

# **Decisions**

## **Northern Beaches Independent Assessment Panel - North**

Held at Mona Vale Memorial Hall, 1606 Pittwater Road,  
Mona Vale on:

**Thursday 8 December 2016**

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The Northern Beaches Independent Assessment Panel - North was held at the Mona Vale Memorial Hall, Mona Vale, on Thursday 8 December 2016. The meeting commenced at 10.30am.

**PRESENT**

Paul Vergotis – Chair  
Lloyd Graham  
Brian McDonald  
Ray Mathieson

**ALSO PRESENT**

Anna Williams, Principle Officer - Planning & Assessment  
Matthew Edmonds, Principle Officer - Planning & Assessment  
Amanda Clarke/Lillian Warnes, Administration, Development Assessment

**DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST**

Nil.

**NBIAP - SOUTH**

NBIAP - South Report No. 44

**1858 Pittwater Road, Church Point - Lot 142 DP 752046 and Lot 3 DP 1148738 - NO313/16 (MC/16/151505)**

**REPORT PREPARED BY:** Tyson Ek-Moller  
**APPLICATION SUBMITTED ON:** 22 July 2016  
**APPLICATION SUBMITTED BY:** Boston Blyth Fleming Pty Ltd  
1/9 Narabang Way  
BELROSE NSW 2085  
**OWNER(S):** Altius Pty Ltd

The following people addressed the meeting in relation to this item:

For the Recommendation: Greg Boston, Corey Dunn and Glenn Cunnington  
Against the Recommendation: Bill Gye, Nicholas Cowdrey on behalf West Pittwater Community Association and Herbertus Van Mierlo

The Panel considered the following information that was presented on the day:

- A plan of the proposed façade.

**RECOMMENDATION**

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 **refuse** Development Application N0313/16 for a refurbishment, BCA upgrade and fitout of the existing building in order to achieve a licensed restaurant and motel accommodation and the construction and use of a new day spa at 1858 Pittwater Road, Church Point (Lot 142, Deposited Plan 752046 and Lot 3, DP 1148738) for the reasons contained in the attached draft determination.

**Report prepared by**

Tyson Ek-Moller  
**A/ EXECUTIVE PLANNER**  
**PLANNING AND ASSESSMENT**

**REFUSAL**  
**ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)**  
**NOTICE TO APPLICANT OF DETERMINATION**  
**OF A DEVELOPMENT APPLICATION**

Applicants Name and Address:

BOSTON BLYTH FLEMING TOWN PLANNERS  
1/9 NARABANG WAY  
BELROSE NSW 2085

Being the applicant in respect of Development Application No N0313/16

Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of Development Application No **N0313/16** for:

**Refurbishment, BCA upgrade and fitout of the existing building in order to achieve a**

**licensed restaurant and motel accommodation and the construction and use of a new day spa****At: 1858 PITTWATER ROAD, CHURCH POINT NSW 2105 (Lot 142 DP 752046)****Decision:**

That the development application be refused for the following reasons:-

1. The panel considered the issue of existing use rights for the purposes of Part 4, Division 10 of the *Environmental Planning & Assessment Act 1979 (NSW)* and concluded that the subject land does not enjoy the benefits of "existing use rights".
2. The proposed motel use is prohibited within the B1 Neighbourhood Centre Zone under PLEP 2014.
3. The application is unsatisfactory in that the parking demands are not met on the site having regard to the shortfall in existing and future parking demand in the Church Point Locality, and particularly in peak demand periods.
4. The application is unsatisfactory in that it has not adequately addressed the requirements of the Environmental Planning and Assessment Regulation 2000, as submitted information has not provided information that specifies the maximum number of persons proposed to operate the development as a whole.
5. The application is unsatisfactory in having regard to Section 79C (1)(c),(d) submissions made in accordance with the Act or the regulations and (e) the public interest.

**NOTES**

1. This determination was taken under delegated authority on behalf of the elected Council pursuant to Section 377 of the Local Government Act 1993.
2. An applicant may under Section 82A of the Act, apply to council to review this determination.
3. Section 97 of the Act confers on the applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land & Environment Court exercisable within 6 months after receipt of this notice.
4. Any person who contravenes this notice of determination of the abovementioned development application shall be guilty of a breach of the Environmental Planning & Assessment Act, 1979, and shall be liable to a monetary penalty and for a restraining order which may be imposed by the Land and Environment Court.

Mark Ferguson  
INTERIM GENERAL MANAGER  
Per:

Date: \_\_\_\_\_

**For the Decision:** Vergotis, Graham, McDonald and Mathieson**Against the Decision:** Nil

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NBIAP - South Report No. 45

**7 Wandearah Avenue, Avalon Beach - Lot 37 DP 207049 - NO212/16 (MC/16/150441)**

**SUMMARY:**

**REPORT PREPARED BY:** NA  
**APPLICATION SUBMITTED ON:** 26 May 2016  
**APPLICATION SUBMITTED BY:** Benjamin Paul Keen  
7 Wandearah Avenue  
Avalon Beach NSW 2017  
**OWNER(S):** Mr Benjamin Paul Keen  
**ESTIMATED COST OF WORKS:** \$350, 000

The following people addressed the meeting in relation to this item:

Against the Recommendation: Nil

For the Recommendation: Ben Keen

**RECOMMENDATION**

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0212/16 for the construction of alterations and additions to the dwelling, swimming pool, decking, driveway and landscaping at 7 Wandearah Avenue, Avalon Beach subject to the conditions of consent.

Report prepared by

Nick Armstrong  
**PLANNER**

Date: 23 November 2016

**CONSENT NO: N0212/16**  
**ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED) NOTICE TO**  
**APPLICANT OF DETERMINATION**  
**OF A DEVELOPMENT APPLICATION**

Applicant's Name and Address: Benjamin Paul Keen  
7 Wandearah Avenue  
Avalon Beach 2107  
Being the applicant in respect of Development Application No N0212/16

That Development Application No N0212/16 for Alterations and additions to existing dwelling including swimming pool be determined with the granting of consent pursuant to section 80(1) of the Act, notice is hereby given of the determination by Northern Beaches Council, as the consent authority, of

**At: 7 WANDEARAH AVENUE, AVALON BEACH NSW 2107 (Lot 37 DP 207049)**

**Decision:**

That the panel considered the written request made under Clause 4.6 of the PLEP 2014 and upheld the request made for a variation to the development standard prescribed by clause 4.3 of the PLEP 2014 on the grounds that the written request justified a contravention of the standard on the grounds that it was unreasonable or unnecessary in the circumstances of the case and there was sufficient environmental planning grounds to justify the contravention of the development standard.

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

Effects, and in accordance with

- **Architectural Drawings - 004-C through to 008-C, Revision C, prepared by Trevor Jones Architects, all dated October 2015;**
- **Architectural Drawing - 001-D, Revision D, prepared by Trevor Jones Architects, dated February 2016;**
- **Schedule of Finishes - 7 Wandearah Avenue, Avalon Beach;**
- **Geotechnical Risk Management Report, Ref. 28908SMrpt, Revision 1, prepared by JK Geotechnics, dated 02 March 2016;**
- **Driveway Section 05052016 - 01-B, 02-B, Issue B, prepared by Pro-Mark Consulting Engineers Civil & Structural, all dated 19 July 2016;**
- **BASIX Certificate, No. A243431, dated 18/04/2016;**
- **Arboricultural Impact Assessment Report, Ref. 20161227.1, prepared by Australis Tree Management, dated 11 July 2016;**
- **Tree Impact Statement, 7 Wandearah Avenue, prepared by Naturally Trees, dated 11 November 2016;**
- **Landscape Plan 1602 - LS01, Issue F, prepared by Melissa Wilson, dated 09 November 2016.**

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

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

Endorsement of date of consent 08-Dec-2016

Mark Ferguson  
INTERIM GENERAL MANAGER  
Per:

### **Conditions of Approval**

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

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

#### **A. Prescribed Conditions:**

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

3. A sign must be erected in a prominent position onsite only showing:
  - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
  - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - c) that unauthorised entry to the work site is prohibited.

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

4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - a) in the case of work for which a principal contractor is required to be appointed:
    - i) The name and licence number of the principal contractor, and
    - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
  - b) in the case of work to be done by an owner-builder:
    - i) The name of the owner-builder, and
    - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
  - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information
5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
6. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
7. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

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

1. The spa/pool backwash and any overflow waters are to be disposed to the Sydney Water sewer.
2. 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.
3. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by JK Geotechnics dated 2 March 2016 are to be incorporated into the construction plans.
4. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and



controlled. Refer to Pittwater Council website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds) for noxious/environmental weed lists.

5. No environmental weeds are to be planted on the site. Refer to Pittwater Council website [www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds) for environmental weed lists.
6. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
7. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
  - a) Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
  - b) Species listed from the Endangered Ecological Community
  - c) Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website [http://www.pittwater.nsw.gov.au/environment/species\\_lists](http://www.pittwater.nsw.gov.au/environment/species_lists)
8. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
9. As part of the integrated stormwater management plan, suitably positioned stormwater quality improvement devices shall be installed and operated in accordance with Manufacturer's Specifications and associated operational guidelines.
10. The internal driveway finish is:
  - a) to be a stable surface for all weather conditions
  - b) to be constructed of materials that blend with the environment and are of dark or earthy tones or natural materials.
11. In accordance with Pittwater Council's DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
12. A qualified acoustic engineer is to certify that the maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level, when measured from any adjoining premises.
13. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pools Act 1992, Regulation and Australian Standard 1926.1-2012, Safety barriers for swimming pools
14. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool /spa.
  - a) The warning notice (i.e. sign) must contain all of the following words:
    - i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING

- POOL" and
    - ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
    - iii) "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",
  - b) In addition, the notice must contain a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
    - i) that are set out in accordance with the relevant provisions of that Guideline, and
    - ii) that comply with the other relevant guidelines of the Australian Resuscitation Council, and
    - iii) that are illustrated by drawings with key words only in boldprint,
  - c) a statement to the effect that formal instruction in resuscitation is essential,
  - d) the name of the teaching organisation or other body that published the sign and the date of its publication.
- 15. The underside of the elevated pool is to be painted in natural tones to blend with the surrounding landscape.
- 16. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.

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

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

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
  - a) after excavation for, and prior to the placement of, any footings, and
  - b) prior to pouring any in-situ reinforced concrete building element, and
  - c) prior to covering of the framework for any floor, wall, roof or other building element, and
  - d) prior to covering waterproofing in any wet areas, and
  - e) prior to covering any stormwater drainage connections, and
  - f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

4. Construction works approved by this consent must not commence until:
  - a) Construction Certificate has been issued by a Principal Certifying Authority

- b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
  - c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
5. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
6. Structural Engineering details relating to the development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
7. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
8. Prior to issue of the Construction Certificate and amended landscape plan is required to be submitted which removes the proposed Raphiolepis 'Pink Lady'.
9. Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.7 of Pittwater 21DCP.

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

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

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

11. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
- a) Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
  - b) A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete

- finish).
- c) All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
  - d) Council's Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.

12. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
13. The finished surface materials, including colours and texture of any building, shall blend with the surrounding and/or natural materials. The finished surface materials shall be non-glare and of low reflectivity. A specification which achieves this shall be submitted to the Accredited Certifier or Council with the Construction Certificate application in the form of a *Schedule of Finishes*.
14. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.

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

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

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

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

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

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

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- c) Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off.

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

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the

level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.

5. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
6. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
7. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations
8. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
9. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.

All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.

10. The site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
11. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.

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

connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.

- d) That no skip bins or materials are to be stored on Council's Road Reserve.
- e) That the contact number for Pittwater Council for permits is 9970 1111.

15. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Australis Tree Management, dated 11 July 2016 and arborist letter by Naturally Trees dated 11 November 2016 are required to be complied with before and throughout the development period, particularly with regard to the following:

- a) Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
- b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
- c) All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
- d) Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
- e) Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

16. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas. Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

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

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

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

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. 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.

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

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

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

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

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

6. 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.

7. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report and Letter (Australis Tree Management 11 July 2016 and Naturally Trees 11 November 2016) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.

8. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.

**G. Advice:**

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or [www.1100.com.au](http://www.1100.com.au)
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component

Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.

4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the Environmental Planning and Assessment Act, 1979. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see Building Developing and Plumbing then Quick Check, or telephone 13 2092.
9. Pittwater Spotted Gum Forest Endangered Ecological Community as listed on Schedule 1 of the NSW Threatened Species Act 1995, or its habitat has been recorded on this property. Under the TSC Act it is an offence to harm Endangered Ecological Communities, Endangered Populations or Threatened Species. No unapproved site disturbance or other activities shall be carried out on the property which adversely impacts on threatened species or EEC's.
10. Council supports the recommendation to remove **Tree 16** on the neighbouring property however removal is subject to owners consent, and any future decisions made in relation to them is a civil matter between the neighbouring parties.

**For the Decision:** Vergotis, Graham, McDonald and Mathieson

**Against the Decision:** Nil

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NBIAP - South Report No. 46

**9 Stromboli Place, Bilgola Plateau - Lot 13 DP 217688 - NO352/16 (MC/16/150593)**

**SUMMARY:**

<b>REPORT PREPARED BY:</b>	HH
<b>APPLICATION SUBMITTED ON:</b>	16 August 2016
<b>APPLICATION SUBMITTED BY:</b>	Attn: Andrew Croft Jack Hodgson Consultants Pty Ltd PO Box 389 MONA VALE NSW 1660
<b>ESTIMATED COST OF WORKS:</b>	\$259,200
<b>OWNER(S):</b>	Ms Jennifer Anne Choat Ms Janet Mary Hart

The following people addressed the meeting in relation to this item:

Against the Recommendation: Alexander McIntosh

For the Recommendation: Jennifer Choat

**RECOMMENDATION**

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0352/16 for the alterations and additions at 9 Stromboli Place, Bilgola Plateau subject to the conditions of consent.

Report prepared by

Hugh Halliwell  
**PLANNER**

Date: 28 October 2016

**CONSENT NO: N0352/16  
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)  
NOTICE TO APPLICANT OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

Applicant's Name and Address:

ATTN: ANDREW CROFT  
JACK HODGSON CONSULTANTS PTY LTD  
PO BOX 389, MONA VALE, NSW, 1660

Being the applicant in respect of Development Application No N0352/16

That Development Application No N0352/16 for alterations and additions to existing dwelling be determined with the granting of consent pursuant to section 80(1) of the Act, notice is hereby given of the determination by Northern Beaches Council.

At: **9 STROMBOLI PLACE, BILGOLA PLATEAU NSW 2107 (Lot 13 DP 217688)**

**Decision:**

That the panel considered the written request made under Clause 4.6 of the PLEP 2014 and upheld the request made for a variation to the development standard prescribed by clause 4.3 of the PLEP 2014 on the grounds that the written request justified a contravention of the standard on the grounds that it was unreasonable or unnecessary in the circumstances of the case and there was sufficient environmental planning grounds to justify the contravention of the development standard.

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

- **Architectural Drawings 30438-A1 Rev A through to 30438-A7 Rev A all dated 24 October 2016, 30438-A11 dated 28 October 2016, all prepared by Jack Hodgson Consultants Pty Limited;**
- **Geotechnical Risk Management Report, AWG40215, prepared by AW Geotechnical, dated 1 December 2015;**
- **Arborist Report, 9 Stromboli Place, Bilgola Plateau, prepared by Natural Trees, dated 29 September 2016;**
- **BASIX Certificate, A253455, dated 21 July 2016.**

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

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

Endorsement of date of consent \_\_\_\_\_

Mark Ferguson  
INTERIM GENERAL MANAGER  
Per:

### **Conditions of Approval**

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

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

#### **A. Prescribed Conditions:**

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:

- a) the name, address and telephone number of the Principal Certifying Authority for the work, and
- b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
- c) that unauthorised entry to the work site is prohibited.

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

4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - a) in the case of work for which a principal contractor is required to be appointed:
    - i) The name and licence number of the principal contractor, and
    - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
  - b) in the case of work to be done by an owner-builder:
    - i) The name of the owner-builder, and
    - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
  - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information
5. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
6. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
7. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

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

1. The spa/pool backwash and any overflow waters are to be disposed to the Sydney Water sewer.
2. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
3. A privacy screen with a minimum height of 1.8m, when measured from the upper floor deck FFL (RL 74.61), is to be incorporated into the design and maintained for the life of the development. This privacy screen is to run the full length of the swim spa on the northern elevation and should consist of a solid translucent screen or perforated panels or trellises which have a maximum of 20% openings, and which are:

- permanent and fixed;

- made of durable materials; and
  - designed and painted or coloured to blend in with the house
4. A privacy screen with a minimum height of 1.8m is to be provided on the southern end of the existing of the upper floor deck adjoining the master bedroom when measured from the upper floor deck FFL (RL 74.61). The screen is to be incorporated into the design and maintained for the life of the development. This privacy screen should consist of a solid translucent screen or perforated panels or trellises which have a maximum of 20% openings, and which are:
    - permanent and fixed;
    - made of durable materials; and
    - designed and painted or coloured to blend in with the house
  5. A qualified acoustic engineer is to certify that the maximum noise level associated with the pool filter does not exceed 5dB(A) above ambient background level, when measured from any adjoining premises.
  6. 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.
  7. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Council's website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds) for noxious/environmental weed lists.
  8. No environmental weeds are to be planted on the site. Refer to Council website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds) for environmental weed lists.
  9. Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.
  10. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.
  11. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
    - a) Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
    - b) Species listed from the Endangered Ecological Community
    - c) Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Council website [http://www.pittwater.nsw.gov.au/environment/species\\_lists](http://www.pittwater.nsw.gov.au/environment/species_lists)
  12. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
  13. In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland

Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.

14. Suitable arrangements are to be made for secure postal delivery service to the site. This can be achieved by following the Australia Post Terms and Conditions Appendix 2 Street mail service - conditions of delivery. A copy of the Terms and Conditions may be obtained from Australia Post or its website.
15. Materials and colour schemes are to be in accordance with the sample scheme approved by Council.
16. Roofs to all structures are to be of dark or mid grey, brown and/or green tones only. No white or light coloured roofs are permitted.

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

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

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
2. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
3. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
  - a) after excavation for, and prior to the placement of, any footings, and
  - b) prior to pouring any in-situ reinforced concrete building element, and
  - c) prior to covering of the framework for any floor, wall, roof or other building element, and
  - d) prior to covering waterproofing in any wet areas, and
  - e) prior to covering any stormwater drainage connections, and
  - f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

4. Construction works approved by this consent must not commence until:
  - a) Construction Certificate has been issued by a Principal Certifying Authority
  - b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
  - c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
5. In accordance with section 34 of the Building and Construction Industry Long Service

Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.

6. Structural Engineering details relating to the development are to be submitted to the Accredited Certifier or Council prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
7. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate plans and specifications are fulfilled.
8. The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.
9. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
10. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

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

11. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

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

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

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

Note: This condition does not apply in relation to Crown building work that is certified, in

accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

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

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

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- c) Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off.

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

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
5. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
6. The site must be fenced throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
7. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.
8. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
9. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
10. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
11. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations
12. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
13. No works are to be carried out in Council's Road Reserve without the written approval of the

Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.

14. No skip bins or materials are to be stored on Council's Road Reserve.
15. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
  - a) The builder's name, builder's telephone contact number both during work hours and after hours.
  - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
  - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
  - d) That no skip bins or materials are to be stored on Council's Road Reserve.
  - e) That the contact number for Northern Beaches Council for permits is 9970 1111.
16. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Naturally Trees, dated 29 September 2016 are required to be complied with before and throughout the development period, particularly with regard to the following:
  - a) Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
  - b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
  - c) All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
  - d) Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
  - e) Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
17. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.

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

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



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

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

1. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
2. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
3. The applicant must prepare and submit a post-construction dilapidation report providing an accurate record of the condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths, etc).

A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

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

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

6. 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.
7. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report (Naturally Trees, 29 September 2016) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate. Documented evidence of a qualified arborist having supervised the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the approved arborist report is required. This documentation is to be provided prior to the issue of the Occupation Certificate.
8. Street numbers are to be affixed so that they are clearly displayed and visible from a public place.

**G. Advice:**

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

**For the Decision:** Vergotis, Graham, McDonald and Mathieson

**Against the Decision:** Nil

\*\*\*\*\*

**CLOSE**

The meeting closed at [12:24pm](#)

The meeting moved into a closed session to consider the above items:

The closed session began at [12:35pm](#)

The closed session ended at [1:55pm](#)

The above minutes were confirmed at an **Northern Beaches Independent Assessment Panel - North** of Northern Beaches Council held on [15 December 2016](#).

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**CHAIR**

\*\*\*\*\* END OF MINUTES \*\*\*\*\*