

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2061
Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 2 DP 838513, 790 A Barrenjoey Road PALM BEACH NSW 2108
Proposed Development:	Construction of a 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:	John William Ritchie Belinda Rae Ritchie
Applicant:	John William Ritchie Belinda Rae Ritchie
Application lodged:	27/12/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	07/01/2019 to 29/01/2019
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 532,000.00

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:

- 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 21 Development Control Plan - D12.6 Side and rear building line

Pittwater 21 Development Control Plan - D12.8 Building envelope

SITE DESCRIPTION

Property Description:	Lot 2 DP 838513 , 790 A Barrenjoey Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Barrenjoey Road, Palm Beach.</p> <p>The site is generally regular in shape with a frontage of 29.445m and a depth of 36.8m. The site has a surveyed area of 1,073m². Access to the site from Barrenjoey Road is achieved via a right of carriageway along the northern side of the site known as 790 Barrenjoey Road.</p> <p>The site is located within the E4 Environmental Living zone and is currently vacant.</p> <p>The site contains a steep slope from the eastern rear boundary to the western front boundary. The fall of the site is approx. 16.8m which is equivalent to a 36.5% average gradient.</p> <p>The site is heavily vegetated with large canopy trees in the eastern uphill portion with a fairly dense understory. The site is identified as containing the Pittwater Spotted Gum EEC.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings and associated outbuildings.</p>

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:

Development Consent N0131/06

Construction of a new dwelling and swimming pool. Approved 27 September 2006. An extension of the lapse date of the consent to 27 September 2009 was approved on 6 August 2008. The consent was never activated and has now since lapsed.

PROPOSED DEVELOPMENT IN DETAIL

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (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)(iiiia) – 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

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

Section 4.15 Matters for Consideration'	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the nature of 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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:
Ms Anthea Catherine Paul	790 Barrenjoey Road PALM BEACH NSW 2108

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

- Overshadowing
- Visual privacy
- Front setback
- Water runoff impacts
- Location of services
- Fencing

The matters raised within the submissions are addressed as follows:

- **Overshadowing**
Concern is raised the proposed development will lead to additional overshadowing of the western adjacent dwelling.

Comment:

The applicant has provided certified shadow diagrams of the proposed development. Compliance with the minimum solar access requirements and outcomes under Clause C1.4 of P21 DCP are considered to be achieved. Reasonable levels of solar access to adjoining properties is considered to be maintained.

- **Visual privacy**

Concern is raised that the proposed development will impact upon the visual privacy of adjacent dwellings.

Comment:

An inspection of the site revealed that while overlooking into the rear private open space of the western adjacent dwelling is likely, the difference in levels between the sites essentially mean any overlooking of the dwelling will be onto the roof. Direct overlooking into internal habitable space is unlikely. It is also considered the use of the rear private open space of the adjacent dwelling is unlikely to be heavily utilised due to its slope. There is substantial space at the front of the dwelling to be used for outdoor recreation purposes.

- **Front setback**

Concern is raised that the proposed dwelling is located too close to the common boundary of the western adjacent property.

Comment:

As the site does not technically have a street frontage, the front setback requirements do not apply to the site. The western boundary is assessed as a side boundary utilising a merit assessment. The re-positioning of the dwelling further towards the rear is an impractical solution due to the excessive slope of the site and the requirement to retain as much existing vegetation as possible.

- **Water runoff impacts**

Concern is raised regarding existing water runoff impacts to the western adjacent property.

Comment:

The development application has been referred to Council's Development Engineering team for comment relating to water and stormwater issues. A condition of consent is included to require stormwater to be disposed of in accordance with Clause B5.7 of P21 DCP.

- **Location of services**

Concern is raised the proposed location of site services on the southern side of the access driveway will impact upon structures on the western adjacent property.

Comment:

As part of the land subdivision that is DP838513, an easement for services exists on the southern side of the access driveway. As this easement exists, there is no reasonable planning requirement to relocate services elsewhere on the western adjoining site.

- **Fencing**

Concern is raised that no boundary fencing is proposed as part of the development application.

Comment:

It is not a planning requirement that fencing along property boundaries be provided as part of any development proposal.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is acceptable in terms of the landscape outcomes of Pittwater DCP 21, subject to completion of landscaping as proposed and as amended by condition, and the protection of existing trees and vegetation as conditioned.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater DCP 21 Controls: B4.22 Preservation of Trees or Bushland Vegetation C1.1 Landscaping</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against Pittwater LEP 7.6, DCP B4.3 and B4.7. The application includes the removal of one tree (<i>Allocasuarina torulosa</i>). The proposal is supported with an Arboricultural Impact assessment report (prepared by Complete Arborocare, dated 9/12/2018) and a Test of Significance report (prepared by Ecological Consultants, dated December 2018). The Landscaping Plan (Drawing 4(A1), dated April 2018) has been prepared in consultation with the project Ecologist.</p> <p>The proposal is supported subject to implementing the Arborist and Ecologist recommendations. It is noted the Ecologist recommends planting tubestock size plants from local nurseries. This recommendation is supported.</p>
NECC (Development Engineering)	<p>The Geo-technical report prepared by Jack Hodgson has certified that an Acceptable Risk can be achieved for the development. The OSD provision has not met the storage and discharge rates recommended in clause B5.7 of Pittwater 21 DCP. Appropriate conditions has been recommended with plans required to be submitted to the PCA prior to issue of construction certificate.</p> <p>No Development Engineering objection subject to conditions.</p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment,

many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 979063S dated 17 December 2018). The BASIX Certificate is supported by a BDAV Assessor Certificate (see Certificate No. 0003487311 dated 17 December 2018).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	52

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.

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	Complies
Height of Buildings:	8.5m	8.46m	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	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

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control*	Requirement	Proposed	% Variation	Complies
Rear building line	6.5m	Dwelling - 17.35m Rear deck - 15m	N/A	Yes
Side building line	N - 2.5m	Dwelling - 9.45m Outdoor POS area - 3.0m	N/A	Yes
	S - 1m	2.5m	N/A	Yes
	W - Merit	3.35m	N/A	Yes
Building envelope	N - 3.5m	Within envelope	N/A	Yes

	S - 3.5m	Outside envelope	36.8%	No
	W - 3.5m	Outside envelope	20.5%	No
Landscaped area	60% (643.8m ²)	74% (795m ²)	N/A	Yes

***Note:** As the site does not technically have a street frontage, the front building line controls are not considered to be applicable to the site. The northern, southern and western boundaries are to be assessed as side boundaries and the eastern as a rear boundary.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.2 Scenic protection - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.3 Building colours and materials	Yes	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.12 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

D12.6 Side and rear building line

The proposed development demonstrates compliance with the general side and rear building line controls. However, as the site does not have a street frontage, the front building line controls do not apply to the site. As such, the acceptability of the setback of the proposed dwelling to the western is to be determined under a merit assessment against the relevant outcomes. It is considered that the proposed dwelling will be consistent with the outcomes in the following ways:

To achieve the desired future character of the Locality. (S)

The desired future character of the Palm Beach locality is achieved.

The bulk and scale of the built form is minimised. (En, S)

In light of the site topography, the design of the proposed dwelling demonstrates consideration to reduce the overall bulk and scale when viewed from adjoining properties.

Equitable preservation of views and vistas to and/or from public/private places. (S)

The proposed development demonstrates adequate preservation of views and vistas to and/or from public/private places.

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

Adequate levels of view sharing is demonstrated by the proposed development.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)

The levels of privacy, amenity and solar access is provided to the site and adjoining sites demonstrated by the proposed development is considered to be reasonable in the context of the site.

Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)

Substantial areas of landscaping with several canopy trees is retained towards the rear of the site.

Flexibility in the siting of buildings and access. (En, S)

The siting of the building has been done in a way to reduce the overall impact upon the natural topography of the site. Adequate access to the site is demonstrated.

Vegetation is retained and enhanced to visually reduce the built form. (En)

Substantial areas of vegetation are retained.

To ensure a landscaped buffer between commercial and residential zones is established.

N/A

With consideration of the above the variation to the building envelope is considered reasonable and satisfactory in addressing this control.

D12.8 Building envelope

The proposed dwelling encroaches outside the maximum permissible building envelope along the southern side boundary by a maximum extent of approx. 36.8%. Clause D12.8 of P21 DCP permits assessment of the building envelope on a merit basis where the building footprint is situated on a slope over 16.7 degrees (i.e. 30%). It is considered that the proposed dwelling will be consistent with the outcomes in the following ways:

To achieve the desired future character of the Locality. (S)

The desired future character of the Palm Beach locality is achieved.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

The proposed building scale is compatible with existing trees and the natural environment and is expected to not have a negative impact on the streetscape.

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

The proposal demonstrates appropriate integration into the the spatial characteristics of the existing natural environment.

The bulk and scale of the built form is minimised. (En, S)

The overall bulk and scale of the proposed building is considered compatible with the characteristics of the site and surrounding development.

Equitable preservation of views and vistas to and/or from public/private places. (S)

Adequate levels of view sharing are maintained from surrounding public spaces and private land.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties. (En, S)

Reasonable levels of privacy, amenity and solar access is achieved within the development site and is maintained to adjoining properties.

Vegetation is retained and enhanced to visually reduce the built form. (En)

Significant areas of vegetation is to be retained at the rear of the site. This will assist in the visual reduction to the proposed built form from adjoining properties.

With consideration of the above the variation to the building envelope is considered reasonable and satisfactory in addressing this control.

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 DA2018/2061 for Construction of a dwelling house on land at Lot 2 DP 838513, 790 A Barrenjoey Road, PALM 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
Dwg No. 1 Rev C	10 November 2018	DL
Dwg No. 2 Rev C	10 November 2018	DL
Dwg No. 3 Rev C	10 November 2018	DL

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Sediment and Erosion Control Plan - Dwg No. 4 Rev C	10 November 2018	DL
BASIX Certificate No. 979063S	17 December 2018	Building Sustainability Assessments
NatHERS Certificate No. 0003487311	17 December 2018	Gavin Chambers
Arboricultural Impact Assessment	9 December 2018	Complete Arborcare
Test of Significance Report	December 2018	Ecological Consultants Australia
Geotechnical Report	12 December 2018	Jack Hodgson Consultants

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan - Dwg No. 4 Rev C	10 November 2018	DL

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

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

2. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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

3. 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.

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

prior to the issue of the Construction Certificate.

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

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

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

5. Stormwater Disposal

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's PITTWATER DCP21 clause B5.7.

A certificate is to be provided to the Principal Certifying Authority with the Construction Certificate application by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field that the existing approved system can accommodate the additional flows or provide drainage plans demonstrating compliance with Council's requirements.

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

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

6. Geotechnical Report Recommendations have been 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 Jack Hodgson (MT31628) dated 12th Decemember, 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. Vehicle Driveway Gradients and car parking

Driveway gradients and car parking must comply with AS/NZS 2890.1;2004. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure suitable vehicular access to private property

8. Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works and is to certify that the conditions in the Test of Significance report (prepared by Ecological Consultants, dated December 2018) are carried out. The Project Ecologist must have one of the following

memberships/accreditation

- Practising member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016

Reason: Biodiversity management

9. **Project Arborist**

A Project Arborist is to be employed for the duration of the approved works and is to certify that the conditions in the Arboricultural Impact Assessment report (prepared by Complete Arborcare, dated 9/12/2018) are carried out, with the exception of the requirement for trees planted with a minimum 45 litre container size. This requirement is to be replaced with "trees planted are to be locally native tubestock size".

Reason: Biodiversity management (DACNECPCC2)

10. **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.

11. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

1. **Approved tree removal**

The removal of the following existing tree as recommended in the Arboricultural Impact Assessment report prepared by Complete Arborcare, is permitted : T2 - Forest Oak, subject to replacement with a native canopy tree (Spotted Gum or Cheese Tree) at a ratio of 1:1.

2. **Arborist recommendations**

All pre-construction tree protection measures as specified in the Arboricultural Impact Assessment report (prepared by Complete Arborcare, dated 9/12/2018) are to be implemented. Compliance is to be certified by the project Arborist prior to issue of the Occupation Certificate.

Reason: Biodiversity management (DACNEDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

1. 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.

2. Tree and vegetation protection

A) Existing trees and vegetation shall be retained as follows:

- i) all trees and vegetation within the site, excluding trees and vegetation permitted for removal, shall be protected during all construction stages, and excluding exempt trees under the relevant planning instruments or legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, with particular attention to section 4, and the recommendations of the Arboricultural Impact Assessment report prepared by Complete Arborcare,
- ii) any tree roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by an AQF Level 5 Arborist,
- iii) 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,
- iv) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,
- v) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vi) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
- vii) should either or all of iv), v) and vi) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- ix) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

C) Tree protection shall be specifically undertaken as follows to existing trees T3, T4, T5, and T10, as recommended in the Arboricultural Impact Assessment:

- i) stem protection in accordance with clause 4.5.2 (trunk & Branch Protection) of AS 4970 shall be required to be installed before the proposed works commence,

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

3. Arborist recommendations

All tree protection measures as specified in the Arboricultural Impact Assessment report (prepared by Complete Arborcare, dated 9/12/2018) are to be implemented at the appropriate stage of development. Compliance is to be certified by the project Arborist prior to issue of the Occupation Certificate.

Reason: Biodiversity management (DACNEEDW1)

4. **Ecologist recommendations**

All measures specified in the Test of Significance report (prepared by Ecological Consultants, dated December 2018) are to be implemented at the appropriate stage of development. Compliance is to be certified by the project Ecologist prior to issue of any Occupation Certificate.

Reason: Biodiversity management (DACNEEDW2)

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

1. **Landscape works**

Landscaping shall be to be implemented in accordance with plan number 4 (A1), issue C, inclusive of the following amendments:

- i) screen planting to achieve a mature height of 3-4m shall be installed along the western boundary, consisting of locally native shrub species (Acmena, Banksia, Callistemon, Melaleuca) planted at a minimum pot size of 200mm pot, and planted no more than 1m apart,
- ii) no noxious weed nor environmental weed is permitted to be planted on-site
- iii) one Spotted Gum or Cheese Tree native tree replacement planting shall be installed at 75 litre pot size, and shall be located to allow 3 metres x 3 metres of soil area, and placed at least 5m from existing or proposed structures,
- iv) change to existing ground levels around the existing tree nominated to be retained is not permitted,
- v) excavation for stormwater lines is not permitted within the tree protection zone of existing trees, without consultation with a AQF Level 5 Arborist,

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

2. **Application for Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry 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.

3. **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.

4. **Positive Covenant and Restriction as to User 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 at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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 at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. 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.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

5. **Geotechnical Certification Prior to Occupation Certificate**

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

6. **Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscaping Plan (Drawing 4(A1) dated April 2018). Trees planted are to be locally native tubestock size. The project Ecologist is to certify that the landscaping is completed prior to the issue of any Occupation Certificate. This landscaping is to then be maintained for the life of the development.

Reason: Biodiversity management. (DACNEFPOC1)

7. **Tree Protection to be Certified by Arborist**

All tree protection measures as specified in the Arboricultural Impact Assessment report (prepared by Complete Arboricare, dated 9/12/2018) are to be implemented at the appropriate stage of development. Compliance is to be certified by the project Arborist prior to issue of the Occupation Certificate.

Reason: Biodiversity management

8. **Ecologist recommendations**

All measures specified in the Test of Significance report (prepared by Ecological Consultants, dated December 2018) are to be implemented at the appropriate stage of development. Compliance is to be certified by the project Ecologist prior to issue of any Occupation Certificate.

Reason: Biodiversity management (DACNEFPOC2)

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

1. **Landscape maintenance**

All landscape components are to be maintained for the life of the development.

A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme and be generally in accordance with the plans, and any condition of consent.

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

2. **Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

3. **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.

4. **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.

5. **Dead or Injured Wildlife**

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

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

6. **Landscape Plan to be Implemented**

Landscaping is to be implemented in accordance with the approved Landscaping Plan (Drawing 4(A1) dated April 2018). The project Ecologist is to certify that the landscaping is completed prior to the issue of any Occupation Certificate. This landscaping is to then be maintained for the life of the development.

Reason: Biodiversity management.

7. **Privacy Landscaping**

The setback area of the dwelling along the western property boundary between the driveway to the north and the southern property boundary is to be planted out with locally native species that are capable of growing to a minimum mature height of 3m.

Reason: To assist in the creation of a privacy buffer between dwellings.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Nick Keeler, Planner

The application is determined on 21/05/2019, under the delegated authority of:



Anna Williams, Manager Development Assessments