

# AGENDA

## DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Northern Beaches Council, Dee Why on

**WEDNESDAY 23 MAY 2018**



**Ashleigh Sherry**  
**Manager Business System and Administration**



**Agenda for a Meeting of the Development Determination Panel  
to be held on Wednesday 23 May 2018  
in the Walamai Room, Northern Beaches Council, Dee Why**

|            |   |          |
|------------|---|----------|
| <b>1.0</b> | <b>APOLOGIES &amp; DECLARATIONS OF PECUNIARY INTEREST</b>   |          |
| <b>2.0</b> | <b>MINUTES OF PREVIOUS MEETING</b>  |          |
| 2.1        | Minutes of Development Determination Panel held 9 May 2018  |          |
| <b>3.0</b> | <b>DEVELOPMENT DETERMINATION PANEL REPORTS .....</b>  | <b>2</b> |
| 3.1        | DA2018/0068 - 199 Riverview Road, Avalon Beach - Additions and alterations to existing dwelling house and garage .....  | 2        |
| 3.2        | DA2017/1259 - 45 Riverview Road, Avalon Beach - Alterations and additions to existing dwelling.....   | 46       |
| 3.3        | DA2017/1285 - 29 Gulliver Street, Brookvale - Demolition works and the construction of multi dwelling housing consisting of four dwellings and basement car parking ..... | 73       |





## **2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 9 MAY 2018**

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#### **RECOMMENDATION**

That the Panel note that the Minutes of the Development Determination Panel held 9 May 2018 were approved by all Panel Members and have been posted on Council's website.

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### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

|                   |  |
|-------------------|--|
| ITEM 3.1          | DA2018/0068 - 199 RIVERVIEW ROAD, AVALON BEACH -<br>ADDITIONS AND ALTERATIONS TO EXISTING DWELLING<br>HOUSE AND GARAGE |
| REPORTING MANAGER | MATTHEW EDMONDS  |
| TRIM FILE REF     | 2018/293685  |
| ATTACHMENTS       | 1 <a href="#">↓</a> Assessment Report<br>2 <a href="#">↓</a> Site Plan and Elevations                                  |

#### PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the building height standard.

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#### RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0068 for Additions and alterations to existing dwelling house and garage on land at Lot 2 DP 17895, 199 Riverview Road, AVALON BEACH, subject to the conditions outlined in the Assessment Report.

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## REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 23 May 2018

199 Riverview Road Avalon Beach - Additions and alterations to existing dwelling house and garage

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                                    |   |
|------------------------------------|---|
| Application Number:                | DA2018/0068   |
| Responsible Officer:               | Tyson Ek-Moller   |
| Land to be developed (Address):    | Lot 2 DP 17895, 199 Riverview Road AVALON BEACH NSW 2107        |
| Proposed Development:              | Additions and alterations to existing dwelling house and garage |
| Zoning:                            | E4 Environmental Living   |
| Development Permissible:           | Yes   |
| Existing Use Rights:               | No  |
| Consent Authority:                 | Development Determination Panel                                 |
| Land and Environment Court Action: | No  |
| Owner:                             | David Peter Busch   |
| Applicant:                         | Blue Sky Building Designs Pty Ltd                               |
| Application lodged:                | 19/01/2018  |
| Integrated Development:            | No  |
| Designated Development:            | No  |
| State Reporting Category:          | Residential - Alterations and additions                         |
| Notified:                          | 24/01/2018 to 07/02/2018  |
| Advertised:                        | Not Advertised  |
| Submissions Received:              | 0   |
| Recommendation:                    | Approval  |
| Estimated Cost of Works:           | \$ 1,234,262.00   |

### ASSESSMENT INTRODUCTION

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

DA2018/0068

Page 1 of 41



- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

#### **SUMMARY OF ASSESSMENT ISSUES**

Pittwater Local Environmental Plan 2014 - 1.8A Savings provisions relating to development applications  
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards  
Pittwater Local Environmental Plan 2014 - 5.7 Development below mean high water mark  
Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area  
Pittwater 21 Development Control Plan - 2014 - A4.1 Avalon Beach Locality  
Pittwater 21 Development Control Plan - 2014 - C1.3 View Sharing  
Pittwater 21 Development Control Plan - 2014 - C1.4 Solar Access  
Pittwater 21 Development Control Plan - 2014 - C1.5 Visual Privacy  
Pittwater 21 Development Control Plan - 2014 - C1.7 Private Open Space  
Pittwater 21 Development Control Plan - 2014 - D1.8 Front building line  
Pittwater 21 Development Control Plan - 2014 - D1.9 Side and rear building line  
Pittwater 21 Development Control Plan - 2014 - D1.11 Building envelope  
Pittwater 21 Development Control Plan - 2014 - D1.14 Landscaped Area - Environmentally Sensitive Land

#### **SITE DESCRIPTION**

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 2 DP 17895 , 199 Riverview Road AVALON BEACH<br>NSW 2107   |
| <b>Detailed Site Description:</b> | The subject site is identified as 199 Riverview Road, Avalon Beach (Lot 2 DP 17895). The site is an irregularly-shaped allotment. The primary boundary is oriented towards the east and adjoins the Riverview Road road reserve, the rear boundary adjoins the Pittwater waterway and both side boundaries adjoin other residential allotments. The subject site contains a two storey dwelling house with a large undercroft area; other development includes a detached carport at the front of the site, a boatshed and an external stairway/inclinorator that connects the dwelling with the raer of the site. The subject site has an area of 804m <sup>2</sup> (based on submitted survey information) and is very steeply sloped, |

DA2018/0068

Page 2 of 41



|  |   |
|--|---|
|  | <p>with a rear-to-front fall of approximately 29 metres between its highest and lowest points.</p> <p>The subject site is located within an E4 Environmental Living zone; the boundary adjoins a w1 Natural Waterways zone and all other boundaries adjoin E4-zoned areas. Aside from the E4/W1 zone interface, there are no other zone boundaries within the surrounding area.</p> <p>The site is affected by tidal inundation, a geotechnical hazard, is subject to Class 5 Acid Sulphate Soils, biodiversity mapping (Pittwater Spotted Gum Forest and Saltmarsh/Foreshore Vegetation other than Mangroves) and the foreshore building line. The subject site does not contain a heritage item nor is it within a heritage conservation area; there are also no heritage items within the surrounding area.</p> <p>Development on surrounding residential sites contains low-density residential development consisting predominantly of detached dwelling houses and associated structures.</p> <p>A site inspection was undertaken by the assessing officer on 27 February 2018; the layout of the site was consistent with the plans and no significant issues were identified.</p> |
|--|---|

Map:



## **SITE HISTORY**

### **Site history:**

- 20/12/1999 Development Application No. N1151/99 approved for an inclined lift.
- 26/07/2001 Development Application No. N0336/01 approved for a new walkway, berthing area and relocation of skid.
- 14/09/2016 Development Application No. T0394/16 approved for the removal of a tree.
- 08/11/2017 Notes for Prelodgement Application No. PLM2017/0003 issued to the applicant for alterations and additions to a dwelling.
- 19/12/2017 Development Application No. DA2017/1213 approved for the removal of 1-2 trees.
- 19/01/2018 Subject Development Application lodged.

### **Application history:**

- 19/01/2018 Subject Development Application lodged.
- 27/02/2018 Site inspection undertaken.

## **PROPOSED DEVELOPMENT IN DETAIL**

The subject development application proposes alterations and additions to a dwelling house. The specifics of the proposal are as follows:

- A new lower-ground floor which would be situated within an existing undercroft area. This level would be situated within the footprint of the modified ground floor.
- Alterations and additions to the ground floor which include an extension of the main living room, changes to some parts of the external building facades, extensions to a rear deck and an extension to a new patio.

DA2018/0068

Page 4 of 41





- Alterations and additions to the top floor. The southern-most area of this level will be demolished and replaced/extended, while some internal and external changes are proposed to the remainder of this level. Part of the existing roof is to be retained (albeit with new Colorbond finishes, and the roof over the southern part of the first floor is to be raised.
- Alterations and additions to the onsite parking facilities. A new roof is to be added over the existing carport, which will also be enclosed by new railings. A new workshop is to also be constructed under the existing carport.

New landscaped steps are proposed to the rear of the site (adjacent to the inclinator) though the remainder of the site (including the boatshed) are to remain unaltered by the proposal. Consent is sought for the removal of three trees (a further eight exempt species are also proposed to be removed).

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

#### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

| <b>Section 4.15 Matters for Consideration'</b>  | <b>Comments</b>  |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument   | See discussion on "Environmental Planning Instruments" in this report.   |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | None applicable.   |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan  | Pittwater 21 Development Control Plan applies to this proposal.  |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement  | None applicable.   |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures.</p> |



| Section 4.15 Matters for Consideration'  | Comments   |
|--|--|
|  | <p>Clauses 93 and/or 94 of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>  |
| Section 4.15 (1) (c) – the suitability of the site for the development   | The site is considered suitable for the proposed development.  |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs   | See discussion on "Notification & Submissions Received" in this report.  |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.  |

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### NOTIFICATION & SUBMISSIONS RECEIVED





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

As a result of the public exhibition of the application Council received no submissions.

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

| Internal Referral Body           | Comments  |
|----------------------------------|---|
| Landscape Officer                | No objections   |
| NECC (Bushland and Biodiversity) | <p>Council's Bushland and Biodiversity section raise no objection to the Development Application, subject to conditions.</p> <p>Council's Bushland and Biodiversity has assessed the Development Application against the following Pittwater 21 DCP 2014 Controls:</p> <p><b>B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</b><br/>Outcomes: Conservation of intact Pittwater Spotted Gum Forest EEC. Regeneration and/or restoration of fragmented and / or degraded Pittwater Spotted Gum Forest EEC. Reinstatement of Pittwater Spotted Gum Forest to link remnants. Long-term viability of locally native flora and fauna and their habitats through conservation, enhancement and/or creation of habitats and wildlife corridors.</p> <p>No Assessment of Significance (7-part test) was prepared by the applicant as required under the former planning provisions of Part 5A of the <i>Environmental Planning and Assessment Act 1979</i> to assess impacts on Pittwater Spotted Gum Forest EEC. However, Council has undertaken an internal assessment and has concluded a non-significant impact on the EEC as a result of the Development Application.</p> <p>The Development Application will comply with DCP Control B4.7 if the following condition is met:</p> <p>Replacement planting at a 7:1 ratio has been recommended in the Arboricultural Impact Assessment prepared by S&amp;B Tree Services, October 2017. Canopy tree species are to be selected from species present within Pittwater Spotted Gum Forest EEC and <i>not</i> the list presented in the Arboricultural Impact Assessment provided in Section 4.3 Offsetting.</p> <p><b>Addendum 26/04/18 (Kristie King, Environmental Officer):</b><br/>The submitted Arboricultural Impact Assessment (S&amp;B Tree Services, October 2017) recommends a 7:1 replacement ratio of native canopy trees. Further assessment suggests that, given the size of the site and the requirement for appropriate setbacks from existing and proposed structures and buildings, the proposed tree removals can be</p> |

DA2018/0068

Page 7 of 41



| Internal Referral Body           | Comments   |
|----------------------------------|--|
|                                  | generally offset with a 3:1 replacement:removal ratio comprising nine (9) native canopy trees. Canopy tree species selected are to consistent with those listed under the Pittwater Spotted Gum Forest EEC.  |
| NECC (Coast and Catchments)      | An Estuarine Planning Level (EPL) of 2.66m AHD has been adopted by Council for the subject site. At 18.71m AHD, the lowest floor level for the proposed additions and alterations to the existing dwelling is well above the EPL.<br><br>As no alterations and additions are proposed to the existing boat shed and no new development is proposed at the foreshore, no estuarine hazard conditions apply to the current application for additions and alterations to the existing dwelling. |
| NECC (Development Engineering)   | The submitted Geotechnical report satisfies the relevant DCP controls. The works do not require OSD and connection to the existing outlet is satisfactory. The existing driveway crossing and parking slab are to remain which is also satisfactory. No objection to approval, subject to conditions as recommended.   |
| NECC (Riparian Lands and Creeks) | No objections as no impact to riparian area.   |
| External Referral Body           | Comments   |
| Ausgrid: (SEPP Infra.)           | An external referral was made to the relevant energy supply authority was made on 22 January 2018. No response was received.   |

#### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

##### **SEPP 55 - Remediation of Land**

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



SEPP 55 and the land is considered to be suitable for the residential land use.

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A302659).

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

#### **SEPP (Infrastructure) 2007**

Clause 45 of the SEPP is not applicable to the SEPP; the proposal has however been referred to the energy supply authority; no response has been received.

Division 17 (Roads and Traffic) of the SEPP is not applicable to the proposal.

#### **SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

#### **14 Development on land within the coastal use area**

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - (iv) Aboriginal cultural heritage, practices and places,
    - (v) cultural and built environment heritage, and
  - (b) is satisfied that:
    - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
    - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

#### Comment:

The proposed development would not affect access to foreshore areas. Overshadowing would be situated towards the south and would not significantly affect coastal use areas. The design and presentation of the alterations and additions would be consistent with surrounding development and would not foreseeably affect the scenic qualities of the coastal area.



As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

#### **Pittwater Local Environmental Plan 2014**

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

#### Principal Development Standards

| Standard  | Requirement   | Proposed | % Variation | Complies  |
|---|---|----------|-------------|-----------|
| Minimum subdivision lot size:   |   |          |             | N/A       |
| Minimum subdivision lot size for community title schemes  |   |          |             | N/A       |
| Minimum lot sizes for dual occupancies  |   |          |             | N/A       |
| Rural Subdivision:  |   |          |             | N/A       |
| Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones |   |          |             | N/A       |
| Height of Buildings:  | 8.5m (Note: Cl. 4.3(2D) permits a building height of up to 10m in some circumstances) | 11.02m   | 29.6%       | <b>No</b> |
| Floor Space Ratio   |   |          |             | N/A       |
| Density controls for certain residential accommodation  |   |          |             | N/A       |

Refer to the assessment of Cl. 4.3 (Height of Buildings) below for a detailed assessment of this standard.

#### Compliance Assessment

| Clause   | Compliance with Requirements |
|--|------------------------------|
| 1.8A Savings provisions relating to development applications | Yes                          |
| 1.9A Suspension of covenants, agreements and instruments     | N/A                          |
| 2.7 Demolition requires development consent                  | Yes                          |
| 4.3 Height of buildings                                      | No                           |
| 4.6 Exceptions to development standards                      | Yes                          |
| 5.7 Development below mean high water mark                   | N/A                          |
| 5.10 Heritage conservation                                   | Yes                          |
| 7.1 Acid sulfate soils                                       | Yes                          |

DA2018/0068

Page 10 of 41



| Clause                                    | Compliance with Requirements |
|---|------------------------------|
| 7.2 Earthworks                            | Yes                          |
| 7.6 Biodiversity protection               | Yes                          |
| 7.7 Geotechnical hazards                  | Yes                          |
| 7.8 Limited development on foreshore area |                              |
| 7.10 Essential services                   | Yes                          |

#### Detailed Assessment

#### **1.8A Savings provisions relating to development applications**

Following lodgement of the subject application on 19 January 2018, Amendment 9 of Pittwater Local Environment Plan 2014 have come into affect. Changes to the LEP by Amendment 9 include modifications to the provisions within Cl. 7.8 (Limited Development in Foreshore Areas) of the LEP. A more detailed assessment of Cl. 7.8 is contained within this report, however as the subject application was lodged (but not determined) prior to the commencement of Amendment 9, then in accordance with Cl. 1.8A of the LEP, *"the application must be determined as if this Plan had not commenced."*

#### **4.3 Height of buildings**

Under Clause 4.3 of PLEP 2014, the site is subject to a height control of 8.5 metres. As indicated above, the maximum proposed height of the dwelling is 11.02 metres. The carport (as proposed) would have a maximum height of approximately 7.9m; as this structure complies with the standard it will not be discussed further.

Due to the variable height of the roof ridge and a diagonal slope under the existing building footprint, the height of the dwelling above the existing ground level varies. As is reflected by the plans, the northern-most sections of the dwelling (if modified as proposed) would comply with the standard, however the area of the building which would breach the standard would progressively increase towards the maximum proposed height, which would be located above the proposed southwest part of the dwelling. At its maximum height, the areas of the dwelling that would project above the 8.5m height standard include the majority of the first floor (with a maximum width of approximately 6.7m and a height of 2.52m above the 8.5m standard) and portion of the roof above the living room deck of the ground.

A request to vary the development standard pursuant to Cl. 4.6 of the LEP has been submitted. An discussion of the height standard variation is contained with the assessment of Cl. 4.6 of the LEP, below.

#### **4.6 Exceptions to development standards**

As indicated above, the applicant seeks to vary the 8.5m height limit imposed by clause 4.3 (Height of Buildings) of PLEP 2014; as building height is identified by the Environmental Planning and Assessment Act 1979 as a development standard, the provisions of clause 4.6 (Exceptions to Development Standards) are applicable.

It is acknowledged that Cl. 4.3(2D) of PLEP 2014 permits a building height of up to 10m under specific circumstances on steeply-sloped sites, however the requirements of the 8.5m height limit imposed with





the standard would still apply to the site; the proposed height noncompliance is therefore considered to be a variation to the 8.5m building height standard, and not the 10m height control.

The submitted information included a statement seeking a variation of the height of building development standard pursuant to clause 4.6 of PLEP 2014. This statement (prepared by Vaughan Milligan Development Consulting and dated January 2017) was written with regard to case law established by the NSW Land and Environment Court (LEC) and the guidelines of the NSW Department of Planning and Environment. This statement concluded that there are sufficient planning grounds to vary the building height standard.

The reasonableness of the proposed building height variation is considered with regard to clause 4.6 of PLEP 2014 below.

**Development standard to be varied:**

The applicant seeks to vary the 8.5m height limit imposed by clause 4.3 (Height of Buildings) of PLEP 2014; as building height is identified by the Environmental Planning and Assessment Act 1979 as a development standard, the provisions of clause 4.6 (Exceptions to Development Standards) are applicable.

Specifically, the plans propose a maximum building height of 11.02m metres, which would be a 2.52m, or 29.6% variation to the 8.5m height standard. The northern-most sections of the dwelling (if modified as proposed) would comply with the standard, however the area of the building which would breach the standard would progressively increase towards the southern boundary and the maximum proposed height, which would be located within the southwest-most part (i.e. rear) of the dwelling.

Pursuant to clause 4.6(2) of PLEP 2014, consent may be granted for development even though the development would contravene a development standard prescribed by an environmental planning instrument. However, pursuant to clause 4.6(4), consent can only be granted if Council is satisfied that the applicant's written submission on the matter is well founded and if the proposal is in the public's interest by being consistent with the objectives of the specific development standard and the relevant zoning. With regard to 4.6(4)(b) of PLEP 2014, Planning Circular PS 18-003 (dated 21 February 2018), advises that the concurrence of the Secretary may not be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is greater than 10%. Notwithstanding this, the Secretary has agreed that in specific circumstances Northern Beaches Council is exempted from the requirement to refer such development applications to the Independent Assessment Panel where variations to the building height standard exceed 10%. In this regard, given the consistency of the variation with the objectives of the zone, the concurrence of the Secretary for the variation to the Height Standard would be assumed.

**Is compliance unreasonable or unnecessary in the circumstances of the case?**

In accordance with the NSWLEC decision in *Wehbe v Pittwater Council*, a way that strict compliance can be seen to be unreasonable and unnecessary is if it can be demonstrated that the objectives of the standard would be achieved, despite the proposed height non-compliance. The objectives of the building height development standard are individually considered in respect of the proposed development, as follows:

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality

Excluding elements not relevant to the proposal and which refer to the Village Centre, the desired character statement for Avalon Beach is as follows:

*The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area*

DA2018/0068

Page 12 of 41



*with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations.*

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

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

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

*Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. Special front building line setbacks have been implemented along Avalon Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.*

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

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

The proposed development would satisfy the requirements outlined above except for the number of storeys (see below). The proposed development would be below the surrounding tree canopies. Façade modulation and shade elements are also proposed and would be particularly evident on elevations addressing public areas. The proposed works would also continue to step the dwelling footprint along the slope.

As indicated above however, the desired characteristics of the locality seek for dwellings to be no higher than two storeys in any one place; part of the proposed dwelling would be a three storey structure (i.e. a new lower-ground floor level is to be situated below an existing two storey dwelling). While an increase in height, bulk and scale is proposed, such increases would not be associated with the inconsistency as outlined above; it is also recognised that topographical constraints within the locality may affect the ability of new dwellings to be designed so that they are a maximum of two storeys in any one place. The proposed design is considered to be an appropriate response to the constraints of the site, namely the considerable slope across the site and under the existing/proposed



building envelope.

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

While the height of the dwelling may be greater than surrounding development, the existing dwelling footprint is at a lower level than the dwellings on both adjoining allotments. The proposed RL29.02 ridge height would therefore be lower than the RL30.98 and RL32.08 ridge heights of the dwellings at 201 and 199 Riverview Road respectively. The proposed ridge height would also be below the front boundary, therefore the height and scale of the development would appear to be consistent with surrounding development when viewed from public areas (i.e. the road reserve and waterway areas).

*(c) to minimise any overshadowing of neighbouring properties*

An assessment of Part C1.4 (Solar Access) of Pittwater 21 DCP (refer to Part 7.5 of this report) indicates that the proposed development would comply with development controls, and would not unreasonably overshadow surrounding properties.

*(d) to allow for the reasonable sharing of views*

An assessment of Part C1.3 (View Sharing) of Pittwater 21 DCP (refer to Part 7.5 of this report) indicates that the proposed development would likely have a minor impact on views from surrounding properties. The view loss assessment found that such impacts would be reasonable.

It should be noted that the location of the proposed height noncompliance would be unlikely to significantly contribute to a loss of views from 199 Riverview Road. As assessed below, views from the northern part of the adjoining site are unlikely to be affected due to the angle of such views towards the area of noncomplying height. The most significant views to the northwest from the southern part of this adjoining site would likely be directed at the water rather than immediately north towards the tallest point of the dwelling; elements likely to most significantly affect views would be located on the ground floor (i.e. at areas below the maximum height noncompliance)..

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

As indicated above and below, the lower ground floor would be situated below the existing dwelling in what is primarily an exposed undercroft area. Some excavation would be required (particularly within areas to be occupied by the laundry/storage area) however the remainder of this level would not require significant excavation/modifications to the topography of the existing site.

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

The proposed works would be unlikely to have an adverse visual impact upon the natural environment. There are no heritage items within the immediate vicinity.

With regard to the above, the proposed development is considered to be consistent with the objectives of the standard.

**Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?**

The objectives of clause 4.6 of PLEP 2014 are to provide an appropriate degree of flexibility in applying certain development standards to particular development, to achieve better outcomes for and from development. It is agreed with the applicant's variation request that the noncompliance would arise from the location of the existing building footprint on a steeply sloped site.

In the circumstances of the subject application, amendments to achieve strict compliance with the 8.5m

DA2018/0068

Page 14 of 41





height limit would be unlikely to achieve a better outcome for the site. It is noted that Cl. 4.3(2D) of the LEP acknowledges instances where the average slope of a site exceeds 30% and subsequently permits a building height of 10m (subject to the satisfaction of specific requirements); the existing building footprint however is situated over both longitudinal (i.e. front-to-rear) and latitudinal (i.e. side-to-side) slopes, and the most significant breach of the height standard occurs over the lowest points of both slopes. As reflected by the planning assessment, the proposed development would have few (if any) significant impacts on surrounding sites, and it is considered unlikely that amendments to achieve strict compliance with the 8.5m height standard or the 10m height limit under Cl. 4.3(2D) would achieve a better outcome for the site. Further, with regard to the proposed front and rear setbacks, the slope and of the site, surrounding development, the existing treeline and the high level of proposed building articulation, it is unlikely that changes to attain compliance would be perceived from the public domain.

#### **Is the proposal in the public interest?**

A development is seen to be in the public's interest if it is consistent with the objectives of the development standard and the zone in which the particular development is carried out. As identified above, the proposed development is seen to be consistent with the objectives of the building height development standard. The proposed development is also considered to be consistent with the objectives of the E4 Environmental Living zone as follows:

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

The proposed residential dwelling has been designed with regard to the ecological and aesthetic values of the area. The proposed development would be unlikely to have significant identifiable impacts on items of ecological significance, and would reasonably retain the aesthetic values of the area.

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

The proposed development would not have unreasonable adverse impacts on such values. Council's biodiversity officer has confirmed that subject to conditions, the proposed development should not have a significant adverse impact on environmental values. This planning assessment has also found that the proposed development is unlikely to significantly affect the amenity of surrounding sites. While the proposed development would likely have some impact on views from adjoining sites, the view sharing assessment concludes that such impacts would not be unreasonable.

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

The proposed development is for a form of low-density residential development. The scale of the proposed dwelling would be consistent with surrounding residential development. As the proposed lower ground floor would mostly occupy an undercroft area, the proposed development would be appropriately integrated with the landform and would provide sufficient landscaped areas that would be consistent with applicable outcomes.

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

Subject to conditions, the proposed development would largely retain and enhance riparian vegetation. In summary, the proposal would meet the objectives of the E4 Environmental Living zone, and the development would be in the public interest.

#### **Conclusion:**

Strict compliance with the 8.5m building height limit is seen to be both unreasonable and unnecessary in the circumstances of the subject application, and there are sufficient environmental planning grounds to justify contravention of the development standard.

Subject to recommended consent conditions, the resultant development is seen to meet the objectives



of the building height development standard, the E4 Environmental Living zone and both the existing and desired future character of the Avalon Beach locality.

The Applicant's submission pursuant to clause 4.6 of PLEP 2014 is considered to be well-founded, and the proposed variation to the 8.5m height limit is warranted in this particular instance.

#### 5.7 Development below mean high water mark

No works proposed below the mean high water mark (this is subject to a recommended conditions).

#### 7.8 Limited development on foreshore area

Amendment 9 of PLEP 2014 came into effect on 20 April 2018, and made a number of changes to PLEP 2014 including to Cl. 7.8. Under now historic versions, Cl. 7.8(2)(a) of the LEP read as follows: *"(T)he extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so."*

Following the commencement of Amendment 9, Cl. 7.8(2)(a) of PLEP 2014 now reads as follows: *"(T)he extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area."*

While the changes within Amendment 9 should be considered, the subject application was lodged prior to the amendments coming into effect. Cl. 1.8A (Savings provision relating to development applications) would therefore need to be considered and reads as follows:

*"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced."*

With regard to the above, the provisions within the historic version of Cl. 7.8 would be applied to this assessment and are assessed as follows:

##### Clause Comment

7.8(2) Under Cl. 7.8(2)(a), consent must not be granted for development on land in the foreshore area, unless the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area if the levels, depth or other exceptional features of the site make it appropriate to do so. The location of the proposed alterations and additions elsewhere on the site are considered to be appropriate, as the situation of most works within the existing building footprint would minimise site disturbance, noting the significant slope and the locations of trees on the site. Noting that the existing site layout contains a noncompliant landscaped area, relocating development elsewhere on the site would also likely result in further noncompliances to locality-specific development controls.

Cl. 7.8(2)(b) is not applicable to the subject application.

7.8(3) As assessed elsewhere within this report, the appearance of the proposed development would be consistent with surrounding development and the desired character of the area. Aside from the stairs that would run to the rear boundary, the works would otherwise be situated well above the shoreline, therefore public access to foreshore areas would not be changed by the proposal and the development would be unaffected by flooding and/or sea level rise. Amenity of the foreshore (including overshadowing) would remain unaffected by the proposal.



Subject to conditions, the development would not foreseeably result in pollution of the adjoining waterway or affect any aboriginal heritage in the area.

7.8(4) The location of the proposed development would not affect public access to the foreshore area. The character of the area would also be retained.

It should be noted that while the current provisions of Cl. 7.8 are more onerous than the historic provisions, the majority of the works would be retained within the existing building footprint with only small sections of the ground and lower ground levels projecting further into the foreshore area. The objectives of Clause 7.8 and the requirements within Clauses 7.8(3) and (4) would therefore be satisfied as assessed above.

#### **Pittwater 21 Development Control Plan - 2014**

##### Built Form Controls

##### DCP controls

| <b>Built Form Control</b> | <b>Requirement</b>  | <b>Proposed</b>   | <b>% Variation*</b> | <b>Complies</b> |
|---------------------------|---|---|---------------------|-----------------|
| Front building line       | 6.5m or established building envelope, whichever is greater           | Garage: Min. 1.7m   | 73%                 | <b>No</b>       |
| Rear building line        | 6.5m  | 20.43m  |                     | Yes             |
| Side building line        | 2.5m on one side  | South side:<br>Dwelling: Min. 840mm (unchanged)<br>Carport: 0m (unchanged)<br>Workshop: 565mm | 100%                | <b>No</b>       |
|                           | 1m on one side  | North side: Min. 900mm  | 10%                 | <b>No</b>       |
| Building envelope         | 3.5m  | Outside envelope  |                     | <b>No</b>       |
|                           | 3.5m  | Outside envelope  |                     | <b>No</b>       |
| Landscaped area           | 60%, or 482.4m <sup>2</sup> based on a site area of 804m <sup>2</sup> | Approx. 406m <sup>2</sup> , or 50.5%  | 15.8%               | <b>No</b>       |

##### Compliance Assessment

| <b>Clause</b>   | <b>Compliance with Requirements</b> | <b>Consistency Aims/Objectives</b> |
|---|-------------------------------------|------------------------------------|
| A1.7 Considerations before consent is granted                   | Yes                                 | Yes                                |
| A4.1 Avalon Beach Locality                                      | No                                  | Yes                                |
| A5.1 Exhibition, Advertisement and Notification of Applications | Yes                                 | Yes                                |
| B1.3 Heritage Conservation - General                            | N/A                                 | N/A                                |
| B1.4 Aboriginal Heritage Significance                           | Yes                                 | Yes                                |
| B3.1 Landslip Hazard  | Yes                                 | Yes                                |
| B3.6 Contaminated Land and Potentially Contaminated Land        | Yes                                 | Yes                                |
| B3.7 Estuarine Hazard - Low density residential                 | N/A                                 | N/A                                |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological       | Yes                                 | Yes                                |

DA2018/0068

Page 17 of 41

| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| Community  |                              |                             |
| B4.15 Saltmarsh Endangered Ecological Community  | Yes                          | Yes                         |
| B4.20 Protection of Estuarine Water Quality  | N/A                          | N/A                         |
| B4.22 Preservation of Trees and Bushland Vegetation  | Yes                          | Yes                         |
| B5.1 Water Management Plan   | Yes                          | Yes                         |
| B5.4 Stormwater Harvesting   | Yes                          | Yes                         |
| B5.11 Stormwater Discharge into Waterways and Coastal Areas  | Yes                          | Yes                         |
| B5.13 Development on Waterfront Land   | N/A                          | N/A                         |
| B6.1 Access driveways and Works on the Public Road Reserve   | Yes                          | Yes                         |
| B6.2 Internal Driveways  | N/A                          | N/A                         |
| B6.5 Off-Street Vehicle Parking Requirements - Low Density Residential (Amended 14/11/15 See B6.3) | Yes                          | Yes                         |
| B6.7 Transport and Traffic Management  | N/A                          | N/A                         |
| B8.1 Construction and Demolition - Excavation and Landfill   | Yes                          | Yes                         |
| B8.2 Construction and Demolition - Erosion and Sediment Management                                 | Yes                          | Yes                         |
| B8.3 Construction and Demolition - Waste Minimisation  | Yes                          | Yes                         |
| B8.4 Construction and Demolition - Site Fencing and Security                                       | Yes                          | Yes                         |
| B8.5 Construction and Demolition - Works in the Public Domain                                      | Yes                          | Yes                         |
| B8.6 Construction and Demolition - Traffic Management Plan   | N/A                          | N/A                         |
| C1.1 Landscaping   | Yes                          | Yes                         |
| C1.2 Safety and Security   | Yes                          | Yes                         |
| C1.3 View Sharing  | Yes                          | Yes                         |
| C1.4 Solar Access  | Yes                          | Yes                         |
| C1.5 Visual Privacy  | No                           | Yes                         |
| C1.6 Acoustic Privacy  | Yes                          | Yes                         |
| C1.7 Private Open Space  | No                           | Yes                         |
| C1.9 Adaptable Housing and Accessibility   | N/A                          | N/A                         |
| C1.10 Building Facades   | Yes                          | Yes                         |
| C1.12 Waste and Recycling Facilities   | Yes                          | Yes                         |
| C1.13 Pollution Control  | Yes                          | Yes                         |
| C1.14 Separately Accessible Structures   | Yes                          | Yes                         |
| C1.15 Storage Facilities   | Yes                          | Yes                         |
| C1.19 Incline Passenger Lifts and Stairways  | N/A                          | N/A                         |
| C1.23 Eaves  | Yes                          | Yes                         |
| D1.1 Character as viewed from a public place   | Yes                          | Yes                         |
| D1.5 Building colours and materials  | Yes                          | Yes                         |
| D1.8 Front building line   | No                           | Yes                         |
| D1.9 Side and rear building line   | No                           | Yes                         |
| DA2018/0068  |                              | Page 18 of 41               |





| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| D1.11 Building envelope  | No                           | Yes                         |
| D1.14 Landscaped Area - Environmentally Sensitive Land               | No                           | Yes                         |
| D1.15 Fences - General   | N/A                          | N/A                         |
| D1.17 Construction, Retaining walls, terracing and undercroft areas  | Yes                          | Yes                         |
| D1.20 Scenic Protection Category One Areas                           | Yes                          | Yes                         |
| D15.11 Waterfront lighting   | Yes                          | Yes                         |
| D15.12 Development seaward of mean high water mark                   | N/A                          | N/A                         |
| D15.13 Lateral limits to development seaward of mean high water mark | N/A                          | N/A                         |
| D15.14 Minimum frontage for waterfront development                   | N/A                          | N/A                         |
| D15.15 Waterfront development  | N/A                          | N/A                         |
| D15.18 Seawalls  | N/A                          | N/A                         |
| D15.19 Dredging  | N/A                          | N/A                         |

#### Detailed Assessment

#### **A4.1 Avalon Beach Locality**

The proposal would not satisfy all the desired characteristics, in that the proposed additions would result in the dwelling becoming a three storey structure which is inconsistent with the two storey characteristic that is sought for the locality. Such an inconsistency is the result of a very steeply sloped site, as the proposed lower ground floor level would occupy an existing undercroft area that currently resides below the existing two-storey dwelling.

While the dwellings on both sides of the subject site are two-storey structures, there are other examples of other three-plus storey dwellings within the surrounding area. While the height of the dwelling is proposed to be increased, this is unrelated to the introduction of a third level and the overall proposed height, bulk and scale of the development would continue to be consistent with surrounding residential development, particularly when viewed from public areas.

Aside from the number of storeys being proposed, the development would otherwise be consistent with the existing and desired character of the area. The inconsistency regarding the number of storeys is therefore considered to be acceptable.

#### **C1.3 View Sharing**

As indicated within the site description section of this report, both the subject site and surrounding area reside on a slope that falls in an westerly direction towards Pittwater. A site inspection was undertaken of the subject site, though as no submissions were received, inspections were not undertaken from adjoining sites. It was considered likely that due to the topography of the area and the form of surrounding development, some dwellings on surrounding sites may have views of Pittwater and associated foreshore areas that could be affected by the proposed development.

Part C1.3 (View Sharing) of Pittwater 21 DCP requires that:

DA2018/0068

Page 19 of 41



*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;*  
*and*  
*Views are not to be obtained at the expense of native vegetation.*

The proposed tree removal is required to facilitate the construction of the dwelling and would not be the result of the applicant attempting to obtain more significant views; the proposal would satisfy the fourth view-sharing requirement of the DCP as outlined above and will not be discussed further.

Height poles and a photographic analysis were not provided in accordance with the DCP advisory notes. As no submissions were received and inspections of surrounding sites were not undertaken, such information was not requested from the applicant.

In determining the extent of potential view loss to adjoining and nearby properties, the four planning principles outlined within the NSW Land and Environment Court *Tenacity Consulting v Warringah Council* [2004] NSW LEC 140 have been considered.

#### **1. Nature of the view to be affected**

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

##### Comment:

Due to the topography of the area, significant views would be obtained from the subject site and surrounding sites. Such views would be generally be directed towards the west, and would incorporate the Pittwater waterway, Western Foreshore areas and associated foreshore areas on both sides of Pittwater. There would be some filtering of views by vegetation between these dwellings and Pittwater.

#### **2. The part(s) of the property from which the views are obtained**

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

##### Comment:

Significant views (as outlined above) from sites on the western side of Riverview Road would primarily be obtained from the rear of these properties, with some views being potentially obtainable from some side-facing windows. Based on observations from Riverview Road, some views may be obtainable from Riverview Road and sites on the eastern side of Riverview Road, though such views are likely to be heavily filtered by vegetation and development on the subject site and surrounding sites.

#### **3. The extent of the impact**

*"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be*



*meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating."*

**Note:** Inspections within Riverview Road road reserve indicate that the proposed development would not adversely affect views from this public area, and shall not be discussed further.

Comment:

201 Riverview Road

As indicated above, it was not possible to quantify the level of impact that the proposed development would have on views from this property. Based on the floor level of the rear upper floor balcony (RL25.95) and as the proposed first floor additions would not move the rear building line towards the rear boundary on the northern side of the site, the proposed development would be unlikely to significantly change views from this area. The proposed additions would however move the rear building line of the first floor towards the rear boundary, which may affect some views from the rear of the ground floor of this adjoining site. As the existing building platform at 201 Riverview Road would be further to the respective front boundary than the subject site however, any impacts on views would be obtained by looking across the shared side property boundary, with the level impact likely becoming less evident as the viewpoint is moved towards the south of 201 Riverview Road.

As indicated within the visual privacy assessment below, it is also recommended that a privacy screen for the main rear deck not extend 2.46m beyond the rear building line to minimise view impacts on this site. Further, views towards the west (i.e. rear) of this adjoining site and northwest would be unaffected by the proposal. With regard to the above and the planning principles, any view loss from this site would likely be classified as minor.

199 Riverview Road

As with 199 Riverview Road, it was not possible to quantify the level of impact that the proposed development would have on views from this property. Unlike the northern side of the subject site, the proposed first floor additions would move the rear building line approximately 4.7 metres further towards the rear boundary on the ground and lower ground floors and 1.5 metres on the first floor; these changes would likely have the greatest level of impacts on views towards the northwest from this site. Unlike the dwelling at 201 Riverview Road, the existing building platform on this adjoining site is significantly further towards the respective front boundary than the subject site; given the angle from which views would be obtained from the rear of this site, the proposed additions towards the rear boundary are unlikely to have significant adverse impacts. The impact of the rear additions would become more prominent on this site as the viewline is moved to the south where the primary rear deck is located. The floor level (RL24.94) of this deck would however, be similar to that of the first floor of the subject site; while the proposed ground and lower ground floors may affect some views of foreshore areas, some views (albeit filtered by vegetation) may still be obtainable over the proposed works towards the northwest.

Views towards the west (i.e. rear) of this adjoining site and southwest would be unaffected by the proposal. With regard to the above and the planning principles, any view loss from this site would likely be classified as minor.

**4. The reasonableness of the proposal that is causing the impact**

*"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the*





*answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."*

Comment:

As indicated above, the proposed development would likely have some impact on views obtained from adjoining sites, however such impacts are considered to be relatively minor. While the proposed development would not comply with side setbacks, the building envelope or the building height standard, such noncompliances are unlikely to contribute to significant view loss as views likely to be affected would be obtained by looking across the subject site. Impacts on views associated with privacy screens were considered, which lead to a recommendation that would prevent any privacy screening beyond the rear building line on the northern side of the subject site.

In summary, an assessment of potential view-sharing impacts from adjoining sites was subsequently undertaken in accordance with both the DCP and relevant Land and Environment Court Planning Principles. This assessment indicated that the proposed development would likely have a minor level of impact on views from sites to both sides of the subject site. In accordance with the Tenacity principles and the limitations of the subject site, the levels of impact are considered to be reasonable.

#### **C1.4 Solar Access**

The submitted plans indicate that the proposed development could significantly overshadow the dwelling at 197 Riverview Road (i.e. the site adjoining the southern side boundary of the subject site). As no submissions were received, it was not possible to gain access to this adjoining site to confirm what parts are used as living/private open space areas, and whether these would likely be affected by any additional overshadowing.

Observations by the assessing officer at the subject site indicate that parts of the northern elevation of this dwelling that would be most significantly overshadowed by the proposed development do not contain any substantial glazed areas that are likely to be associated with living areas. The proposal would therefore comply with controls requiring that 50% of glazed surfaces not be overshadowed for more than three hours on June 21.

Further observations by the assessing officer at the subject site indicate decks adjoining the northwest part of the dwelling at 197 Riverview Road (i.e. areas to be substantially overshadowed) do not appear to contain dimensions that would enable them to be used as primary private open space areas. The shadow plans indicate that a larger deck on the southwest side of this dwelling would continue to receive at least three hours of solar access. The proposal would therefore comply with controls requiring that primary living areas on adjoining sites obtain at least three hours of solar access on June 21.

The plans do not detail overshadowing impacts associated with modifications to the carport. Observations on the site indicate that the front of the adjoining site (i.e. 197 Riverview Road) contains a garage, with the remainder of the front setback containing a highly vegetated/steeply sloped area that is unlikely to provide the private open space for that site. Despite a lack of information, it is unlikely that the modified carport would adversely affect solar access to sensitive areas of the adjoining site.

In summary, the proposed development would comply with relevant development controls and outcomes and would have a reasonable level of impact on surrounding areas.

#### **C1.5 Visual Privacy**

The submitted information indicates that the proposed development would be capable of mostly satisfying applicable development controls. While a number of windows (specifically windows 10, 31,





32 and 33 on the southern elevation) would not be screened or include raised sill heights, such windows are associated with low-use areas (i.e. the study, bedrooms, etc.) and are at heights where they are unlikely to result in significant overlooking of adjoining sites.

Despite the above, there are however a number of elements that would likely result in considerable overlooking of the adjoining site at 197 Riverview Road. These are detailed as follows:

- Windows 12 and 24 (associated with the ground floor living room and the master bedroom respectively) are not screened. While these are relatively narrow windows at the front of their respective rooms, they do not feature raised sills and their locations would permit potential overlooking back towards the rear of 197 Riverview Road. It is therefore recommended that a condition require the screening of these windows using fixed louvres; such a measure would largely preserve views towards Pittwater from the site but would prevent views being directed back towards the adjoining site.
- The proposed new deck on the southern side of the dwelling and the modified deck on the northern side of the dwelling are designed in a manner that would likely result in overlooking of adjoining sites. It is recommended via a condition that the southern side elevation of the southern deck be screened to a minimum height of 1.7 metres in accordance with DCP requirements. The same condition is also recommended for the northern deck, however it is recommended that this screen only be extended to the rear building line of the ground floor. This would result in a 1.5 metre wide section of the deck that would extend beyond the rear building line which would not be screened, and which would subsequently not comply with the DCP. While a view loss analysis from 201 Riverview Road is not possible, there is concern that screening the entire northern side elevation of this deck would adversely affect views obtained from the rear of that adjoining site. Despite the noncompliance, the majority of the affected deck (and the adjoining living areas) would be adequately screened, and potential visual privacy issues would only arise should persons use the rearmost sections of the deck, and it is considered unlikely that this would result in frequent overlooking of adjoining sites. It is also noted that the side elevations of balconies on adjoining sites are not screened and no objections have been received.
- There is concern that elements of the carport and workshop would overlook parts of the adjoining site at 197 Riverview road. While the front of the adjoining site does not contain sensitive areas (e.g. private open space) due to their proximity to the common boundary and lack of suitable opportunities to provide screening. As the proposed entry to the workshop would be obtained via the northern elevation, it is therefore recommended that a condition require the deletion of the balcony and associated door on the eastern (i.e. rear) elevation, and that any window be screened/obscured to a minimum height of 1.7m above the finished floor level. It is also recommended that the southern side elevation of the carport be screened to a minimum height of 1.7m to protect the visual privacy of the adjoining site (due to the roof above, this screening structure would not result in additional overshadowing of the adjoining site).

In summary, subject to conditions the proposal would mostly comply with applicable development controls. There would be a noncompliance with regard to a balcony on the northern side of the dwelling, however it is likely that full-length screening to satisfy the DCP controls would adversely affect views from an adjoining site. The majority of the affected balcony would however be screened and mostly preserve visual privacy, and no concerns were raised by adjoining property owners. The noncompliance is therefore considered to be supportable on merit.

### **C1.7 Private Open Space**

Technical noncompliance proposed as the site would provide approximately 58m<sup>2</sup> of Private Open Space (POS) area, which is a 27.5% variation to the control. A technical variation is also proposed with regard to visual privacy, however this is assessed under Part C1.5 of the DCP.



The noncompliance is considered to be acceptable. The subject site is very steeply sloped, which limits the placement and size of suitable POS areas. The placement of all decks/terraces would enable such areas to form extensions of existing/proposed living areas within the dwelling which is consistent with relevant DCP outcomes. The area noncompliance is therefore considered to be supportable on merit.

#### **D1.8 Front building line**

The carport (as modified) would have a minimum front setback to the front boundary of 1.7m, however the DCP permits reduced or nil setbacks for carparking structures and spaces on steeply sloping or constrained sites, provided that *"all other structures on the site must satisfy or exceed the minimum building line applicable."* The dwelling would have a setback of at least 12.7m to the front boundary; this distance is well in excess of both the numerical setback requirement and the established building line.

The proposed layout of the site is also consistent with most other sites on the western side of Riverview Road, and is subsequently considered to be satisfactory.

#### **D1.9 Side and rear building line**

**Note:** The proposed rear setback complies with the DCP and shall not be discussed further.

The proposed development would not comply with either side setback. As the plans propose modifications to two separate structures, the assessment of such noncompliances have been separated and are as follows:

##### Garage/workshop:

The proposed northern side elevation would comply with DCP requirements and will not be discussed further. The plans do however propose modifications to the existing carport; the existing zero setback to the southern side boundary would be retained, while the proposed workshop beneath would have a side setback to the southern boundary of approximately 565mm. As assessed above, the proposed modifications to the carport would be unlikely to have significant additional impacts on the adjoining site, however a condition is recommended that would require a privacy screen to be erected to maximise visual privacy.

As the workshop would be located beneath the existing carport, this element would not result in additional overshadowing of the adjoining site. The workshop would not be used for separate habitation, and it is considered unlikely that it would be a high-use area. It is however recommended that modifications be made to the rear elevation of the workshop to minimise opportunities for overlooking of the adjoining site. Subject to conditions, the design of the proposed workshop would satisfy the outcomes of the control and are therefore considered to be supportable on merit.

##### Dwelling:

The largest points on noncompliance (840mm to the southern boundary and 900mm to the northern boundary) are already established by the existing dwelling and would not be increased; the additions at the rear of the dwelling would have slightly larger 1m side setbacks, though the additions would still propose a 1.5m (or 60%) variation to the 2.5m setback requirement along the southern side elevation. Despite such noncompliances, as assessed above the proposed development would (subject to conditions) not:

- Adversely affect the privacy of adjoining sites;
- Unreasonably block views towards Pittwater;

DA2018/0068

Page 24 of 41



- Unreasonably overshadow the site immediately to the south; and
- Have any impact on tree retention.

With regard to the above, the proposed additions to the dwelling would continue to satisfy the outcomes of the control and are therefore considered to be supportable on merit.

#### **D1.11 Building envelope**

Both sides of the dwelling and the southern side of the carport would be located significantly outside of the building envelope. The level of noncompliance varies due to the significant and variable slope, however the level of noncompliance is greater on the southern side of the site due to the lower elevation of that side boundary.

The slope under the dwelling footprint is approximately 42.5%, which is considerably greater than the 30% (16.7°) slope that is required under the DCP for noncompliances to be considered. It is also noted that the proposal is for alterations and additions to a dwelling which in its current form is largely outside of the building envelope; the appearance of the proposed additions from public areas are therefore relatively consistent with the current site conditions. Other outcomes of the control are also addressed in that the proposal would be unlikely to have significant adverse and/or unreasonable impacts on surrounding sites.

With regard to the above, the proposed noncompliance is considered to be supportable on merit.

#### **D1.14 Landscaped Area - Environmentally Sensitive Land**

Including variations permitted by the DCP, the plans propose a landscaped area of approximately 406m<sup>2</sup> (50.5%) of the site area, which is a variation of approximately 15.8% to the 60% landscaped area requirement. The existing landscaped area of the site already noncompliant in terms of site coverage, and the further reduction would be associated with the additions at the rear of the dwelling (the new patio area within the front setback would be exempted by the DCP) which would reduce landscaped area by approximately 35m<sup>2</sup>.

While the noncompliance is notable, the outcomes of the controls would continue to be satisfied. Three trees are proposed to be removed from within the front setback, however existing trees and vegetation elsewhere on the site are to remain unchanged. While the most significant reduction to landscaped area would occur immediately to the rear of the dwelling, observations by the assessing officer noted that there are no significant trees/vegetation within this affected area; the works would subsequently not affect vegetation that would screen/filter the development when viewed from public waterway areas. Existing trees within the rear setback would subsequently continue to assist in visually reducing built form from the adjoining public area. Despite the proposed noncompliance, no issues have been raised by Council's Development Engineer and Biodiversity officer.

Despite the above, the plans indicate that a small pathway (which extends towards the northern boundary off the main entrance pathway between the garage and dwelling) would be retained. This pathway does not appear to serve any identifiable purpose, therefore it is recommended that it be removed and replaced with soft landscaped area. While the removal of the path would only provide an additional 7m<sup>2</sup> of landscaped area, it would create a larger unencumbered area within the front setback that would be capable of accommodating large trees and vegetation.

With regard to the above, the landscape area noncompliance is considered to be supportable on merit, subject to conditions.



### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **Pittwater Section 94 Development Contributions Plan**

### **CONCLUSION**

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

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

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

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

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

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

### **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2018/0068 for Additions and alterations to existing dwelling house and garage on land at Lot 2 DP 17895, 199 Riverview Road, AVALON BEACH, subject to the conditions printed below:



## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

**1. Approved Plans and Supporting Documentation**

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

a) Approved Plans

| <b>Architectural Plans - Endorsed with Council's stamp</b> |                  |                               |
|--|------------------|-------------------------------|
| <b>Drawing No.</b>   | <b>Dated</b>     | <b>Prepared By</b>            |
| Site Analysis  | 21 December 2017 | Blue Sky Building Designs     |
| Site Plan  | 21 December 2017 | Blue Sky Building Designs     |
| Demolition Plans   | 21 December 2017 | Blue Sky Building Designs     |
| Ground Floor Plan  | 21 December 2017 | Blue Sky Building Designs     |
| First Floor Plan   | 21 December 2017 | Blue Sky Building Designs     |
| Lower Level  | 21 December 2017 | Blue Sky Building Designs     |
| Carport & Workshop   | 21 December 2017 | Blue Sky Building Designs     |
| South Elevation  | 21 December 2017 | Blue Sky Building Designs     |
| West Elevation   | 21 December 2017 | Blue Sky Building Designs     |
| North Elevation  | 21 December 2017 | Blue Sky Building Designs     |
| East Elevation + Mat. Schedule                             | 21 December 2017 | Blue Sky Building Designs     |
| Sections   | 21 December 2017 | Blue Sky Building Designs     |
| Plan showing Details & Levels over Lot 2 in DP 17895       | 19 April 2017    | TTS Total Surveying Solutions |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |                  |                          |
|---|------------------|--------------------------|
| <b>Report No. / Page No. / Section No.</b>  | <b>Dated</b>     | <b>Prepared By</b>       |
| Arboricultural Impact Assessment  | 26 October 2017  | S&B Tree Services        |
| Geotechnical Investigation  | 13 December 2017 | White Geotechnical Group |

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.



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

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

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

## 2. **Amendments to the approved plans**

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

- Screens consisting of fixed louvres are to be fixed to Windows 12 and 24. The louvres shall be angled so they prevent views towards the dwelling at 197 Riverview Road (i.e. the dwelling on the site adjoining the southern side boundary). The screens shall be finished in colours and materials that are consistent with the remainder of the dwelling.
- A privacy screen is to be erected along the entire southern side of the deck that extends from the "Living" room on the ground floor. The screen shall be at least 1700mm high when measured from the Finished Floor Level (FFL) of the deck, and shall be constructed of materials/colours that are consistent with the remainder of the dwelling.
- A privacy screen is to be erected along the northern side of the ground floor deck that extends from the ground floor kitchen and lounge room. The screen shall be 1700mm high when measured from the FFL of the deck and shall extend 2.64m from the rear building line (i.e. the northern elevation of the deck shall be screened except for the rearmost 1.5m section of the deck). The materials/colours of the screen shall be consistent with the remainder of the dwelling.
- The balcony on the eastern side of the workshop shall be deleted. The sliding door shall also be deleted, and replaced with a window that is screened/obscured to a height of at least 1700mm above the FFL of the workshop.
- A privacy screen is to be erected on the southern side of the existing carport. The screen shall be a height of at least 1700mm above the FFL of the carport and shall be constructed of materials/colours that are consistent with the remainder of the dwelling.
- The existing pathway and steps which extend from the main access pathway within the front setback to the north-side boundary shall be deleted.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land. (DACPLB02)

## 3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a "dwelling house", as defined by Pittwater Local Environment Plan 2014.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent. (DACPLB03)



**4. Prescribed conditions (Demolition):**

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

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

- (b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

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

- (c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

Reason: Legislative Requirement (DACPLB09)

**5. Telecommunications in New Developments**

Prior to the issue of the Construction Certificate in connection with the development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.



and

(ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Reason: To ensure that telecommunications infrastructure is considered early in the planning process.

**6. Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such





damage.

- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

7. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

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

(b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy. )

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.



Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

**8. General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

DA2018/0068

Page 32 of 41



- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

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

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

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

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 9. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the

DA2018/0068

Page 33 of 41



development site.

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

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

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

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

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

10. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: Safety. (DACENC19)

11. **Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 13 December 2017 are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

Reason: To ensure geotechnical risk is managed appropriately.

12. **Compliance with standards (Demolition):**

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

DA2018/0068

Page 34 of 41



Reason: To ensure the development is constructed in accordance with appropriate standards.  
(DACPLC02)

13. **Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards.  
(DACPLC02)

14. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- o Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- o Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- o Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

15. **Tree protection**

a) A Project Arborist with minimum qualification equivalent to AQF Level 5 is to be appointed prior to commencement of works.

b) The Project Arborist is to oversee all tree protection measures for the existing trees identified in the Arboricultural Impact Assessment prepared by S7B Tree Services, dated 26 October 2017, including T 4, T5, T6, T7 and T13, and with reference to section 4 - Recommendations and section 5 - Tree Management Plan, and specifically 5.2 Hold points, inspection and certification.

c) The Project Arborist is to familiarise themselves with and ensure compliance with any other tree and environmental requirements conditioned under this consent.

d) All ground works in the vicinity of the existing trees shall be conducted under the supervision of the Project Arborist.

e) all tree protection shall be in accordance with the recommendations provided within the Arboricultural Impact Assessment report (as applicable) and AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4.





- f) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees
- g) all tree protection measures, as proposed in the Arboricultural Impact Assessment, are to be in place prior to the commencement.
- h) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained.
- i) no tree roots greater than 50mm diameter are to be cut from protected trees unless authorized by a qualified Arborist on site
- j) all structures are to bridge tree roots greater than 50mm diameter unless directed a qualified Arborist on site
- k) should either or both i) and j) occur during site establishment and construction works, details shall be submitted by the Arborist to the Certifying Authority.

*Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites, and protect the existing environmental amenity, and satisfy C1.1.*

#### **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

- 16. **Maintenance of Road Reserve**  
The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.  
  
Reason: Public Safety. (DACENE09)

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

- 17. **Stormwater Disposal**  
The stormwater drainage works shall be certified as compliant with Council's DCP and all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.  
  
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.  
  
Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)
- 18. **Certification Elevated Parking Facility Works**  
An appropriately qualified and practicing Structural Engineer shall certify to the Council / Principal Certifying Authority that the elevated parking facility is constructed in accordance with this consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 Parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls.  
  
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Occupation Certificate.

DA2018/0068

Page 36 of 41



Reason: Safety and Compliance with this consent. (DACENF13)

19. **Geotechnical Certification Recommendations have been Implemented**

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.

Reason: To ensure geotechnical risk is mitigated appropriately.

20. **Restoration of Damaged Public Infrastructure**

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.

Reason: To ensure public infrastructure is returned to the state it was in prior to development

21. **Required replacement canopy trees**

At least nine (9) locally native canopy trees are to be planted onsite to replace trees approved for removal, at a 3:1 ratio as recommended within the Arboricultural Impact Assessment. Canopy tree species are to be selected from the list pertaining to the vegetation community growing in the locality as per the Arboricultural Impact Assessment recommendations in section 4.3 Offsetting. All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Canopy trees are to be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used. Each tree planted is to have a minimum area of 3 metres x 3 metres and a minimum 8m<sup>3</sup> within this area to ensure growth is not restricted.

*Reason: Preservation of environmental amenity and landscape character of the area.*

22. **Existing tree protection and health**

Documentary evidence including photographic material shall be submitted by the Project Arborist to the Certifying Authority that the proposed works have not impacted on the health of the existing trees.

*Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites, and protect the existing environmental amenity.*

23. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES****24. No Planting Environmental Weeds**

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

**Reason:** Weed management.

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

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

**Reason:** To protect Aboriginal Heritage.

**26. Provision of Replacement Canopy Trees**

In compensation for approved tree removals, at least nine (9) locally native canopy tree species are to be planted on site. Canopy tree species are to be selected from species present within Pittwater Spotted Gum Forest EEC and not the list presented in the Arboricultural Impact Assessment provided in Section 4.3 Offsetting. All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree. Tree replacement plantings are to be certified by the project arborist.

**Reason:** Tree replacement

**27. Outdoor lighting**

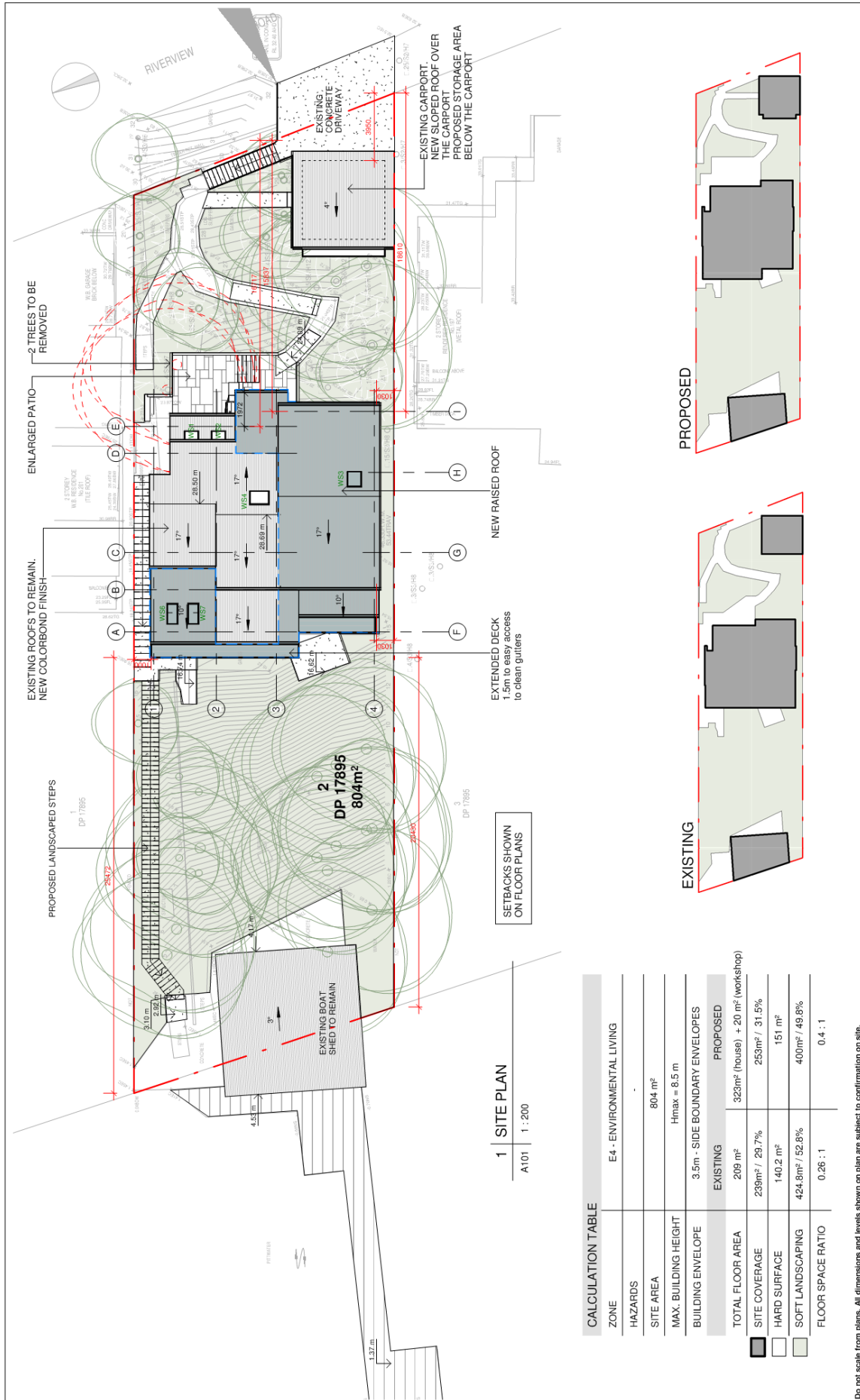
Any outdoor lighting shall be resigned and shielded so as to avoid disturbing surrounding properties and minimise reflection on the adjoining waterway. Flood-lighting is not permitted.

**Reason:** To preserve the amenity of the area and to ensure compliance with Section D15.1 (Waterfront Lighting) of Pittwater 21 Development Control Plan.(DACPLGOG1)

**28. Use of the workshop**

The workshop shall not be used for habitation purposes. No cooking facilities are to be placed within this area.

**Reason:** Legislative requirement (DACPLGOG2)

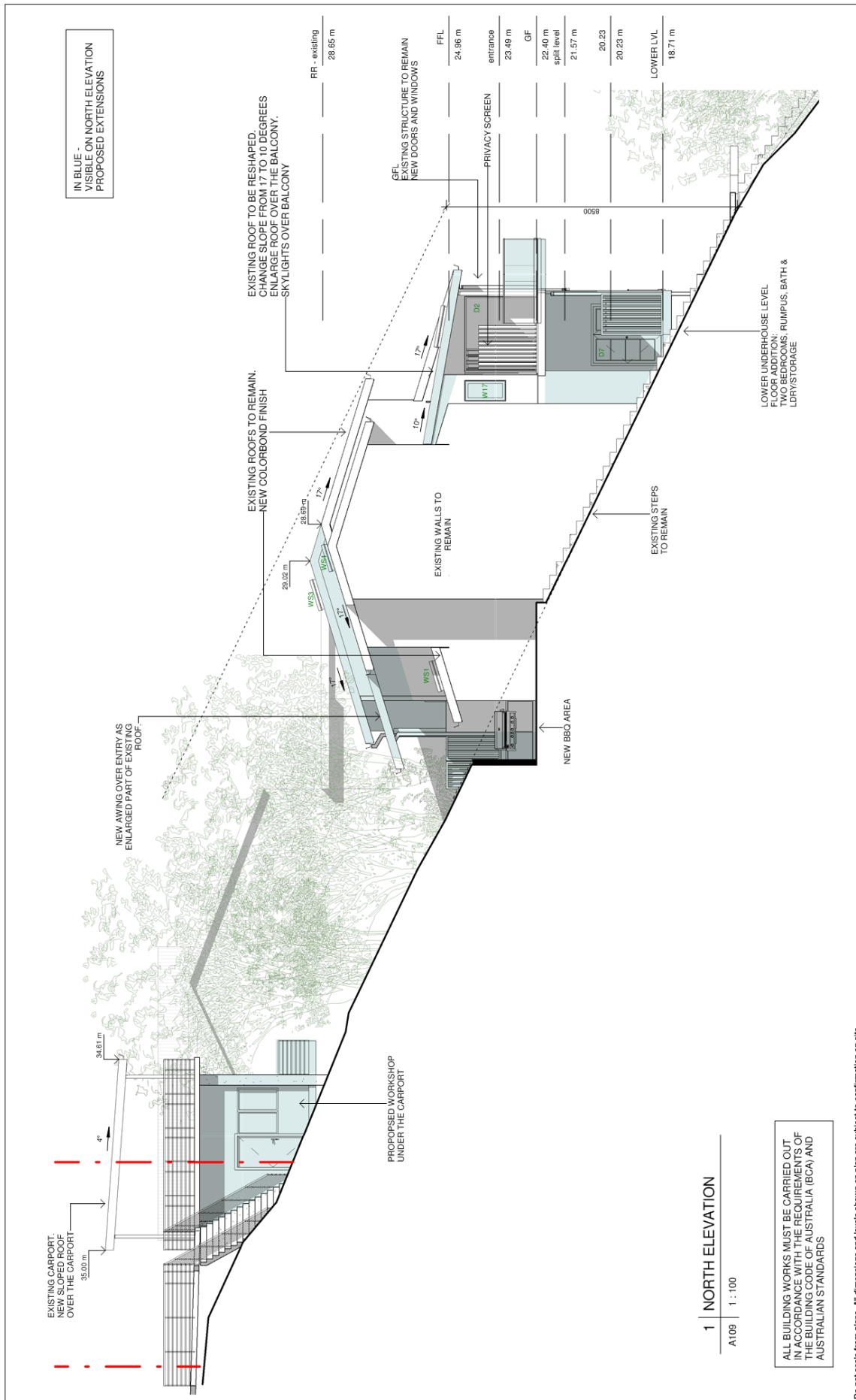












**SHEET TITLE:** NORTH ELEVATION

**SHEET NO:** A109

**SCALE AS:** 1 : 100

**PROJECT TITLE:** ALTERATION & ADDITION

**PROJECT NO.:** 2017.031

**AT:** 199 Riverview Rd  
Avalon

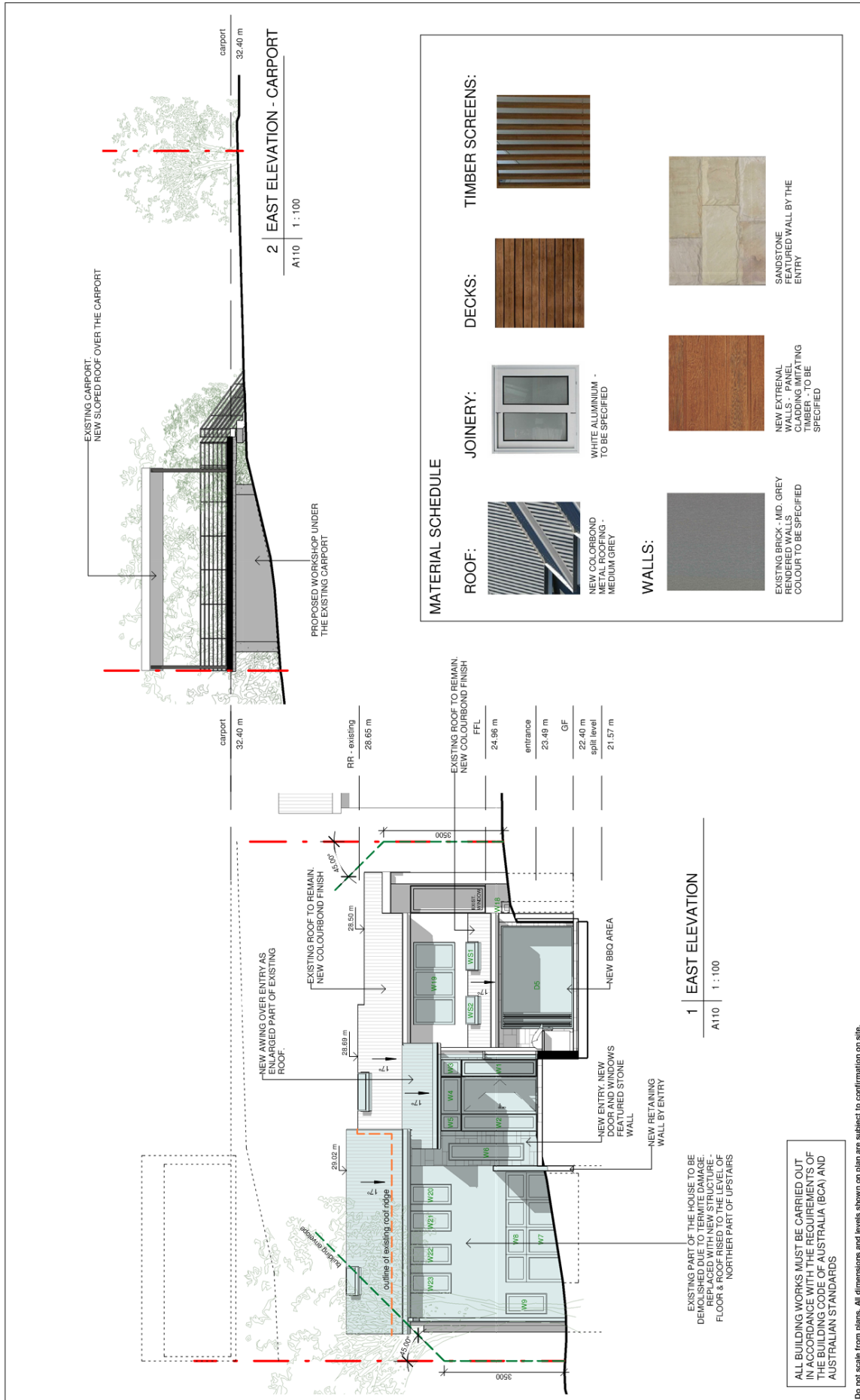
**FOR:** Libby & David Busch

**BLUE SKY**  
BUILDING DESIGNS  
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| ISSUE | DATE       | DESCRIPTION                     | DRWN | CHKD |
|-------|------------|---------------------------------|------|------|
| -     | 18.05.2017 | CONCEPT DESIGN                  | MW   | KM   |
| -     | 22.08.2017 | CONCEPT DESIGN - rev            | MW   | KM   |
| -     | 07.09.2017 | PRE DA ISSUE                    | MW   | KM   |
| -     | 09.10.2017 | PRE DA ISSUE - demolition plans | MW   |      |
| DA    | 27.11.2017 | DA ISSUE                        | MW   |      |
| DA    | 21.12.2017 | REVIEW                          | MW   |      |

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| ISSUE      | DATE                            | DESCRIPTION | DRWN | CHKD |
|------------|---------------------------------|-------------|------|------|
| 18.05.2017 | CONCEPT DESIGN                  | MW          | KM   |      |
| 22.08.2017 | CONCEPT DESIGN - rev            | MW          | KM   |      |
| 07.09.2017 | PRE DA ISSUE                    | MW          | KM   |      |
| 09.10.2017 | PRE DA ISSUE - demolition plans | MW          |      |      |
| 27.11.2017 | DA ISSUE                        | MW          |      |      |
| 21.12.2017 | REVIEW                          | MW          |      |      |

| PROJECT TITLE: | ALTERATION & ADDITION      |
|----------------|----------------------------|
| PROJECT NO.:   | 2017.031                   |
| AT:            | 199 Riverview Rd<br>Avalon |
| FOR:           | Libby & David Busch        |

| SHEET TITLE: | EAST ELEVATION + MAT. SCHEDULE |
|--------------|--------------------------------|
| SHEET NO.:   | A110                           |
| SCALE AS:    | 1:100                          |

**ITEM 3.2**                      **DA2017/1259 - 45 RIVERVIEW ROAD, AVALON BEACH -  
ALTERATIONS AND ADDITIONS TO EXISTING DWELLING  
HOUSE**

**REPORTING MANAGER**      **MATTHEW EDMONDS**

**TRIM FILE REF**              **2018/293747**

**ATTACHMENTS**              1 [↓](#) **Assessment Report**  
2 [↓](#) **Site Plan and Elevations**

**PURPOSE**

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

---

**RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority grant Development Consent to DA2017/1259 for Additions and alterations to dwelling house on land at Lot 4 DP 17910, 45 Riverview Road, AVALON BEACH, subject to the conditions outlined in the Assessment Report.

---



## REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 23 May 2018

45 Riverview Road Avalon Beach - Additions and alterations to dwelling house

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                                    |   |
|------------------------------------|---|
| Application Number:                | DA2017/1259   |
| Responsible Officer:               | Nick Armstrong  |
| Land to be developed (Address):    | Lot 4 DP 17910, 45 Riverview Road AVALON BEACH NSW 2107 |
| Proposed Development:              | Additions and alterations to dwelling house             |
| Zoning:                            | E4 Environmental Living                                 |
| Development Permissible:           | Yes   |
| Existing Use Rights:               | No  |
| Consent Authority:                 | Northern Beaches Council                                |
| Land and Environment Court Action: | No  |
| Owner:                             | Anthony George Lang<br>Ursula Lang                      |
| Applicant:                         | Anthony George Lang<br>Ursula Lang                      |
| Application lodged:                | 18/12/2017  |
| Integrated Development:            | No  |
| Designated Development:            | No  |
| State Reporting Category:          | Residential - Alterations and additions                 |
| Notified:                          | 02/01/2018 to 29/01/2018                                |
| Advertised:                        | Not Advertised  |
| Submissions Received:              | 7   |
| Recommendation:                    | Approval  |
| Estimated Cost of Works:           | \$ 12,000.00  |

### ASSESSMENT INTRODUCTION

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

DA2017/1259

Page 1 of 27





- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone E4 Environmental Living  
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks  
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection  
Pittwater 21 Development Control Plan - 2014 - A1.7 Considerations before consent is granted  
Pittwater 21 Development Control Plan - 2014 - A4.1 Avalon Beach Locality  
Pittwater 21 Development Control Plan - 2014 - B3.1 Landslip Hazard  
Pittwater 21 Development Control Plan - 2014 - B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community  
Pittwater 21 Development Control Plan - 2014 - B5.10 Stormwater Discharge into Public Drainage System  
Pittwater 21 Development Control Plan - 2014 - B6.2 Internal Driveways  
Pittwater 21 Development Control Plan - 2014 - B6.3 Off-Street Vehicle Parking Requirements  
Pittwater 21 Development Control Plan - 2014 - C1.3 View Sharing  
Pittwater 21 Development Control Plan - 2014 - C1.4 Solar Access  
Pittwater 21 Development Control Plan - 2014 - C1.5 Visual Privacy  
Pittwater 21 Development Control Plan - 2014 - C1.14 Separately Accessible Structures  
Pittwater 21 Development Control Plan - 2014 - D1.1 Character as viewed from a public place  
Pittwater 21 Development Control Plan - 2014 - D1.9 Side and rear building line  
Pittwater 21 Development Control Plan - 2014 - D1.17 Construction, Retaining walls, terracing and undercroft areas

## SITE DESCRIPTION

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 4 DP 17910 , 45 Riverview Road AVALON BEACH NSW 2107   |
| <b>Detailed Site Description:</b> | The site is legally known as Lot 4 in Deposited Plan 17910, and is commonly referred to as 45 Riverview Road, Avalon Beach. The site is trapezoidal in shape, with a 15.24m wide frontage to Riverview Road, a 15.77m wide frontage to Paradise Avenue, a maximum depth of 81.46m and a total area of 1210.7m <sup>2</sup> . The site currently contains an existing two storey dwelling, located centrally on the site, with a detached |

DA2017/1259

Page 2 of 27



double carport at the eastern side of the site, accessed from Riverview Road.

The site slopes slightly upwards from Riverview Road, to a maximum RL of 41.88, before falling back down towards Paradise Avenue. A number of existing mature canopy trees are present on the site, located to both the east and west of the existing dwelling. Low density residential development of varying age and character surrounds the site, and is the dominant form of development within the locality.

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

### 3 August 2006

N0171/04 for the subdivision of the existing lot into two (2) allotments was refused by the Land and Environment Court.

### 16 August 2016

Development Application N0088/16 for the construction of a new dwelling and secondary dwelling was approved by Council with the following amendments:

- The workshop/storeroom and driveway accessed via Paradise Avenue did not form a part of the consent due to unreasonable impact to an environmentally sensitive site in the form of excessive tree loss and excavation.

### 16 May 2017

Section 96 Modification Application N0088/16/S96/1 for the construction of a new dwelling and secondary dwelling was refused by the Northern Beaches Hearing and Independent Assessment Panel  
DA2017/1259

Page 3 of 27



for the following reasons:

- Tree removal is inconsistent with the objectives of the E4 zone, Clause 7.6 of PLEP 2014 and Clauses B4.7 of P21 DCP;
- The modifications result in new and intensified areas of non-compliance and inconsistency with the outcomes of P21 DCP Clauses C1.11, D1.1 and D1.9, resulting in an over-development on the site; and
- The proposed vehicular access from Paradise Avenue poses a safety risk.

#### 12 September 2017

Pre-lodgement Meeting PPM2017/0008 was held between the applicant and Council representatives to discuss modifications to approved dwelling and secondary dwelling, with specific reference to tree loss. Council's position on this matter was that the proposed driveway access from Paradise Avenue and the proposed detached garage located directly behind the secondary dwelling would not be supported due to an unreasonable amount of tree loss and impact on the natural environment. Council did identify that there was scope for a storeroom to be considered beneath the approved dining area of the main dwelling to minimise the need for future structures located outside the approved building footprint.

#### **PROPOSED DEVELOPMENT IN DETAIL**

The application seeks consent for alterations and additions to the dwelling. In particular the application seeks to consent for a rumpus room, workshop and storeroom below the approved dwelling.

This area of works originally formed a part of two previous applications (N0088/16 and N0088/16/S96/1) to be used for the purposes of a garage.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

#### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

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



| Section 4.15 Matters for Consideration'  | Comments   |
|--|--|
|  | <p>Clause 50(1A) of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p>Clauses 54 and 109 of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p>Clause 92 of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p>Clauses 93 and/or 94 of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p><b>(i) Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p><b>(ii) Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of</p>  |





| Section 4.15 Matters for Consideration'  | Comments  |
|--|---|
|  | the existing and proposed land use.   |
| Section 4.15 (1) (c) – the suitability of the site for the development                 | The site is considered suitable for the proposed development.   |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on "Notification & Submissions Received" in this report.   |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

### NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 7 submission/s from:

| Name:                             | Address:                                  |
|-----------------------------------|---|
| Mr Jonathon Leslie Essington King | 38 Riverview Road AVALON BEACH NSW 2107   |
| Mr Robert Schuijff                | 43 Riverview Road AVALON BEACH NSW 2107   |
| Graham Berry Stuart               | 1 A Paradise Avenue AVALON BEACH NSW 2107 |
| Prudence Wawn                     | 47 Riverview Road AVALON BEACH NSW 2107   |
| Mrs Susan Christine Martin        | 164 Riverview Road AVALON BEACH NSW 2107  |
| Mr Mark Ernest Alchin             | 49 Riverview Road AVALON BEACH NSW 2107   |
| Avalon Preservation Trust Inc     | Po Box 1 AVALON BEACH NSW 2107            |

The following issues were raised in the submissions:

- Size/scale of development
- Stormwater drainage
- Impact on underground watercourse/flow
- Soil runoff created by excavation
- Tree loss/impact
- Parking
- Views
- Solar access
- Privacy
- Setbacks
- Amount of excavation
- Future application for parking/driveway
- Subdivision
- Character of locality

DA2017/1259

Page 6 of 27





- Secondary dwelling

The matters raised within the submissions have been addressed within the relevant sections of this report.

## **MEDIATION**

No requests for mediation have been made in relation to this application.

## **REFERRALS**

| <b>Internal Referral Body</b>    | <b>Comments</b>   |
|----------------------------------|---|
| NECC (Bushland and Biodiversity) | Council's natural environment, biodiversity section raise no objections to the proposal. The proposal involves additional excavation within the existing approved footprint and would not involve increased impacts to biodiversity values on the site.   |
| NECC (Development Engineering)   | The application relies upon a previous approval on the site under application N0088/16. This approval deleted floor space under condition 14 c which is now proposed under this application. A review of the report for the previous application indicated that the excavation proposed for these works was not opposed by Development Engineering. It is unclear how this consent will be linked to the previously mentioned approval in terms of conditions and information including the Geotechnical report that has been relied upon for that approval. Provided that the consents can be linked to ensure the conditions and information relate to both consents, no objection to approval with no additional conditions recommended. |

| <b>External Referral Body</b> | <b>Comments</b> |
|-------------------------------|-----------------|
| Ausgrid: (SEPP Infra.)        | No issues.      |

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\***

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

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

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

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

Nil

## **Pittwater Local Environmental Plan 2014**



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

#### Principal Development Standards

| Standard             | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m        | 2.9m     | N/A         | Yes      |

#### Compliance Assessment

| Clause   | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes                          |
| 4.3 Height of buildings                                  | Yes                          |
| 5.10 Heritage conservation                               | Yes                          |
| 7.1 Acid sulfate soils                                   | Yes                          |
| 7.2 Earthworks   | Yes                          |
| 7.6 Biodiversity protection                              | Yes                          |
| 7.7 Geotechnical hazards                                 | Yes                          |
| 7.10 Essential services                                  | Yes                          |

#### Detailed Assessment

##### Zone E4 Environmental Living

The application proposes excavation to form a rumpus room, storeroom and workshop below the existing dwelling. These works formed a part of the original application, although were removed from the final approval (in addition to the associated driveway) as vehicle access was no longer proposed from Paradise Avenue. The area of works proposed within the current application is located entirely below the approved building footprint of the single dwelling and does not result in any additional tree removal than approved under development application N0088/16.

Council provided pre-lodgement advice to the applicant through pre-lodgement report PPM2017/0008, which suggested that any additional storage areas should be located within the building footprint of the main dwelling, with specific reference to locating the storage area below the dining area on the approved plans. This results in no additional structures located within the subject site and maintains a built form and environmental impact that is consistent with the objectives of the E4 Environmental Living zone.

##### 7.2 Earthworks

The application intends to provide a rumpus/store room and workshop beneath the location of the approved building footprint as granted consent within N0088/16 which results in additional excavation to the subject site. The area proposed under the current application was originally included within the original development application, although was excluded from the final consent due to the association of the works with the originally proposed access driveway from Paradise Avenue, excavation and general impact to the natural environment.

DA2017/1259

Page 8 of 27



As the works contained within the current application propose no changes to the approved building footprint, the development does not involve any additional tree removal beyond those approved for removal within N0088/16. Council's Development Engineer and Biodiversity Officer are both in support of the current proposal as highlighted within the referral body section previously within this report.

Pre-lodgement advice was sought by the applicant through PPM2017/0008 on the likelihood of Council supporting driveway access from Paradise Avenue and a store room located beneath the existing dwelling. Council reiterated that a driveway from Paradise Avenue would continue to not be supported as the associated tree loss and environmental impact would be far too significant, however the advice identified that there would be scope to provide storage beneath the approved dining room of the existing dwelling.

The excavation associated with the storage area is considered consistent with the requirements of the control as the application maintains a suitable stormwater drainage solution and retains a site disturbance that is consistent with the approved dwelling. The excavated area is in-line with all of Council's built form controls and landscaping has been heavily conditioned within the original application to minimise the visual impact of the associated works. All fill to be removed on site has been conditioned to be reused or recycled where appropriate. Construction access and removal of excavation material is to be limited to the Riverview Road frontage due to concerns over tree impact. Should consent be granted this is to be conditioned.

## 7.6 Biodiversity protection

See P21 DCP Clause B4.7 for comments.

### Pittwater 21 Development Control Plan - 2014

#### Built Form Controls

| Built Form Control  | Requirement | Proposed        | % Variation* | Complies |
|---------------------|-------------|-----------------|--------------|----------|
| Front building line | 6.5m        | 48.6m           | N/A          | Yes      |
| Rear building line  | 6.5m        | 21.4m           | N/A          | Yes      |
| Side building line  | 2.5m        | 2.5m            | N/A          | Yes      |
|                     | 1m          | 7m              | N/A          | Yes      |
| Building envelope   | 3.5m        | Within envelope | N/A          | Yes      |
|                     | 3.5m        | Within envelope | N/A          | Yes      |
| Landscaped area     | 60%         | 66.7%           | N/A          | Yes      |

#### Compliance Assessment

| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted            | Yes                          | Yes                         |
| A4.1 Avalon Beach Locality                               | Yes                          | Yes                         |
| B1.3 Heritage Conservation - General                     | Yes                          | Yes                         |
| B1.4 Aboriginal Heritage Significance                    | Yes                          | Yes                         |
| B3.1 Landslip Hazard                                     | Yes                          | Yes                         |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes                          | Yes                         |

DA2017/1259

Page 9 of 27



| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community | Yes                          | Yes                         |
| B5.10 Stormwater Discharge into Public Drainage System              | Yes                          | Yes                         |
| B6.2 Internal Driveways   | Yes                          | Yes                         |
| B6.3 Off-Street Vehicle Parking Requirements                        | Yes                          | Yes                         |
| B8.1 Construction and Demolition - Excavation and Landfill          | Yes                          | Yes                         |
| B8.2 Construction and Demolition - Erosion and Sediment Management  | Yes                          | Yes                         |
| B8.3 Construction and Demolition - Waste Minimisation               | Yes                          | Yes                         |
| B8.4 Construction and Demolition - Site Fencing and Security        | Yes                          | Yes                         |
| C1.1 Landscaping  | Yes                          | Yes                         |
| C1.2 Safety and Security  | Yes                          | Yes                         |
| C1.3 View Sharing   | Yes                          | Yes                         |
| C1.4 Solar Access   | Yes                          | Yes                         |
| C1.5 Visual Privacy   | Yes                          | Yes                         |
| C1.6 Acoustic Privacy   | Yes                          | Yes                         |
| C1.7 Private Open Space   | Yes                          | Yes                         |
| C1.14 Separately Accessible Structures                              | Yes                          | Yes                         |
| C1.23 Eaves   | Yes                          | Yes                         |
| D1.1 Character as viewed from a public place                        | Yes                          | Yes                         |
| D1.5 Building colours and materials                                 | Yes                          | Yes                         |
| D1.8 Front building line  | Yes                          | Yes                         |
| D1.9 Side and rear building line                                    | Yes                          | Yes                         |
| D1.11 Building envelope   | Yes                          | Yes                         |
| D1.14 Landscaped Area - Environmentally Sensitive Land              | Yes                          | Yes                         |
| D1.16 Fences - Flora and Fauna Conservation Areas                   | Yes                          | Yes                         |
| D1.17 Construction, Retaining walls, terracing and undercroft areas | Yes                          | Yes                         |
| D1.20 Scenic Protection Category One Areas                          | Yes                          | Yes                         |

#### Detailed Assessment

#### **A1.7 Considerations before consent is granted**

Several residents have raised concerns over the the previously approved development and potential future works. These are considered individually below:

##### Future Applications for Driveway and Additional Parking

Issues were raised over the potential for the applicants to lodge a future application for the provision of an additional driveway (accessed via Paradise Avenue) and for additional parking structures within the subject site resulting in unreasonable tree loss and impact to the natural environment. The subject application only includes the proposed excavation below the approved dwelling to form a rumpus room, store room and workshop. Whilst it is acknowledged that previous applications (N0088/16 and



N0088/16/S96/1) did include the provision for a driveway and parking, that is not the case with the current application. Council has previously raised multiple concerns during these past applications, in addition to the pre-lodgement meeting prior to the lodgement of the subject application, regarding the driveway and a detached garage creating an unreasonable natural environment impact that does not achieve the objectives of the E4 zone in addition to PLEP Clause 7.6 and P21 DCP Clauses B4.7 and C1.1.

#### Subdivision/Dual-Occupancy

Concerns were raised over the application being an for the property to be used as a de-facto subdivision and that the dwelling will be used as a dual occupancy. It is noted that a previous application (N0171/04) for a subdivision of the existing site into two (2) new allotments was refused by the Land and Environment Court. The approved application (N0088/16) was approved for the construction of a new dwelling and secondary dwelling within the subject site. The proposed driveway was removed from the application, requiring access to only be obtained from Riverview Road which additionally resulted in an improved relationship and connection between the principal dwelling and secondary dwelling. Secondary dwellings are a permissible development type within the E4 zone and are common within the former Pittwater LGA to provide additional, affordable, in-fill housing.

It is acknowledged that the proposed lower ground floor excavation will create an increased living area for the residents of the dwelling and with the existing approved lower ground floor consisting of a bedroom and bathroom with separate access, but with an internal access and no kitchen. No approval has been sought to use this space for the purposes of separate habitation. The previous application has already been approved with a secondary dwelling. Any additional dwellings located within the site (other than the principal dwelling and secondary dwelling) would be defined as 'multi dwelling housing' which is prohibited development within the E4 zone. Dual occupancy development is also prohibited within the E4 zone. conditions are recommended ensure that no cooking facilities are provided within the lower ground floor and that this space is not to be used for the purposes of separate habitation.

#### Secondary Dwelling

No changes are proposed to the secondary dwelling or parking arrangement as approved under the previous consent (N0088/16).

#### **A4.1 Avalon Beach Locality**

See D1.1 for discussion.

#### **B3.1 Landslip Hazard**

Council's Development Engineer raised no concerns over the development's impact on the existing landslip hazard as per the referral comments contained within this report. The previous geotechnical hazard assessment report (Martens Consulting Engineers, dated 21 January 2016) prepared for Development Application N0088/16 remains satisfactory as the investigation carried out matches the current plans.

Concerns have also been raised regarding the development's impact to ground water flows/underground watercourse. None Council's records or mapping indicate the presence of an underground water flow. Additionally, information submitted with the current and previous development applications, including the Geotechnical Risk Management Report or Survey indicate the presence of a ground water flow.

#### **B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community**

Concerns were raised by neighbouring residents regarding tree loss, with specific reference to Trees 13





and 15. Tree 13 is located on the neighbouring property. Both trees are Spotted Gum and form a part of the Spotted Gum Forest Endangered Ecological Community which is common throughout the Avalon Beach Locality. The proposal involves the inclusion of the previously refused portion of the approved dwelling which incorporates a rumpus room, store room and workshop located below ground and requires excavation. The submissions relate to the level of excavation causing an impact to Trees 13 and 15 which has not been assessed by an arborist.

Under the original application (N0088/16) an arborist report (Urban Forestry Australia, dated October 2015) and addendum report (Urban Forestry Australia, dated July 2016) were submitted and both make reference to and assess the impacts of the development to Trees 13 and 15. As the excavation for the lower ground floor was initially included within this application, the arborist report does consider the impact of excavation to these trees. Both trees were identified to have a low-moderate Tree Protection Zone (TPZ) encroachment which is unlikely to adversely impact upon the ability of either tree to be retained. The arborist additionally recommended that if the proposed water tanks were relocated outside the TPZ of Tree 13, the encroachment would be able to be reduced to low. It is noted that as part of the current proposal, the water tanks along the northern elevation are located further to the east of the dwelling and beyond the TPZ. Therefore, based on the arborist report submitted with the original application. Both trees are able to be successfully retained.

As all proposed works are located within the existing building footprint, no additional trees are proposed for removal. Council's Biodiversity Officer has additionally reviewed the application and is satisfied that no further impact to the site or its surroundings will be created from a biodiversity perspective. The application is therefore considered acceptable on natural environment, biodiversity and tree removal grounds.

#### **B5.10 Stormwater Discharge into Public Drainage System**

Submissions have been received in relation to stormwater disposal. The current development does not trigger any additional stormwater requirements as the building footprint remains the same within the approved DA (N0088/16).

Council's Development Engineer provided these comments under the original application:

*The majority of the site (western) falls naturally to Paradise Ave, while the eastern part of the site falls to Riverview Rd. The proposal is for the new dwelling to drain towards Paradise Ave while the secondary dwelling will drain to Riverview Rd. The site will require a combination of on site detention and rain water reuse tanks which will control the peak discharge from the site to existing conditions. The storm water management plan indicates that the outlet to Paradise Ave will be a "gabion structure" within the embankment on the road reserve. Whilst the concept is satisfactory for consent purposes it may need to be varied at construction stage to suit site conditions. It may be appropriate to require a length of kerb and gutter to be constructed along the correct alignment of Paradise Ave to convey storm water along the road. This will be determined by Council's Urban infrastructure unit as part of the Section 139 Roads Act approval for works within the road reserve.*

*It is considered that the proposed stormwater management system comprising a combination of detention and reuse tanks with overflow piped to Paradise Avenue satisfies the requirements of the DCP and will provide a better stormwater management system than what exists.*

Council's Development Engineer has raised no further concerns under the current application. As no changes are proposed to the approved stormwater system, this is considered to be an acceptable arrangement.

Additional issues were raised by neighbouring residents regarding the ability of the stormwater system



to retain all trees not indicated for removal and that the Arborist Report does not clearly identify how this issue will be mitigated. Under the original application Council's Natural Environment Officer provided the following comments:

*The arborist report does not assess the impact of the proposed Stormwater Management Plan (Barrenjoey Consulting Engineers Pty Ltd, SW1, February 2016) which proposes a drainage line down the northern side of the property from the proposed dwelling to Paradise Avenue. No detail has been provided on the depth or construction methods for this drainage line and it is within the Structural Root Zones of large, significant Spotted Gums within and adjacent to the subject property. Given that stormwater pipes can be easily located to avoid impacting structural roots, both through location (which can be flexible and doesn't have to run in a straight line) as well as tunnelling methodology, a new stormwater pipe plan is required as a deferred commencement condition. The plan should be guided by a qualified arborist who can advise as to suitable locations and construction methodology for the stormwater pipe so that structural tree roots are not impacted. The arborist is also to advise on a more suitable location for the water tanks as indicated in the most recent arborist report (Urban Forestry Australia July 2016). An updated arborist report or addendum is required as part of the deferred commencement which provides a statement that the amended water tank and stormwater pipe locations will not impact on trees on the site.*

This condition was included within Part A Condition 1 of the deferred commencement consent for development application N0088/16 which the applicant was able to satisfy through the submission of stormwater management plans 151202, Drawing SW1D, SW2, prepared by Barnejoey Consulting Engineers, dated June 2016 and July 2017 respectively. Both drawings were supported by an Arborist Letter prepared by Urban Forestry Australia, dated 24 July 2017 confirming that the proposed water tanks have now been relocated and that no critical roots will be impacted by the stormwater pipe along the northern boundary. Hand digging has been recommended to be utilised where the pipe cannot be located beyond the Structural Root Zone (SRZ). As the condition has now been satisfied, as of 11/08/2017, Council has subsequently authorised the activation of the deferred commencement consent.

No changes have been recommended by Council's Development Engineer or Biodiversity Officer within the current application, noting that the works are located within the footprint of the approved dwelling.

### **B6.2 Internal Driveways**

No driveways or any off-street parking is proposed as part of the subject application. A driveway access via Riverview Road and associated parking facilities were approved under consent N0088/16.

### **B6.3 Off-Street Vehicle Parking Requirements**

Concerns were raised over the lack of additional street parking for the principal dwelling and secondary dwelling. A minimum of three (3) spaces is required under control B6.3 (two spaces for a principal dwelling with more than one bedroom and one space for the secondary dwelling). However under the original development application two (2) spaces were considered acceptable and approved. The surrounding area provides suitable on-street parking facilities for the additional parking demand of the approved development.

No additional off-street spaces are proposed as part of this application, or are required under the control. The additional rumpus/store room does not increase the demand for parking on-site and as such the approved two car tandem arrangement is acceptable.

### **C1.3 View Sharing**



A view loss assessment was carried out under the previous development application N0088/16. The assessment was as follows:

#### 43 Riverview Road

43 Riverview Road is located to the south of the existing dwelling at 45 Riverview Road, with views of the Pittwater Waterway and Western Foreshores obtainable from windows on the western façade and from the elevated area of private open space in the south-west corner of the dwelling. The proposed dwelling extends further to the west compared to the existing dwelling on the site, and may impact upon a portion of the views that are currently gained across the common side boundary to the north-west. The potential impact may be further exacerbated by privacy screens that are referred to in the SEE, but not shown on the architectural drawings. It is noted that no submission has been received from the owners of 43 Riverview Road in this regard.

Whilst access to the dwelling at 43 Riverview Road was not provided, the rear of the property was able to be inspected. The site inspection confirmed that whilst views of Pittwater are available to the north-west, the siting of the dwelling will not have an unreasonable impact upon the extent of views available from the property.

#### 47 Riverview Road

47 Riverview Road is located to the north of the existing dwelling at 45 Riverview Road, with views of the Pittwater Waterway and Western Foreshores obtainable from windows on the western façade and from the elevated area of private open space in the north-west corner of the dwelling. The proposed dwelling extends further to the west compared to the existing dwelling on the site, and may impact upon a portion of the views currently gained across the common side boundary to the south-west. The potential impact may be further exacerbated by privacy screens that are referred to in the SEE, but not shown on the architectural drawings. It is noted that whilst a submission was received from the property owner of 47 Riverview Road, it did not raise concerns in this regard.

Whilst access to the dwelling at 47 Riverview Road was not provided, the rear of the property was able to be inspected. The site inspection confirmed that whilst views of Pittwater are available to the south-west, the siting of the dwelling will not have an unreasonable impact upon the extent of views available from the property.

#### 49 Riverview Road

49 Riverview Road is located to the north-east of the existing dwelling at 45 Riverview Road, with views of the Pittwater Waterway and Western Foreshores obtainable from rooms to the west of the existing dwelling. The views are gained over and between the roof forms of existing dwellings located downhill and to the west of the existing dwelling at 45 Riverview Road.

The proposed new dwelling is of a greater height than that currently on site, with an elongated ridgeline, and as such, it is likely that the proposed new dwelling will remove a portion of the view currently obtained at 49 Riverview Road. However, the view in question is highly vulnerable to obstruction of both a built and vegetated nature, and forms such a minor portion of the overall outlook. Noting the compliant height and design of the development, the minor impact upon views is not seen to be unreasonable, and view sharing is considered to be achieved.

Concerns are raised in response to this DA regarding the outlook loss of the Pittwater Spotted Gum Community. The subject application proposes no further tree loss than what was approved under the original application. The only trees within close proximity to the current works that have been approved for removal include two (2) Kentia Palms, which are exempt species and do not impact upon the Pittwater Spotted Gum Community.

The original assessment determined that the proposal resulted in the reasonable sharing of views. As





the only proposed works within the subject application includes the excavation of the lower ground floor to form a workshop, rumpus room and store room, the area of works does not contribute to any further view impact.

#### **C1.4 Solar Access**

Concerns were received regarding the solar access impact of the proposed development in relation to the property at 43 Riverview Road. No shadow diagrams were submitted with the current application, however diagrams were submitted with the previous modification application. The two previous assessments (N0088/16 and N0088/16/S96/1) both found the development to be compliant with the solar access requirements stipulated within Clause C1.4. The development proposed within the subject application is located at the northern elevation of the approved dwelling and as a result does not alter the solar access impact to 43 Riverview Road as the level of works involved including the setback, building envelope and height remain the same along the southern elevation of the approved dwelling. While it is acknowledged that the approved dwelling will increase the amount of overshadowing to the neighbouring property, the changes proposed within the current application will not alter the solar access impact as approved within the initial dwelling application under N0088/16.

#### **C1.5 Visual Privacy**

Concerns were raised by neighbouring residents regarding the potential visual privacy impact of the development. There are no windows along the northern elevation of the proposed rumpus room and workshop. The only openings associated with the development includes bi-fold doors along the western elevation which do not face into neighbouring sites. Visual privacy was raised and considered under the previous applications in relation to potential overlooking created from the western facing ground floor deck and the impact of car headlights using the originally proposed driveway access from Paradise Avenue. The original application was approved with the inclusion of 1.7m privacy screens along both the northern and southern elevations of the ground floor deck to alleviate the opportunity for the residents of the subject site to look into the neighbouring properties. As a driveway off Paradise Avenue does not form a part of the subject application, the impact of headlights from cars is not an issue that requires to be considered. The subject application therefore maintains a reasonable visual privacy arrangement.

#### **C1.14 Separately Accessible Structures**

See A1.7 for discussion.

#### **D1.1 Character as viewed from a public place**

Concerns have been raised by neighbouring residents regarding the development's inability to satisfy the character of development as viewed from a public place and desired future character of the locality as the proposal results in an undesirable bulk and scale impact, three storey appearance of the development and tree loss.

The control requires development to incorporate design elements (such as roof forms, textures, materials ect.) that are compatible with the locality, the bulk and scale of buildings to be minimised and for landscaping to be integrated with the building design to screen the visual impact of the built form.

The current application does not result in the removal of any additional trees beyond what was approved under the previous application as indicated within Clause B4.7 of this report. Trees 13 and 15, as specifically mentioned within the objections, are successfully able to be retained as per the recommendations contained within the arborist report (Urban Forestry Australia, dated June 2016).



The alterations to the dwelling do not substantially alter the approved bulk and scale of the site as viewed from either Riverview Road or Paradise Avenue as the proposal intends to fill the void below the approved dwelling footprint. Whilst a portion of the development will result in a three storey dwelling, the proposal has been designed to step up the slope of the site by articulating the facades to reduce the three storey appearance. As no further trees are to be removed on site, this contributes to a dwelling that is located below the height of the tree canopy and is consistent with similar development along Riverview Road and the wider Avalon Beach Locality. Additionally, the approved landscape plan (Lang-LCD, prepared by Geoff Burton, dated December 2015) provides an adequate selection of ground covers and shrubs to further screen the development from the public domain. No further changes are proposed to the secondary dwelling, or the Riverview Road facade of the principal dwelling. This is considered acceptable.

#### **D1.9 Side and rear building line**

Concerns have been raised regarding the side setbacks of the proposed development. The original application (N0088/16) was approved with setbacks of 2.5m to the northern boundary and 1.24m to the southern boundary. The subject application seeks to maintain these existing setbacks, under which no issues were previously raised or identified within the assessment. It is noted that the previous modification application (N0088/16/S96/1) sought to increase the setbacks of the secondary dwelling to 1m to both sides, however no changes to the secondary dwelling are currently proposed. The side setbacks of the lower ground floor is therefore considered to be acceptable.

#### **D1.17 Construction, Retaining walls, terracing and undercroft areas**

Concerns were raised regarding the location of retaining walls. No retaining walls are proposed other than the external walls of the lower ground workshop, rumpus room and store room in the location as shown on the plans. See discussion under 7.2 for comments regarding excavation.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

#### **POLICY CONTROLS**

##### **Pittwater Section 94 Development Contributions Plan**

#### **CONCLUSION**

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

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

DA2017/1259

Page 16 of 27





- Codes and Policies of Council.

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

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2017/1259 for Additions and alterations to dwelling house on land at Lot 4 DP 17910, 45 Riverview Road, AVALON BEACH, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

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

##### a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp |            |                     |
|---|------------|---------------------|
| Drawing No.   | Dated      | Prepared By         |
| DA-01, DA-02, DA-06, DA-11, All Revision C          | 25/09/2017 | Michael King Design |
| DA-27, Revision A                                   | 25/09/2017 | Michael King Design |

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

#### 2. Approved Land Use

No construction access or the removal of excavated materials is to be done from Paradise

DA2017/1259

Page 17 of 27



Avenue. All construction access is to be obtained from Riverview Road.

**3. No Approval for Land Use**

This consent does not authorise any form of subdivision or dual occupancy.

Reason: To ensure compliance with the relevant Local Environmental Plan. (DACPLB04)

**4. Prescribed conditions (Demolition):**

(a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (ii) stating that unauthorised entry to the work site is prohibited.

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

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

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

(c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

Reason: Legislative Requirement (DACPLB09)

**5. Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) A sign must be erected in a prominent position on any site on which building work,

DA2017/1259

Page 18 of 27



subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

#### 6. Operational Conditions

No cooking facilities or kitchen is to be installed within the rumpus/store room or the lower ground floor of the approved dwelling. This floor is not to be used for the purposes of separate

DA2017/1259

Page 19 of 27



habitation/accommodation.

**7. General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

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

(b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy. )

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

**8. General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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



Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent





unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

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

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 9. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed

DA2017/1259

Page 22 of 27



with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

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

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

**10. Compliance with standards (Demolition):**

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

**11. External Finishes**

The external colours and finishes are to have a medium to dark range in order to minimise solar reflections to neighbouring properties.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

**12. Operational Conditions**

A driveway to Paradise Avenue is not authorised by this consent and trees 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 as identified within the Arboricultural Impact Assessment Report Addendum, prepared by Urban Forest Australia, dated July 2016 are to be retained.

**13. Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

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

**14. House / Building Number**

DA2017/1259

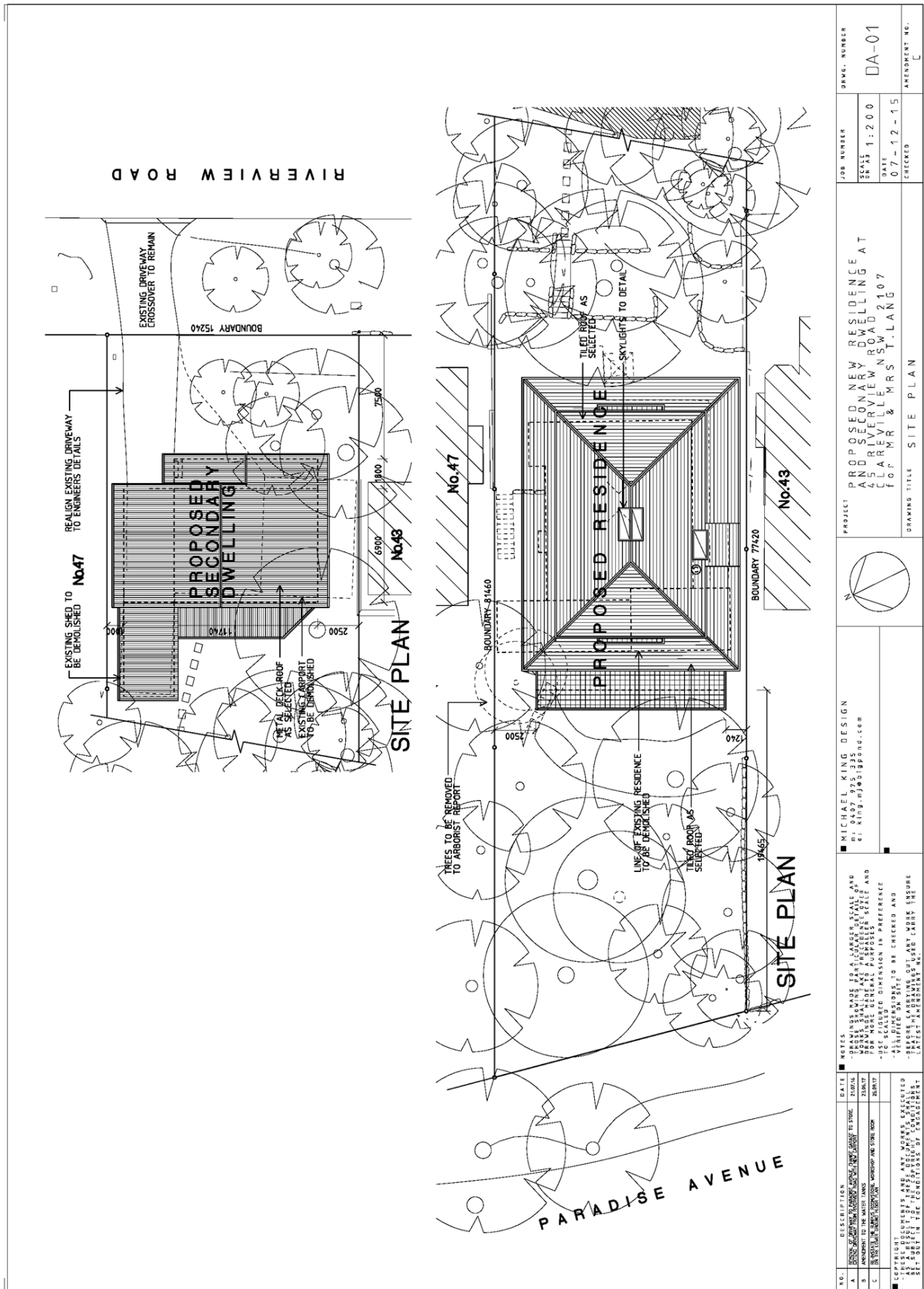
Page 23 of 27

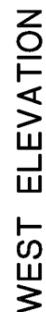


House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)



[illegible]



|                          |  |
|--------------------------|--|
| <b>ITEM 3.3</b>          | <b>DA2017/1285 - 29 GULLIVER STREET, BROOKVALE -<br/>DEMOLITION WORKS AND THE CONSTRUCTION OF MULTI<br/>DWELLING HOUSING CONSISTING OF FOUR DWELLINGS AND<br/>BASEMENT CAR PARKING</b> |
| <b>REPORTING MANAGER</b> | <b>RODNEY PIGGOTT</b>  |
| <b>TRIM FILE REF</b>     | <b>2018/293778</b>   |
| <b>ATTACHMENTS</b>       | <b>1 <a href="#">↓</a> Assessment Report</b><br><b>2 <a href="#">↓</a> Site Plan and Elevations</b>  |

**PURPOSE**

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

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**RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER**

THAT Council as the consent authority grant Development Consent to DA2017/1285 for Demolition works and the construction of multi dwelling housing consisting of four dwellings and basement car parking on land at Lot 24 DP 11209, 29 Gulliver Street, BROOKVALE, subject to the conditions outlined in the Assessment Report.

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## REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 23 May 2018

**29 Gulliver Street Brookvale - Demolition works and the construction of multi dwelling housing consisting of four dwellings and basement car parking**

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|   |   |
|---|---|
| <b>Application Number:</b>                | DA2017/1285   |
| <b>Responsible Officer:</b>               | Adam Mitchell   |
| <b>Land to be developed (Address):</b>    | Lot 24 DP 11209, 29 Gulliver Street BROOKVALE NSW 2100  |
| <b>Proposed Development:</b>              | Demolition works and the construction of multi dwelling housing consisting of four dwellings and basement car parking |
| <b>Zoning:</b>                            | Warringah LEP2011 - Land zoned R3 Medium Density Residential  |
| <b>Development Permissible:</b>           | Yes   |
| <b>Existing Use Rights:</b>               | No  |
| <b>Consent Authority:</b>                 | Development Determination Panel   |
| <b>Land and Environment Court Action:</b> | No  |
| <b>Owner:</b>                             | Buckinghamshire Property Holdings Pty Ltd   |
| <b>Applicant:</b>                         | Buckinghamshire Property Holdings Pty Ltd   |
| <b>Application lodged:</b>                | 19/12/2017  |
| <b>Integrated Development:</b>            | No  |
| <b>Designated Development:</b>            | No  |
| <b>State Reporting Category:</b>          | Residential - New multi unit  |
| <b>Notified:</b>                          | 12/01/2018 to 30/01/2018  |
| <b>Advertised:</b>                        | 13/01/2018  |
| <b>Submissions Received:</b>              | 5   |
| <b>Recommendation:</b>                    | Approval  |
| <b>Estimated Cost of Works:</b>           | \$ 1,707,200.00   |

### ASSESSMENT INTRODUCTION

DA2017/1285

Page 1 of 41



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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

#### **SUMMARY OF ASSESSMENT ISSUES**

Warringah Development Control Plan - B2 Number of Storeys  
 Warringah Development Control Plan - B3 Side Boundary Envelope  
 Warringah Development Control Plan - B5 Side Boundary Setbacks  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - B9 Rear Boundary Setbacks  
 Warringah Development Control Plan - C2 Traffic, Access and Safety  
 Warringah Development Control Plan - C3 Parking Facilities  
 Warringah Development Control Plan - C9 Waste Management  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - D8 Privacy  
 Warringah Development Control Plan - D9 Building Bulk  
 Warringah Development Control Plan - D10 Building Colours and Materials  
 Warringah Development Control Plan - D19 Site Consolidation in the R3 and IN1 Zone

#### **SITE DESCRIPTION**

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | Lot 24 DP 11209 , 29 Gulliver Street BROOKVALE NSW 2100   |
| <b>Detailed Site Description:</b> | <p>29 Gulliver Street, Brookvale (the subject site) is a corner allotment on the southern side of Gulliver Road and eastern side of Consul Road, Brookvale.</p> <p>The site is regular in shape and has a surveyed area of 591.69m<sup>2</sup> with a 45.1m frontage to Consul Road and a 8.5m frontage to Gulliver Street.</p> <p>The site is zoned for R3 Medium Density Residential development. Adjoining properties to the east are similarly zoned. Other properties to the north, south and west are</p> |

DA2017/1285

Page 2 of 41



|  |   |
|--|---|
|  | <p>zoned for R2 Low Density Residential development. The site is also within a 100m proximity to two schools, 100m to Brookvale Oval and 330m to Pittwater Road.</p> <p>Presently the site accommodates a detached residential dwelling that is older in style. Surrounding developments on R2 land are similar detached dwelling houses, and developments on the R3 zoned land are much larger in scale consisting of residential flat buildings.</p> <p>Topographically the site inclines towards the south west by approximately 4m via a gradual slope.</p> <p>The site has several matures trees throughout and smaller shrubbery.</p> |
|--|---|

Map:



## SITE HISTORY

### Prelodgement Meeting no. 2017/0131

The applicant attended a meeting with Council on 14 November 2017 to discuss the preliminary concept proposal for the construction of four attached multi-unit dwellings on the subject site.

The primary concerns raised in the meeting included site amalgamation with No. 27 Gulliver Street, architectural and landscape treatment to the built form and consideration to the most suitable location to place a driveway crossing.

The design proposed in this current development application scheme is reminiscent of that proposed in the prelodgement meeting.

## PROPOSED DEVELOPMENT IN DETAIL



This development application seeks consent for the demolition of the existing structures on site, excavation works and construction of a two storey multi-dwelling housing development.

The proposed building consists of one level of basement car parking accessible from Gulliver Street and four attached town houses (multi-dwelling houses) each consisting of living areas on the ground floor and three bedrooms and two bathrooms on the first floor. Each town house is to have a private courtyard on the eastern side of the buildings surrounded by landscaping.

The built form of the development is in a contemporary and seemingly modulated form consisting of clearly delineated townhouses through the use of varying building finishes and recesses.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

#### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

| <b>Section 4.15 'Matters for Consideration'</b>   | <b>Comments</b>   |
|---|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument   | See discussion on "Environmental Planning Instruments" in this report.  |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | None applicable.  |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan  | Warringah Development Control Plan 2011 applies to this proposal.   |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement   | None applicable.  |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p>Division 8A of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. The provisions of SEPP 65 do not strictly apply, thereby negating the requirement of Clause 50(1A) for a design verification certificate.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> |





| Section 4.15 'Matters for Consideration'   | Comments  |
|--|---|
|  | <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>  |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development   | The site is considered suitable for the proposed development.   |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs   | See discussion on "Public Exhibition" in this report.   |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.   |

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 5 submission/s from:

| Name:                    | Address:                          |
|--------------------------|-----------------------------------|
| Ms Angela Roberts        | 16 Consul Road BROOKVALE NSW 2100 |
| Toby Roberts             | 16 Consul Road BROOKVALE NSW 2100 |
| Mr Michael Charles Roper | 19 Consul Road BROOKVALE NSW 2100 |

DA2017/1285

Page 5 of 41



| Name:                                  | Address:                          |
|--|-----------------------------------|
| Ms Julie Elizabeth Roper               |                                   |
| Mr Scott William Brown<br>Joanne Brown | 14 Consul Road BROOKVALE NSW 2100 |
| Ms Meredith Macmillan<br>Dickson       | 13 Consul Road BROOKVALE NSW 2100 |

During the notification period of this application Council received submissions from four surrounding properties. Three of these submissions are most suitably described as proforma but modified accordingly, and one submission was unique. The submissions received raised the following points which are addressed accordingly:

#### **Built Form**

The submissions received note that the development does not comply with various built form controls pursuant to Part B of the Warringah DCP 2011, as detailed in the Statement of Environmental Effects accompanying the development application.

These non-compliances sought are discussed in detail in their respective clauses later in this report. In summary it is found that the constraints of the land warrant variation to some of the built form controls as enforcing full compliance would result in a building footprint of only 3.7m by 37.3m which doesn't represent the orderly and economic use and development of land in accordance with Clause 1.3 (c) of the Environmental Planning and Assessment Act 1979.

Accordingly and in summary, the contraventions to the built form controls sought are supported in the circumstances of this case.

#### **View loss**

Concern was raised that the application would result in adverse view loss from surrounding properties. View loss is discussed elsewhere in this report. In summary, it is found that when assessed against the Planning Principles established in *Tenacity Consulting v Warringah Council* the impacts on existing views are not of a magnitude that would warrant the refusal of the application.

#### **Character**

The three proforma submissions received all include the following objection:

*The proposed four town houses, which are orientated toward Consul Road, are out of character with the locality which is characterised by older single storey detached dwellings interspersed with more modern, larger two storey dwellings. While Gulliver Street is zoned for multi-dwelling housing, Consul Road is not. Therefore, the visual impact on Consul Road should be minimised by complying with side boundary setbacks and reducing bulk and scale.*

*The proposed town houses do not maintain the visual pattern and predominant scale of existing detached dwellings. The scale, bulk, mass, form, density and design (including material, colours and finishes) have no relationship with existing surrounding development.*

The site is a corner allotment bound by land zoned for R2 Low Density Residential development to the south and west and R3 Medium Density Residential development to the east. The site itself is zoned R3 and therefore the form of development for the purposes of multi-dwelling housing is permissible.

In *Seaside Property Developments Pty Ltd v Wyong Shire Council [2004] NSW117* Commissioner Bly considered development is a similar circumstance where a corner allotment for medium density development adjoined (across the street) a lower density zoning. In 25. C. Bly considered:

DA2017/1285

Page 6 of 41



*25. As a matter of principle, at a zone interface as exists here, any development proposal in one zone needs to recognise and take into account the form of existing development and/or development likely to occur in an adjoining different zone. In this case residents living in the 2(b) zone must accept that a higher density and larger scale residential development can happen in the adjoining 2(c) or 2(d) zones and whilst impacts must be within reason they can nevertheless occur.*

As stated, there is not the requirement for the development in the R3 zone to replicate the scale nor visual pattern of detached dwellings houses in the R2 zone as this may impact on the sites ability to achieve the full potential indicated by applicable development standards. Notwithstanding this, consideration is given to amenity impacts, bulk and scale and the visual impacts of the development.

The general architecture of the building is found to be acceptable and, by virtue of scale, provides a reasonable transition from the R3 zone into the adjoining R2 zone (whilst noting the adjoining R3 zoned property to the east is not yet developed). The form of the building is different to that in Consul Road as it is larger than most buildings, and is different to that in Gulliver Street as it is smaller than most buildings. The development may have some perceived visual impact and inconsistency with the character of the low density environment on Consul Road, however the form, scale and density of development being proposed must be reasonably expected given the attributes, constraints and potential of the site.

Accordingly, it is not found that the character of the development warrants the refusal of the application.

#### **Bulk and scale**

The proposed design is considered to be of an acceptable bulk and scale when assessed against the requirements and objectives of Part D9 of the WDCP 2011. The contextual transition provided between the R2 and R3 zone has been appropriately considered by the architectural response proposed. This matter is discussed in detail later in this report under the respective clause.

#### **Overdevelopment**

Concern is raised that four townhouses is too many for this site. The controls relating to the site do not go towards a minimum or maximum number of dwellings that is permitted on the site, and therefore this matter does not strictly warrant the refusal of the application. Discussions on the scale of the development commensurate to the lot size and surrounding developments can be found elsewhere in this report which concludes that the proposed development is suitable for the site.

#### **Driveway access**

The driveway access has been reviewed by Council's Traffic Engineer whom has raised no objections to the development, subject to conditions. Accordingly it is found that the driveway access location is acceptable in this circumstance.

#### **Footpath**

Submissions receive that raise concern that there is no safe footpath access around the perimeter of the site along Consul Road and Gulliver Street. Council concurs with this concern, and the requirement to construct a footpath has been included as a condition of consent in the recommendations of this report.

#### **Privacy**

Upon visiting neighbouring properties several neighbours raised visual privacy and overlooking as a concern from the westerly facing bedroom windows.

The provision of privacy afforded from these windows is considered to be acceptable given that the rooms are for bedroom use only, a 35m+ spatial separation between buildings exists and supplementary planting may also contribute to screening of the windows.



However, the provision of privacy afforded for the occupants of the subject development is considered to be unreasonable as anyone standing on the street would be able to obtain direct view lines into the 12 bedrooms of the development. Accordingly, a recommendation of this report requires that modifications be made to these windows to allow for a greater degree of privacy for occupants of the development.

## **MEDIATION**

No requests for mediation have been made in relation to this application.

## **REFERRALS**

| <b>Internal Referral Body</b>                      | <b>Comments</b>  |
|--|--|
| Building Assessment - Fire and Disability upgrades | <p><i>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</i></p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>  |
| Landscape Officer                                  | <p><i>The landscape plan provided indicates tree and screen planting to the site that is considered viable if the proposal is to be approved.</i></p> <p><i>The sections indicate above basement planters with depth of 1m, which is supported.</i></p> <p><i>It is recommended that additional street tree planting be included to assist with streetscape integration and bulk and scale impacts.</i></p> <p><i>Relevant conditions have been included if the proposal is to be approved in its current form.</i></p>  |
| NECC (Development Engineering)                     | <p><b><u>Development engineering comment dated 26/04/2018</u></b><br/> <i>No development engineering objections are raised. The proposal is acceptable subject to conditions.</i></p> <p><b><u>Development engineering comment on updated driveway profile dated 13/04/2018</u></b><br/> <i>12.50% grade is not acceptable between the boundary and kerb as cross fall of future footpath fronting the property cannot be steeper than 5.0%.</i></p> <p><b><u>Previous Comment</u></b><br/> <i>Insufficient details are submitted to Development Engineers to demonstrate the vehicle access for the development complies with AS2890.1.</i></p> <p><i>Preliminary assessment indicates the proposed driveway does not comply with AS2890.1 - 2004 with respect to driveway gradients, change in gradients, etc. As a result the underside of vehicles may</i></p> |



| Internal Referral Body     | Comments  |
|----------------------------|---|
|                            | <p><i>scrape the driveway while accessing the development. The proposal does not adequately demonstrate that vertical profile of the driveway is designed for a standard B85 percentile car.</i></p> <p><i>In this regard a longitudinal section at both edges of the proposed driveway is to be drawn and submitted to Development Engineers for assessment. In order to prevent vehicle scraping changes in grade shall not be more than 12.5% algebraically for summit grade changes and 15% algebraically for sag grade changes. The vehicular crossing profile in Council road reserve (between boundary and kerb line) must be in accordance with Northern Beaches Council Drawing No A4-3330/1 Normal.</i></p> <p><i>Proposal is not supported in its current form as it does not comply with AS2890.1 - 2004 and C2 of Council's DCP.</i></p>   |
| Strategic & Place Planning | <p><i>The subject site lies within the Investigation Area for the Brookvale Structure Plan and has been referred to Strategic Planning for review on this basis.</i></p> <p><b>Draft Brookvale Structure Plan</b></p> <p><i>The Draft Plan was endorsed by Council on 8 August 2017 and publicly exhibited between 25 September and 20 November 2017. Strategic Planning is currently undertaking review and reporting on submissions. It is anticipated that a report in relation to the submissions will be brought to Council by the middle of 2018.</i></p> <p><i>Should changes to current planning controls be identified through the Brookvale Structure Plan project, the process to make such changes will occur only after final endorsement of the Plan by Council.</i></p> <p><i>The Draft Plan does not propose any changes to the relevant planning instruments in respect of the subject site. Nor does it propose such changes to the immediately surrounding residentially zoned land.</i></p> <p><i>Accordingly, assessment of the subject development application should be carried out in accordance with the development controls established by the currently applying planning instruments.</i></p> <p><b>Conclusion</b></p> <p><i>These comments are provided in relation to the strategic planning framework for Brookvale. They do not indicate any assessment of the application against relevant planning controls.</i></p> <p><i>On this basis, Strategic Planning considers the proposal to be acceptable provided that Development Assessment is satisfied that the proposal meets the content and intent of the relevant planning controls.</i></p> |
| Traffic Engineer           | <p><i>The traffic consultant's report indicated that the proposed ramp leading to basement carpark does not comply with Australian Standards AS2890.1:2004 in terms of grade within the first 6m into</i></p>   |

DA2017/1285

Page 9 of 41





| Internal Referral Body | Comments   |
|------------------------|--|
|                        | <p><i>the car park. In terms of pedestrian safety, as a future footpath at Gulliver Street frontage is likely to be positioned approximately 1.5m from the front property boundary, the 1:8 ramp as proposed would be considered acceptable in this case.</i></p> <p><i>The development should also provide footpaths along Gulliver Street and Consul Road frontages and this would be subject to consideration by Council's development engineers.</i></p> <p><i>There are no objections to this development on traffic and parking grounds.</i></p> |
| Waste Officer          | <i>No objections are raised to the development, subject to conditions as recommended.</i>  |
| External Referral Body | Comments   |
| Ausgrid: (SEPP Infra.) | <i>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</i>  |

#### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

##### **SEPP 55 - Remediation of Land**

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

#### **SEPP (Building Sustainability Index: BASIX) 2004**



A BASIX certificate has been submitted with the application (see Certificate No. 876809M dated 4 December 2017).

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

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

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

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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

#### Comment:

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

### Warringah Local Environmental Plan 2011

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

#### Principal Development Standards

| Standard             | Requirement | Proposed | Complies |
|----------------------|-------------|----------|----------|
| Height of Buildings: | 8.5m        | 7.9m     | Yes      |

#### Compliance Assessment

| Clause      | Compliance with Requirements |
|-------------|------------------------------|
| DA2017/1285 | Page 11 of 41                |



| Clause                          | Compliance with Requirements |
|---------------------------------|------------------------------|
| 2.7 Demolition requires consent | Yes                          |
| 4.3 Height of buildings         | Yes                          |
| 6.2 Earthworks                  | Yes                          |
| 6.4 Development on sloping land | Yes                          |

#### Warringah Development Control Plan

##### Built Form Controls

| Built Form Control                                  | Requirement                | Proposed   | % Variation*               | Complies |
|---|----------------------------|--|----------------------------|----------|
| B2 Number of storeys                                | 2                          | Part 2 / Part 3  | 1 storey                   | No       |
| B3 Side Boundary Envelope                           | East - 4.0m                | Encroachment at a maximum height of 1.25m for the length of the building | 31.25%                     | No       |
|   | South - 4.0m               | No encroachment  | -                          | Yes      |
| B5 Side Boundary Setbacks                           | East - 4.5m                | Building - 3.65m   | 18.9% (0.85m)              | No       |
|   | (Basement) - 2.0m          | nil  | 100%                       | No       |
|   | South - 4.5m               | Building - 4.5m  | -                          | Yes      |
|   | (Basement) - 2.0m          | 11.4m  | -                          | Yes      |
| B7 Front Boundary Setbacks - Gulliver Road          | 6.5m                       | Basement - 6.5m  | -                          | Yes      |
|   |                            | Building - 6.5m  | -                          | Yes      |
| B7 Secondary Front Boundary Setbacks - Consul Road  | 3.5m                       | Basement - nil   | 100%                       | No       |
|   |                            | Building - 2.5m  | 28.6% (1.0m)               | No       |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 50% (297.2m <sup>2</sup> ) | 45.4% (270m <sup>2</sup> )   | 9.2% (27.2m <sup>2</sup> ) | No       |

##### Compliance Assessment

| Clause                        | Compliance with Requirements | Consistency Aims/Objectives |
|-------------------------------|------------------------------|-----------------------------|
| A.5 Objectives                | Yes                          | Yes                         |
| B2 Number of Storeys          | No                           | Yes                         |
| B3 Side Boundary Envelope     | No                           | Yes                         |
| B5 Side Boundary Setbacks     | No                           | Yes                         |
| B7 Front Boundary Setbacks    | No                           | Yes                         |
| B9 Rear Boundary Setbacks     | N/A                          | N/A                         |
| C2 Traffic, Access and Safety | Yes                          | Yes                         |

DA2017/1285

Page 12 of 41



| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| C3 Parking Facilities  | Yes                          | Yes                         |
| C4 Stormwater  | Yes                          | Yes                         |
| C5 Erosion and Sedimentation   | Yes                          | Yes                         |
| C6 Building over or adjacent to Constructed Council Drainage Easements | Yes                          | Yes                         |
| C7 Excavation and Landfill   | Yes                          | Yes                         |
| C8 Demolition and Construction   | Yes                          | Yes                         |
| C9 Waste Management  | No                           | Yes                         |
| D1 Landscaped Open Space and Bushland Setting                          | No                           | Yes                         |
| D2 Private Open Space  | Yes                          | Yes                         |
| D3 Noise   | Yes                          | Yes                         |
| D6 Access to Sunlight  | Yes                          | Yes                         |
| D7 Views   | Yes                          | Yes                         |
| D8 Privacy   | Yes                          | Yes                         |
| D9 Building Bulk   | Yes                          | Yes                         |
| D10 Building Colours and Materials                                     | Yes                          | Yes                         |
| D11 Roofs  | Yes                          | Yes                         |
| D12 Glare and Reflection   | Yes                          | Yes                         |
| D13 Front Fences and Front Walls                                       | Yes                          | Yes                         |
| D14 Site Facilities  | Yes                          | Yes                         |
| D15 Side and Rear Fences   | Yes                          | Yes                         |
| D19 Site Consolidation in the R3 and IN1 Zone                          | Yes                          | Yes                         |
| D20 Safety and Security  | Yes                          | Yes                         |
| D21 Provision and Location of Utility Services                         | Yes                          | Yes                         |
| D22 Conservation of Energy and Water                                   | Yes                          | Yes                         |
| E1 Preservation of Trees or Bushland Vegetation                        | Yes                          | Yes                         |
| E2 Prescribed Vegetation   | Yes                          | Yes                         |
| E6 Retaining unique environmental features                             | Yes                          | Yes                         |
| E10 Landslip Risk  | Yes                          | Yes                         |

#### Detailed Assessment

#### **B2 Number of Storeys**

The development is for a two storey building and one level of basement car parking. Portions of the basement car park protrude greater than 1m above the natural ground level and therefore is considered to be a 'storey' for the purposes of this requirement.

It should be noted that a prevailing Height of Buildings control pursuant to Clause 4.3 of the WLEP 2011 has been complied with.

An assessment against the objects of Part B2 follows:

DA2017/1285

Page 13 of 41



- ***To ensure development does not visually dominate its surrounds.***

Comment: The height of the development is not one of such that would detract from the visual aesthetic of the streetscape given the elevation of the dwellings to the west, and the scale of developments to the east. From the public domain the portion of the basement level that protrudes greater than 1m above natural ground level is relatively minimal commensurate to the overall building, and would reasonably be covered by landscaping as proposed. Accordingly, the development is found to satisfy this objective.

- ***To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.***

Comment: The variation to this control is not found to give rise to any adverse visual impact when viewed from adjoining properties of the street given the overall compliance with the Height of Buildings control and the availability of the variation to be hidden by landscaping. Along the eastern boundary of the site the land is retained up to a maximum height of 2.2m (and then immediately decreasing in height) and this is found to be acceptable as it can be mitigated by landscaping and incorporated into the design of the redevelopment of the adjoining site, if and when that happens.

- ***To provide equitable sharing of views to and from public and private properties.***

Comment: View sharing is discussed elsewhere in this report.

- ***To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.***

Comment: It is not found that the variation to the number of storeys control gives rise to any unreasonable nor adverse amenity impacts upon adjoining land.

- ***To provide sufficient scope for innovative roof pitch and variation in roof design.***

Comment: The development is considered to have an appropriate roof design that is interesting (combined with the overall architectural form) compared to the traditional pitched and gabled roofs to the detached dwellings to the west, and the large low-angle skillion roofs to the east.

- ***To complement the height of buildings control in the LEP with a number of storeys control.***

Comment: For the purposes of this assessment this development is considered to meet this objective as it meets the prevailing building height control pursuant to the LEP.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified ins.1.3 (a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **B3 Side Boundary Envelope**

DA2017/1285

Page 14 of 41





The entire eastern facade of the development encroaches the 4.0m side boundary envelope control by up to 1.25m equating to a 31.25% variation to the control. An assessment of the variation against the control objects follows:

Note: drawing DA550 Rev. A accompanying the application demonstrates the side boundary envelope control variation, and Council concurs that the level of variation depicted is accurate.

- ***To ensure that development does not become visually dominant by virtue of its height and bulk.***

Comment: The portions of the development which encroach the side boundary envelope control are generally restricted to architectural features of the building including the roof parapet and the 'box' forms that separate elements of the building. Removal of these architectural elements would increase compliance with the requirements of this control, however it is found that these elements enhance the overall aesthetic of the building and reduce the visual dominance of the development by virtue of height and bulk.

- ***To ensure adequate light, solar access and privacy by providing spatial separation between buildings.***

Comment: The variations sought to the side boundary envelope control do not give rise to any unreasonable or adverse amenity impacts including adequate light, solar access and privacy to adjoining dwellings. The spatial separation proposed between the eastern edge of the building (where the non-compliances occur) and the eastern boundary equates to one third of the sites width which, in the context of the land, is considered to be reasonable and satisfactory.

- ***To ensure that development responds to the topography of the site.***

Comment: The development appropriately demonstrates a responsiveness to the topography of the site as each townhouse steps down by 500mm.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

#### **B5 Side Boundary Setbacks**

The site is a corner allotment and therefore both the southern and eastern property boundaries are considered to be 'side boundaries' and therefore require a 2m setback to any basement levels and a 4.5m setback to the building.

The development does not comply with the side setback to the eastern boundary and proposes a nil setback to the basement level and a 3.65m setback to the building, equating to variations of between 18.9% and 100%. An assessment of the variation against the control objects follows:

- ***To provide opportunities for deep soil landscape areas.***

Comment: A discussion on the provision of landscaping can be found in this report under Part D1 which concludes that the landscaped solution proposed is acceptable. The basement level is



excavated to a level that allows for a minimum of 1m soil depth atop of the basement to accommodate plantings. Accordingly the development satisfies this objectives.

- ***To ensure that development does not become visually dominant.***

Comment: The development is not found to be of a scale or architecture that is unreasonably visually dominant.

- ***To ensure that the scale and bulk of buildings is minimised.***

Comment: The bulk of the development is considered to be acceptable within the R3 zone given the size of the allotment and the opportunities present for additional landscaping. This matter is discussed in greater detail elsewhere in this report.

- ***To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.***

Comment: As detailed throughout this report, the site is constrained by virtue of it's narrow width which, if strict compliance were enforced, would equate to a build-able area of only 4.1m in width (3.7m internally). There is potential for the eastern side setback to be increased for the building, but this would have other unintended impacts on visual impact and streetscape aesthetic. It is not considered that the spatial separation proposed between the adjoining building (both existing and what could reasonably be expected to be developed on the land) is likely to give rise to any unreasonable amenity impacts and therefore the development is assessed as satisfying this objective.

- ***To provide reasonable sharing of views to and from public and private properties.***

Comment: Views are discussed later in this report in Part D7.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

#### **B7 Front Boundary Setbacks**

The subject site has a dual street frontage which negates the requirement for a rear boundary setback pursuant to Part B9 (as discussed elsewhere in this report). The site is assessed as having one primary front setback (to Gulliver Street) and one secondary front setback (to Consul Road). The primary setback requirement is 6.5m and the secondary front setback is 3.5m.

The application provides a 6.5m setback to Gulliver Road, however the setback on the Consul Road frontage is non-compliant. The building is setback 2.5m from the street equating to a 1m (or 28.6%) variation to the control, and the basement level has a nil setback, equating to a 3.5m (or 100%) variation to the control.

- ***To create a sense of openness.***

Comment: The redevelopment of this site from a single detached dwelling house into medium density housing, as is envisioned by the planning controls, will inevitably result in a building of a

DA2017/1285

Page 16 of 41



larger scale than the present building. Accordingly it could be argued that this development is reducing a sense of openness by virtue of placing a larger building on site, even though it is what has been envisioned by the controls for an extended period of time.

In the circumstances of this application it is found that despite varying the Consul Road frontage by 1m the application preserves a reasonable sense of openness within the streetscape. From the kerb of Consul Road the building will be setback some 8m and will progressively step down the topography of the site to reduce perceivable visual bulk. The setbacks proposed will allow for landscaping both on the site and, if deemed appropriate, on Council's Road Reserve adjoining the site. It should also be noted that the setback being proposed is greater than the one presently on the site, and greater than the sites to the north and south along Consul Road.

Accordingly, it is considered that the development presents a reasonable sense of openness that will be accentuated overtime through the establishment of landscaping. The basement level has no impact on a sense of openness.

- ***To maintain the visual continuity and pattern of buildings and landscape elements.***

Comment: The development is not inconsistent with surrounding allotments on Consul Road and Gulliver Street by virtue of street setback. The building is consistent with the lengths of other other developments to the east in the R3 zone, and is consistent with the height of buildings in the Consul Road streetscape. The development is not found to impact adversely on the visual continuity and pattern of buildings within the streetscape, and therefore satisfies the objectives of the control.

- ***To protect and enhance the visual quality of streetscapes and public spaces.***

Comment: The development will replace an existing dated dwelling on the site with a contemporary and interesting building. The building is considered to be of an architecture compatible with surrounding developments and will enhance the visual quality of the streetscape.

- ***To achieve reasonable view sharing.***

Comment: The provision of view sharing is discussed in greater detail in Part D7 of this report, however in summary it is not considered that the variation to the secondary front setback control gives rise to any view impacts.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 1.3 (a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **B9 Rear Boundary Setbacks**

Part B9 of the DCP includes an exception provision for corner allotments which reads:

### ***Corner Allotments on Land Zoned R2 or R3***

*On corner allotments for land zoned R2 Low Density Residential or R3 Medium Density Residential, where the minimum rear building setback is 6 metres, the rear building setback does not apply.*



Pursuant to the exception control the site is not considered to have a 'rear boundary' and therefore no further assessment against the requirements of Part B9 is required.

## **C2 Traffic, Access and Safety**

The proposed development has been reviewed in detail by Council's Traffic Engineer who raises no objections to the proposed development.

## **C3 Parking Facilities**

- The development provides the following on-site car parking:

| Use  | Appendix 1<br>Calculation                             | Required | Provided | Difference (+/-) |
|--|---|----------|----------|------------------|
| Multi-dwelling housing (4 x 3 bedroom dwellings) | 1.5 spaces x 4 dwellings = 6 spaces + 1 visitor space | Total: 7 | 7        | nil              |

## **C9 Waste Management**

A detailed waste management plan has not been submitted with the application. To ensure proper disposal of demolition and builders' wastes, a condition has been included in the consent requiring details prior to the issue of a construction certificate.

## **D1 Landscaped Open Space and Bushland Setting**

The proposed development does not meet the requisite 50% landscaped open space (LOS) required by Part D1 of the DCP. The proposal has an LOS of 270m<sup>2</sup> equating to 45.4% of the site area. This quantum varies the requirement by 9.2% (27.2m<sup>2</sup>).

- To enable planting to maintain and enhance the streetscape.***

Comment: The application is accompanied by a detailed landscaped plan and schedule of plantings that seek to minimise any perceived bulk of the building and to enhance the streetscape. In this circumstance it is found that the proposed scheme enhances the streetscape by providing a formalised landscape setting along both street frontages, wider than is present in some areas of the site. The proposed mass planting and the overall development are considered appropriate with one another and will enhance the existing visual impact from the streetscape.

- To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.***

Comment: The proposal seeks to remove all existing vegetation on the site, but protect the vegetation on Council's road reserves. The planting schedule proposed significantly mitigates the loss of vegetation on the site and will provide excess opportunities for indigenous vegetation and habitat for wildlife. There are no remarkable topographical features on the site that are being impacted upon.





- ***To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.***

Comment: The development proposes to have a basement under approximately half of the site, with a minimum soil depth of 1m between it and the ground level above. This soil depth combined with the widths proposed (2.5m+) are considered to be satisfactory to accommodate plantings of varying species, scale and density to contribute to mitigating any perceived bulk and scale of the development, and will further enhance the development in longevity with the maturity of the plantings.

- ***To enhance privacy between buildings.***

Comment: The landscaped areas proposed are appropriately planted and incorporate adequate spatial separation to ensure that privacy between buildings can be maintained.

- ***To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.***

Comment: The site has sufficient outdoor recreational opportunities to meet the needs of the future occupants.

- ***To provide space for service functions, including clothes drying.***

Comment: The site has sufficient space for service functions including clothes drying to accommodate the needs of future occupants.

- ***To facilitate water management, including on-site detention and infiltration of stormwater.***

Comment: The site has sufficient landscaped areas and stormwater systems to adequately facilitate the management of stormwater.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 1.3 (a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

#### **D7 Views**

Objections received from Nos. 14 and 16 Consul Road raised view loss as a point of concern. On 23 April 2018 Council visited the two objecting sites to undertake a view loss analysis.

- ***To allow for the reasonable sharing of views.***

Comment: The development is found to have a reasonable provision of view sharing as established below.

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





### **1. Nature of the views affected**

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

Comment to Principle 1: The views which are subject of being affected by the development are best described as an outlook consisting of district views, tree tops and a portion of water views in the far distance. The views are, at present, interrupted and obscured by existing developments of trees.

### **2. What part of the affected property are the views obtained**

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

Comment to Principle 2: The views are obtainable from first floor balconies and then, to a lesser extent, internally in the dwelling from living rooms, dining rooms and kitchen with the view being lesser and lesser the further into the dwelling it is viewed.

The views are over front boundaries and are obtainable from a sitting and a standing position.

### **3. Extent of impact**

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

Comment to Principle 3: The extent of impact is not easily ascertainable given the changing heights of the building, however an indicative minimum height can be assumed from a review of surrounding building heights etc.

From the assessment undertaken on the site it is considered that the views will be impacted in such a way that the views of water in the distance are likely to be removed, but surrounding district and tree top views retained. Based on the outlook currently available (but not considering the quality of it), is it considered that the view loss is minor to moderate.

### **4. Reasonableness of the proposal that is causing the impact**

*"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide*



*the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."*

Comment to Principle 4: In the circumstances of this development it is found that the view loss that the two adjacent properties are likely to be subjected to is acceptable and does not warrant the refusal of the application. The proposed building is beneath the maximum permissible Height of Buildings pursuant to Cl. 4.3 of the WLEP 2011, and the provision of views is extremely vulnerable to any form of two storey development, whether it be multi-dwelling housing or a detached dwelling house.

Accordingly it is not found that the scale of development proposed could be reduced to preserve the existing outlook and provide the same level of development potential on the site as preserving the outlook would essentially restrict the site to single storey development.

Accordingly, it is found that that development is satisfactory when tested against the four principles.

- *To encourage innovative design solutions to improve the urban environment.*

Comment: The stepping of the building mass down the topography of the site is considered to be an appropriate response to lessen the scale and massing of the development and contributes to retaining some existing views and provides an innovative design solution within the R3 context.

- *To ensure existing canopy trees have priority over views.*

Comment: No trees are proposed to be removed for the purpose of view enhancement.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **D8 Privacy**

The eastern edge of the site is proposed to have Lilly Pillies planted for the entire length of the allotment. These species can attain a height of up to 2.5m which will prevent any unreasonable or adverse overlooking into the adjoining eastern side, both present and in future. It is found that this provides an acceptable privacy solution for the adjoining property combined with the physical separation provided by the setback.

Conversely, whilst the development is considered to provide an adequate provision of privacy for adjoining dwellings, it is not considered to provide an appropriate level of privacy to the Consul Road facing bedrooms which are clearly visible from the street level due to their floor to ceiling glazing. It is found that in order to provide an appropriate level of amenity to these twelve bedrooms a condition should be imposed to either raise the minimum sill height or provide obscure glazing to at least 1.3m in order to obstruct views into the bedrooms from the public domain.

Accordingly this is included in the recommendation of this report as a condition of consent.

### **D9 Building Bulk**

DA2017/1285

Page 21 of 41



The bulk and scale of the proposed development is found to be satisfactory in the context of the R3 zone. The location of the site requires it to act as an informal transition between the lower scale R2 developments and the larger scale R3 developments that surround the site. The form and massing of the architecture proposed is found to be of an acceptable visual impact when viewed from surrounding properties.

Additionally, given the physical size of the site commensurate to other allotments in the R3 zone along Gulliver Street the building proposed is required to be of a lesser scale than other surrounding developments. In this regard, for the purpose of bulk, scale and visual impact, it is found beneficial that the allotment has not amalgamated with the adjoining under-developed site as this would likely have resulted in a development much larger in scale that would not provide a transition as harmonious as that of the proposed.

Thereby it is found that the development overall is of a satisfactory building bulk.

#### **D10 Building Colours and Materials**

The palette of materials proposed to finish the development are considered to be appropriate within the eclectic streetscape, and the composition of brickwork, timber boards and metal profile cladding will blend in with the landscaped setting once matured and will contribute to the streetscape appeal of Gulliver Street and Consul Road. In this regard, it is found that the building colours and materials are satisfactory.

#### **D19 Site Consolidation in the R3 and IN1 Zone**

The subject site and the adjoining site to the east (No. 27 Gulliver Street, Brookvale) are two of the last remaining undeveloped sites within the R3 zoned area of Gulliver Street. The two allotments could, and ideally should, be amalgamated to facilitate a more efficient use of land.

The principles set out by Brown, J in the Land and Environment Court Case *Melissa Grech v Auburn Council* [2004] NSWLEC 40 require that the developer of a property must make reasonable and genuine attempts to purchase adjoining land that could become isolated by this development. In this particular circumstance the owner of No. 29 has approached the owner of No. 27 in an attempt to purchase the land, however attempts have been unsuccessful.

Given that purchasing the adjoining land has failed, the NSWLEC decision of *Cornerstone Property Group v Warringah Council* [2004] NSWLEC 189 requires that it be demonstrated that both two sites can achieve development that is consistent with the planning controls.

Both the subject site and No. 27 Gulliver Street are similar in size, if not identical. No. 29 is capable of being developed in a reasonable manner as evident by the assessment of this application, and the architectural plans accompanying the proposal include a schematic of how No. 27 could be developed in a similar manner.

It is found that the proposed development provides an outcome that is consistent with the objects of this clause, the zone objectives and is contextually appropriate for the attributes of the site. By virtue of being restricted to a lesser site area through not amalgamating the subject development is required to be smaller in scale than other R3 developments on Gulliver Street, thereby providing a visual and contextual transition between the R2 and R3 zoning that would unlikely be achieved if the two allotments were to have been amalgamated.

Accordingly, it is considered that the matters required to be demonstrated regarding site amalgamation



have been satisfied by this application.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

#### **POLICY CONTROLS**

##### **Warringah Section 94A Development Contribution Plan**

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

| Warringah Section 94 Development Contributions Plan            |                  |                  |
|--|------------------|------------------|
| Contribution based on a total development cost of \$ 1,707,200 |                  |                  |
| <b>Contributions</b>   | <b>Levy Rate</b> | <b>Payable</b>   |
| Total Section 94A Levy   | 0.95%            | \$ 16,218        |
| Section 94A Planning and Administration                        | 0.05%            | \$ 854           |
| <b>Total</b>   | <b>1%</b>        | <b>\$ 17,072</b> |

#### **CONCLUSION**

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

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

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

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP

DA2017/1285

Page 23 of 41





- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

The development application for the construction of a multi-dwelling housing complex (four townhouses) on the fringe of the R2 and R3 zone as proposed is of a scale, magnitude and intensity that offers an appropriate visual transition by virtue of bulk, scale and architectural style between the detached dwelling houses in Consul Road and the larger apartment complexes in Gulliver Street.

Despite varying several built form controls, the constraints of the site warrant variation given that the development gives rise to no unreasonable amenity impacts upon surrounding sites greater than what could be readily expected upon the land. As detailed in this report, the development does not unreasonably isolate the development potential of the adjoining site on Gulliver Street and, given that these two sites have not amalgamated, the scale of development proposed is considered to be a better environmental planning outcome than what could reasonably be proposed on a much larger site (i.e. if the sites amalgamated).

This report concludes the recommendation that the Development Determination Panel approve the development application for the reasons addressed in this report.  
It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2017/1285 for Demolition works and the construction of multi dwelling housing consisting of four dwellings and basement car parking on land at Lot 24 DP 11209, 29 Gulliver Street, BROOKVALE, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp |                 |                |
|---|-----------------|----------------|
| Drawing No.   | Dated           | Prepared By    |
| DA020 Rev. A  | 3 December 2017 | Walsh Drafting |
| DA100 Rev. A  | 3 December 2017 | Walsh Drafting |
| DA102 Rev. A  | 3 December 2017 | Walsh Drafting |
| DA103 Rev. A  | 3 December 2017 | Walsh Drafting |
| DA200 Rev. A  | 3 December 2017 | Walsh Drafting |

DA2017/1285

Page 24 of 41





|                               |                 |                                     |
|-------------------------------|-----------------|-------------------------------------|
| DA201 Rev. A                  | 3 December 2017 | Walsh Drafting                      |
| DA300 Rev. A                  | 3 December 2017 | Walsh Drafting                      |
| DA301 Rev. A                  | 3 December 2017 | Walsh Drafting                      |
| DA800 Rev. A                  | 3 December 2017 | Walsh Drafting                      |
| Landscape DA Plan 2/4 Issue B | 7 November 2017 | Andrew Davies<br>Landscape Designer |
| Landscape DA Plan 3/4 Issue B | 8 December 2017 | Andrew Davies<br>Landscape Designer |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |                 |                                      |
|---|-----------------|--------------------------------------|
| <b>Report No. / Page No. / Section No.</b>  | <b>Dated</b>    | <b>Prepared By</b>                   |
| BASIX Certificate No. 876809M   | 4 December 2017 | BCA Energy Pty Ltd                   |
| Preliminary Geotechnical Assessment - J1473   | 4 December 2017 | White Geotechnical Group             |
| Parking and Traffic Engineering Certification   | 7 December 2017 | Transport and Urban Planning Pty Ltd |

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

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

## 2. **Amendments to the approved plans**

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

- All western facing bedroom windows are to be modified in either ONE of the two below options:
  - a) Raised minimum sill height of 1.3m above finished floor level; or
  - b) Obscure glazing is to be installed from finished floor level to a minimum of 1.3m in height.

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

Reason: To ensure the development provides a reasonable level of amenity.

## 3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments  
DA2017/1285

Page 25 of 41



- specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)



#### 4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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



- dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following:
 

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

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

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:



| Northern Beaches Council Section 94 Development Contributions Plan |           |              |
|--|-----------|--------------|
| Contribution based on a total development cost of \$ 1,707,200.00  |           |              |
| Contributions  | Levy Rate | Payable      |
| Total Section 94A Levy   | 0.95%     | \$ 16,218.40 |
| Section 94A Planning and Administration                            | 0.05%     | \$ 853.60    |
| Total  | 1%        | \$ 17,072.00 |

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

#### 6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

#### 7. **On-site Stormwater Detention Compliance Certification**

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Stellen Consulting drawing number DR000 - DR003 dated 07/12/2017

DA2017/1285

Page 29 of 41





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

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

8. **Stormwater Disposal**

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development. (DACENC06)

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

An Application for Works to be Approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design and construction of footpath and driveway crossing which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/or Council's Minor Works Policy. The plan shall be prepared by a qualified structural engineer. The design must include the following information:

1. A 4.0m wide driveway crossing in accordance with AS2890.1.
2. a 1.5m wide footpath at Gulliver Street frontage fronting properties 27 & 29 Gulliver Street.

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

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

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

10. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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



issue of the Construction Certificate.

Reason: Safety. (DACENC19)

**11. Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

**12. External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

**13. Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

**14. Waste and Recycling Requirements**

Details demonstrating compliance with Warringah Development Control Plan – Part C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided. (DACWTC01)



### CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

**16. Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAD01)

### CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

**17. Civil Works Supervision**

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

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

Reason: To ensure compliance of civil works with Council's specification for engineering works. (DACENE06)

**18. Maintenance of Road Reserve**

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

Reason: Public Safety. (DACENE09)

DA2017/1285

Page 32 of 41



**19. Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

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

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

**21. Authorisation of Legal Documentation Required for On-site Stormwater Detention**

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

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

Reason: To create encumbrances on the land. (DACENF01)

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To identify encumbrances on land. (DACENF02)

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

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

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

DA2017/1285

Page 33 of 41





Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

**24. On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

**25. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities**

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed.

Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the Land & Property Information Department.

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

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACENF11)

**26. Positive Covenant for On-site Stormwater Detention**

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

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

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACENF12)

**27. Creation of Positive Covenant and Restriction as a User**

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Northern Beaches Council for authorisation.

A certified copy of the documents shall be provided to Northern Beaches Council after final





approval and registration has been affected by the "Department of Lands".

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

Reason: To identify encumbrances on land. (DACENF14)

**28. Restoration of Damaged Public Infrastructure**

Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction.

Reason: To ensure public infrastructure is returned to the state it was in prior to development

**29. Bin requirements**

Dwellings will be provided with individual bin sets and the occupants will be required to store the bins on the bins on their respective dwelling. The occupant is required to present the bins on the evening before collection and returning the bins following its service.

Reason: To allow for adequate services to occupants of the development.

**30. Required Planting**

i) Trees and screen planting shall be planted in accordance with the Landscape Site Plan, Dwg No. 2 B dated 8.12.2017 prepared by Banksia Design Group.

ii) Street tree planting is to be provided as identified in the following table:

No. of Trees

Required. Species Location Min Pot Size

3 Tristaniopsis laurina Consul Rd frontage forward of the site 45 litre

Trees not to be planted within 15m of the Consul Rd Gulliver St intersection

Trees are to be planted generally in alignment with other street trees

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

Reason: To maintain environmental amenity. (DACLAF01)

**31. Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

**32. House / Building Number**

DA2017/1285

Page 35 of 41



House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)

33. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management

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

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

34. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

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

35. **Allocation of Spaces**

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

- 6 - Residential
- 1 - Residential - Visitors

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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

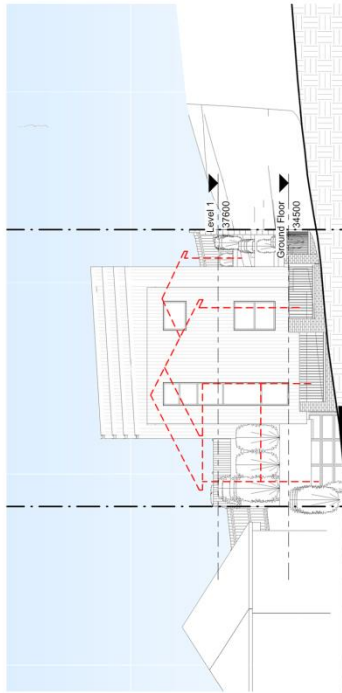
Reason: To ensure that adequate parking facilities to service the development are provided on site.

36. **Loading Within Site**

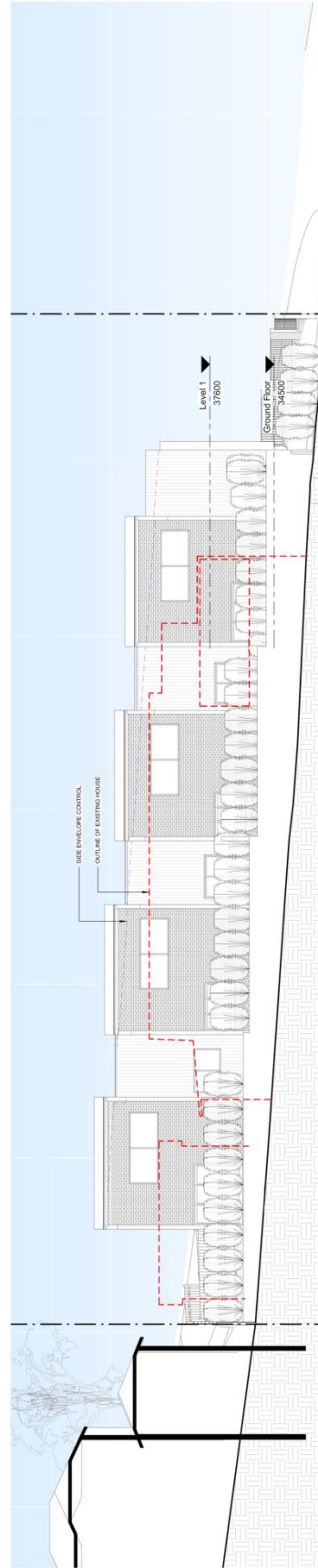
All loading and unloading operations shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)





**NORTH ELEVATION**  
Scale: 1:100 @ A1



**EAST ELEVATION**  
Scale: 1:100 @ A1

Project: 29 GULLIVER STREET  
BROOKVALE  
Client: BUCKINGHAMSHIRE PROPERTY HOLDINGS PTY LTD

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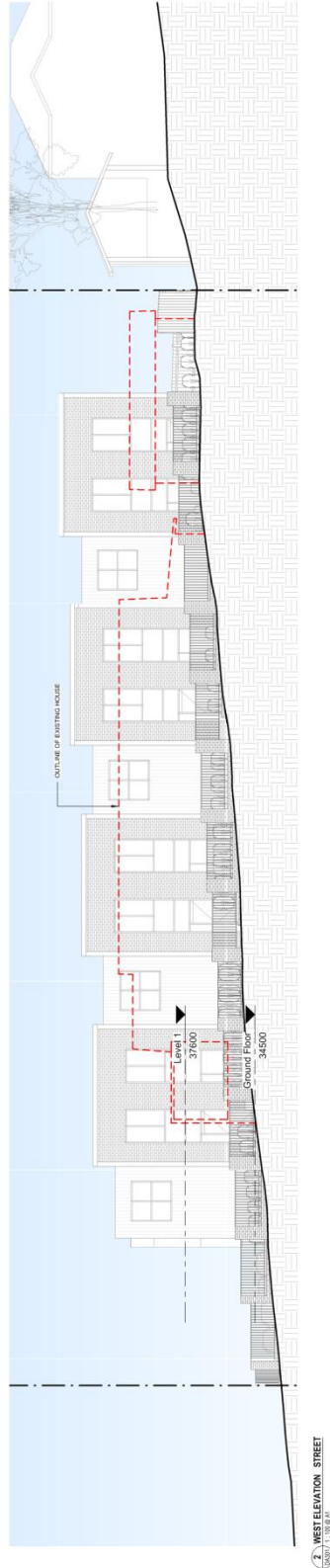
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Rev. A

Number  
**DA300**



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Client: BUCKINGHAMSHIRE PROPERTY HOLDINGS PTY LTD

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