bedroom on the first floor.

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.

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 Avenue and 24 Herbert Avenue. The current lots at 18 Herbert Avenue and 20 Herbert Avenue 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.

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

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

22 Herbert Avenue

The views at 22 Herbert Avenue 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 Avenue 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. The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult to than the protection of views from front or rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

22 Herbert Avenue

The dwelling at 22 Herbert Avenue 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 parts of the rear deck.

24 Hebert Avenue

The dwelling at 24 Herbert Avenue 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 at particular angles on the lower ground level, ground level and first floor.

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

22 Herbert Avenue

The current views available from the first floor verandah and rear yard will be impacted by the proposed development. The angle of the views available from first floor verandah adjacent to the living area are such that the views will largely be retained across and over the roofline of 18 Herbert Avenue, however views available from the rear yard will be largely obstructed by the development, with only fragments of views being retained from the rear yard across the western boundary and to the northern rear boundary.

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 line of 18 Herbert Avenue. The impact on the views lost from the home office will most likely be considered detrimental to the occupants who utilise this space. However, 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. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

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 are parts of the roof form along the eastern elevation, rectifying these non-compliances would result in a built form which would likely require a greater 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 angle of the boundary. Technical compliance with the western side setbacks would not improve the views available under this proposal.

The design makes use of a steeply sloped, narrow site- whilst maintaining large rear setbacks. The development application proposes a reasonable level of excavation to provide adequate level of amenity without compromising the character of the site. The view that the objectors are seeking to preserve are across a side boundary of a vacant site. Previously, one dwelling was sited at the top of the site across two titles. This development application proposes a much larger dwelling and utilises each title. This development will be different to what currently and previously occupied the site and as such there is going to be an impact. 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 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.

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. For these reasons, the current proposal ensures a reasonable sharing of views and is therefore supported.

C1.5 Visual Privacy

Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation. The pool area proposed is 7m from the rear deck of 14 Herbert Avenue, and the paved entertainment area is 3m from the proposed pool at 20 Herbert Avenue. These distances are less than 9m and

therefore need to be protected by direct overlooking. On the western boundary, drawing 1, Landscape Plan, revision B, prepared by Landscaped by Jo, dated 19/02/2015 proposes extensive vegetation along this boundary. The proposed landscaping includes vegetation ranging from a height of 4m to 7m, with vegetation with a height of 1m proposed adjacent to the pool, creating depth and additional screening. The verandah at 14 Herbert Avenue is shown to have a height of RL 40.60, meaning that although the pool is proposed to sit at an height of RL 35.37 and the surrounding paving to sit at a height of RL 36.73, the varied height of the proposed landscaping, and particularly the 7m high *Hibiscus Tileaceus 'Rubra'* will prevent direct overlooking between the two areas of private open space. On this landscape plan, there is no vegetation proposed on the eastern boundary to prevent direct overlooking between the paved entertainment area at 18 Herbert Avenue, and the pool at 20 Herbert Avenue. There is a development application concurrently being assessed for 20 Herbert Avenue, which proposes significant landscaping along this boundary entirely on the adjacent lot. This landscaping will adequately screen the two areas of private open space between the two sites. This application therefore meets the visual privacy controls and is supported.

Concern was raised by the owners of 87 Prince Alfred Parade regarding the potential for loss of privacy. The rear deck is 13.8m to 14.6m from the rear boundary. There is significant existing vegetation to separate the two areas of private open space and prevent direct overlooking. As such, the proposal is entirely compliant with Council's P21DCP and is supported.

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. Minor fragments of the dwelling will be visible from Prince Alfred Parade, not appearing uncharacteristic as compared to surrounding properties.

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 1.8m to 2m setback to the front porch, a varied 3m to 3.8m setback to the double garage and a varied setback of 6.3m to 6.5m 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 1.8m to 2m. The roof form of the garage extends to cover the front porch and has a varied setback of 3.3m and 3.5m. The entry area is also minimally set within the front setback, with a varied setback of 6.3m to 6.5m. The varied setbacks of the garage, porch and entry way are a result of the irregular angled boundaries.

The proposal is not uncharacteristic of adjoining properties, with parking structures located forward of the 6.5m setback at 10 Herbert Avenue, 14 Herbert Avenue, 12 Herbert Avenue and 24 Herbert Avenue. The proposal utilises an existing concrete driveway to service both 18 and 20 Herbert Avenue, 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, porch and entry way are characteristic of the scale and density of the surrounding natural environment. The setback of the dwelling itself is almost entirely compliant, with the area of non-compliance in the front entry being a direct result of the irregular shaped lot. 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 1m setback to the eastern side, a varied 2.1m to 2.8m setback to the western side, and a varied 13.8m to 14.6m rear setback. The eastern side and rear setbacks are compliant; however the western side setback is technically non-compliant. Notwithstanding; the control permits flexibility in the siting of buildings and access. The subject site is irregular in shape with the varied side setbacks on the western boundary a reflection of the angle of the western boundary. The proposal, particularly when considering the large amount of landscaping proposed along the eastern and rear boundary, ensures that the bulk of the built form will be minimised. Although there are issues of view loss raised by 22 and 24 Herbert Avenue, the non-compliance with the eastern boundary setback has no impact on views or vistas from public or private places. The development also ensures a reasonable level of privacy, amenity and solar access is provided to adjoining residential properties and within the development site. The non-compliance along the eastern boundary is therefore considered acceptable and is 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.

D10.11 Building envelope (excluding Newport Commercial Centre)

The control requires that planes are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height. This development application proposes minor non-compliances along the western elevation, and non-compliances along the eastern elevation. This is technically non-compliant with this control.

The proposed development is well articulated and steps with the topography of the slope. The landscaping proposed reduces the bulk of the development when viewed from adjoining properties. More specifically, the area of non-compliances along the eastern side boundary is well screened by extensive proposed landscaping along this side boundary. Additionally, the landscaping proposed means that the building scale and density will integrate well with the natural environment, and the stepped design down the slope means that the bulk of the built form will be articulated and minimised. The built form that is non-compliant with the building envelope will not be visible from Herbert Avenue, Prince Alfred Parade or the waterway. Instead, the proposed development will appear as a single storey double garage,

entry way and landscaping, when viewed from Herbert Avenue, and will be barely distinct from other residents when viewed from Prince Alfred Parade and the waterway. Although concern was raised about view loss, the view loss is considered reasonable, and is not caused by building envelope non-compliances. The proposal ensures a reasonable level of privacy, amenity and solar access is maintained to the subject site and adjoining residences. While some vegetation is proposed to be removed, the application proposes a large amount of replacement vegetation which is designed to visually reduce the built form. Therefore, although the design does not meet technical requirements of the control, it is capable of meeting the outcomes. As such, the design is considered acceptable and is supported.

A submission was received from 85 Prince Alfred Parade raising concern about non-compliance with the building envelope control. For the reasons provided above, the building envelope proposed is capable of meeting the outcomes of the control and is therefore 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 amended plans provided show a development that is compliant with the building envelope, save for the eastern wall of the garage and the roof eaves.

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 proposed a landscaped area of 53% 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 boundaries, and part of the outdoor terrace less than 1 metre above existing ground level, the landscaped area increases to 58%. 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 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, 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.

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 so that the finished level of the terrace is less than 1 metre above the existing ground level. There is no RL indicated for the height of the outdoor terrace, and therefore the condition will be worded as above. 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 64 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 and enhance landscaping along the northern elevation, and enhance landscaping specifically designed and located to reduce the visual of the built form. The application was 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, and indicate that four (4) trees potentially impacted by the proposed works can safely be retained provided the specified tree protection measures are 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 good selection of trees, shrubs and ground covers which will provide habitat, screening and increase amenity, thereby ensuring that planting and maintenance of native vegetation within those areas which are already cleared. There are no changes proposes which require the removal of canopy trees along the slope. 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 N0075/15 for the demolition of site structures and construction of a dwelling, swimming pool and landscaping at 18 Hebert Avenue, Newport (Lot 129, DP 13457) for the reasons contained in the attached draft determination.

Report prepared by

Erin Dyer
PLANNER

Date of Report: 28 October 2015

DRAFT

**CONSENT NO: N0075/15
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 N0075/15

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 **N0075/15** for:

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

At: **18 HERBERT AVENUE, NEWPORT NSW 2106 (Lot 129 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 01 (A) dated 8 October 2015, DA 02 (A) dated 8 October 2015, DA 03 dated 8 October 2015, DA 04 (A) dated 8 October 2015, DA 05 dated 2 March 2015 and DA 06 dated 2 March 2015, all prepared by Lifestyle Home Designs,.**
- **Landscape Planting Plan, drawing number 1/2, revision C, prepared by Landscapes by Jo, dated 2 October 2015; and Landscape Details/Specification, drawing number 2/2, revision A, prepared by Landscapes by Jo, dated 18 February 2015.**
- **Stormwater Drainage Plan, SWO1 and SWO2, all revision A, all prepared by Mitchell Howes Civil and Structural Engineers, all dated 12 January 2015.**
- **Arboricultural Impact Appraisal and Method Statement, prepared by Naturally Trees, dated 25 February 2015.**
- **Geotechnical Report - Proposed New Dwelling at 18 Herbert Avenue, Newport, Revised P-11-263268-1, prepared by Civil and Structural Engineering Design Services Pty Ltd, dated 9 July 2015.**
- **BASIX Certificate, 605827S, dated 23 February 2015.**

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

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

Endorsement of date of consent _____

DRAFT

Mark Ferguson
GENERAL MANAGER
Per: