

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2022/1527 |
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| Responsible Officer: | Stephanie Gelder |
| Land to be developed (Address): | Lot 1 DP 1132852, 18 - 20 Sturdee Lane LOVETT BAY NSW 2105 |
| Proposed Development: | Alterations and additions to a dwelling house |
| Zoning: | C3 Environmental Management |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Fiona Robin Loader |
| Applicant: | James de Soyres & Associates Pty Ltd |

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| Application Lodged: | 27/09/2022 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 11/10/2022 to 25/10/2022 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 398,500.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises of the following works:

- Construct a new retaining wall in front of the existing stone wall;
- Alterations to the attached but externally accessed Bed 3 on the first floor level;
- Convert the existing chimney structure on the first floor level into a bay window;
- Make alterations to the existing Bed 2 including the addition of an ensuite on the first floor level;
- Construction of a second floor consisting of a new bedroom and ensuite bathroom; and
- Replacement of the existing first floor roof, and new roof to second floor.

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 Local Environmental Plan 2014 - Zone C3 Environmental Management

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - D8.6 Side and rear building line

Pittwater 21 Development Control Plan - D8.9 Landscaped Area

Pittwater 21 Development Control Plan - D15.12 Development seaward of mean high water mark

SITE DESCRIPTION

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| Property Description: | Lot 1 DP 1132852 , 18 - 20 Sturdee Lane LOVETT BAY NSW 2105 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the northern side of Sturdee Lane and southern side of Lovett Bay.</p> <p>The site is irregular in shape with a frontage of 13.33m along Sturdee Lane, and a frontage of 29.505m along Lovett Bay. The site has a surveyed area of 2538m².</p> <p>The site is located within the C3 Environmental Management zone from PLEP 2014 and accommodates a dwelling house, and a detached studio that is currently under construction as approved under DA2020/0033.</p> <p>The site slopes from the northern boundary upwards to the southern boundary over approximately 29 metres.</p> <p>The site contains dense vegetation to the south of the dwelling house. The vegetation includes trees, plantings,</p> |

and vegetation.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by dwelling houses varying in architectural style and design.

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:

CDC0124/16

Complying Development Certificate for Rebuild Existing Ramp, Jetty & Pontoon.

Approved on 14 July 2016 by External Certifier.

PLM2018/0098

Pre-Lodgement Meeting for Alterations and additions to an existing dwelling.

Meeting held on 31 May 2018.

The meeting notes concluded: *The proposal is not acceptable in its current form. The proposed additions within the foreshore area are prohibited pursuant to the provisions of clause 7.8(2)(a) of PLEP 2014. Furthermore, the proposal is found to be inconsistent with several of Council's planning controls in relation to the visual impact of the development and resultant bulk and scale, as well as the objectives of the E3 – Environmental Management zoning. It is strongly recommended that the design is amended in accordance with the recommendations within the report, with particular regards to minimising the overall built form and introducing landscaping within the foreshore area and within the northern portion of the site in order to screen the development and integrate the built form with the landscaping.*

DA2019/0671

Development Application for Replacement of the on-site waste water treatment system.

Approved on 29 August 2019.

DA2020/0033

Development Application for Demolition works and construction of a detached studio.
Approved on 13 July 2020.

Mod2021/0040

Modification of Development Consent DA2020/0033 granted for demolition works and construction of a detached studio.
Approved on 26 April 2021.

PLM2021/0053

Pre-Lodgement Meeting for Alterations and additions to a dwelling house.
Meeting held on 18 March 2021.
The meeting notes concluded: *The proposal is considered to have merit in that it does not detract from the waterway, nor impact upon the amenity of neighbouring residential and public land. Concern is raised with respect to impact on vegetation and this has been detailed within comments provided by Council's Biodiversity Officer.*

CC2022/0088

Construction Certificate for Demolition works and construction of a detached studio.
Approved on 8 February 2022 by External Certifier.

CC2022/0341

Construction Certificate for Replacement of the on-site waste water treatment system.
Approved on 5 April 2022 by External Certifier.

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 | There are no current draft environmental planning instruments. |
| 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)(iiia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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> |

| Section 4.15 Matters for Consideration | Comments |
|--|--|
| | <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) 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 The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning Services, dated 27 August 2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/10/2022 to 25/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

| Internal Referral Body | Comments |
|---|---|
| Environmental Health (unsewered lands) | <p>Recommendation: Approval subject to condition.</p> <p>Environmental Health has been requested to provide comment on the proposed development application of the alterations and additions to the existing dwelling a review of the proposal shows that there is no change to bedroom numbers or equivalent population and the previous DA2019/0671 was approved to replace the existing wastewater system and define land application areas. A review of the development has revealed that the proposed modifications will not affect the existing system. Based on discussions with the architect and owner it appears that the system is not completed yet and has not had the final inspection/ approval to operate or evidence of decommissioning of the existing wastewater system provided to Council yet. Based on this a condition has been included requiring an approval to operate for the wastewater system to be activated and operating effectively to operate prior to the issue of an occupation certificate.</p> |
| Landscape Officer | <p>The application seeks consent for alterations and additions to a dwelling house.</p> <p>The site is noted to be in the C3-Environmental Zone and is mapped as Pittwater Spotted Gum EEC. The site is also mapped on the DPE Biodiversity Values Map. The site therefore has a high level of environmental significance.</p> |

| Internal Referral Body | Comments |
|----------------------------------|--|
| | <p>The Arborist's Report prepared by Bulegum Treecare and Consultancy is noted.</p> <p>The Report indicates that all trees can be retained subject to supervision of a Project Arborist to oversee works.</p> <p>As no trees or significant landscape features are to be removed or affected by the works, no objections are raised with regard to landscape issues, subject to conditions as recommended.</p> <p>It is noted the property falls within the Biodiversity Values Map (BVM) under the Biodiversity Conservation Act, and any tree removal within the BVM may trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR), and this specific matter is assessed by Council's Bushland & Biodiversity Referral team.</p> <p>I would therefore defer to the comments of Council's Bushland and Diversity Section for comments regarding Biodiversity impacts and requirements under the Planning controls and Biodiversity Conservation Act.</p> |
| NECC (Bushland and Biodiversity) | <p>The proposal has been assessed against the following applicable biodiversity-related provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • NSW Biodiversity Conservation Regulation 2017 • SEPP (Resilience and Hazards) - Coastal Environment Area • Pittwater LEP Clause 7.6 - Biodiversity Protection • Pittwater DCP Clause B4.7 - Pittwater Spotted Gum Forest Endangered Ecological Community <p>The site contains Pittwater Spotted Gum Forest Endangered Ecological Community (EEC) and consequently, portions of the site are identified on the Department of Planning, Industry and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act and Regulation, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>However, the submitted plans and documentation indicate that works associated with the alterations and additions will not result in impact to native trees, including those identified on the BV Map. Additionally, the submitted bushfire risk assessment report confirms that the development can achieve compliance with Planning for Bushfire Protection 2019 through reliance on the existing Asset Protection Zone (APZ) approved under DA2020/003. It is therefore assumed that no additional vegetation removal will be required to facilitate the development and that entry into the BOS is not triggered.</p> |

| Internal Referral Body | Comments |
|-----------------------------|--|
| NECC (Coast and Catchments) | <p>SUPPORTED WITH CONDITIONS</p> <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by James de Soyres & Associates Pty Ltd UNDATED, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>Estuarine Risk Management</p> <p>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> |

| Internal Referral Body | Comments |
|----------------------------------|---|
| | <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by James de Soyres & Associates Pty Ltd UNDATED, the ground floor level for the proposed additions and alterations is above the applicable EPL for the site. The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p>Development on Foreshore Area</p> <p>A section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>The proposed development involves alterations and additions to the existing dwelling, which is located entirely within the foreshore area. The DA proposes works that are consistent with Clause 7.8(2)(b). Pursuant to clause 7.8(2)(a), the extension or alteration of the existing dwelling is only permitted provided that the development “will not result in the footprint of the building extending further into the foreshore area”.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by James de Soyres & Associates Pty Ltd UNDATED, The proposal as submitted does not result in an increase to the existing building footprint into the foreshore area. As such the development is consistent with the provisions of the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p> |
| NECC (Riparian Lands and Creeks) | <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021; - Relevant LEP and DCP clauses; and - Northern Beaches Council Water management for development policy. <p><i>Riparian</i></p> <p>The development is adjacent to seagrass beds and other important</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>aquatic habitat in Pittwater Estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of Pittwater Estuary, or the quantity and quality of surface and ground water flows that it receives.</p> <p><i>Sediment Management</i> Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established. Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.</p> |

| External Referral Body | Comments |
|---|---|
| Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48 | The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent. |
| Aboriginal Heritage Office | <p>Development Application No. DA2022/1527 Description: Alterations and additions to a dwelling house Address: 18-20 Sturdee Lane LOVETT BAY</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A404869_03 dated 02 September 2022).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,

- c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

The site is located in land identified as "coastal environment area". The proposed development is not likely to cause any adverse impacts on items listed under Clause 2.10(1)(a-g) inclusive.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposed development is designed, sited, and will be managed appropriately to avoid an adverse impact to items listed under Clause 2.10(1)(a-g) inclusive.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

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

- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The site is located in land identified as "coastal use area". The proposed development is unlikely to cause an adverse impact to items listed under Clause 2.11(1)(a)(i-v). The proposal has been designed, sited, and managed to avoid any adverse impacts, and it is considered that the proposed development has taken into account the surrounding coastal and built environment.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is not likely to cause an increase risk of coastal hazards on the site or other land.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

There is no certified coastal management program applied to the land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

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| 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

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|--|--|--|--|--|
| | | | | |
|--|--|--|--|--|

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 10.0m | 8.8m | - | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 4.3 Height of buildings | Yes |
| 5.10 Heritage conservation | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.6 Biodiversity protection | Yes |
| 7.7 Geotechnical hazards | Yes |
| 7.8 Limited development on foreshore area | Yes |
| 7.10 Essential services | Yes |

Detailed Assessment

Zone C3 Environmental Management

The proposed development has been assessed against the objectives of the C3 Environmental Management zone of Pittwater Local Environmental Plan 2014 as detailed below:

- ***To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.***

Comment:

The proposal will protect, manage, and maintain areas with special ecological, scientific, cultural, and aesthetic values. The proposal will not result in any unacceptable impacts to the existing values.

- ***To provide for a limited range of development that does not have an adverse effect on those values.***

Comment:

The proposal comprises of the alterations to the first floor, and addition of a second floor that is considered a limited range of development that is generally within the existing building footprint, as to not result in any adverse impacts to existing values.

- ***To provide for residential development of a low density and scale integrated with the landform and landscape, and not visually prominent.***

Comment:

The proposal comprises of the alterations and additions to an existing dwelling house that is considered to be of low density and scale. The proposal will integrate with the existing landform, and landscape and as such will not result in a visually prominent structure.

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

Comment:

The proposal is not likely to impact upon the existing riparian, foreshore vegetation, and/or wildlife corridors. The proposal has been reviewed by Council's Bushland and Biodiversity Officer, Riparian Lands and Creeks, and Coast and Catchment Officer who are all supportive of the application subject to recommended conditions.

- ***To ensure the continued viability of ecological communities and threatened species.***

Comment:

The proposal is not likely to result in any adverse impacts as the works are largely within the existing building footprint. As such, the proposal will ensure the continued viability of ecological communities and threatened species.

4.3 Height of buildings

Clause 4.3(2D) provides that development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and

Comment:

The portion of the building above the maximum height of 8.5m as shown on the Height of Buildings Map is considered to be minor at 8.8m, that is a variation of 3.53% (0.3m). The portion of the building that is above the maximum height of 8.5m is for the purpose of a roof over the proposed second level. The extent of the development above 8.5m is highlight in red as detailed in Figure 1 below.

Comment:

The proposed development is acceptable in relation to solar access and the proposal is compliant with C

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

Comment:

The proposed development will not unreasonably impact upon view sharing.

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

Comment:

The proposed development responds sensitively to the natural topography, and there is no significant ex
(f) to minimise the adverse visual impact of development on the natural environment, heritage conservat

Comment:

The proposed development minimises the visual impact of development on the natural environment as tl

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and

Comment:

The building footprint is situated on a slope that exceeds 16.7 degrees (30%), with an approximate 23 de

(d) the buildings are sited and designed to take into account the slope of the land to minimise the

Comment:

The proposal does not result any significant cut and fill, as the proposal relies on the existing ground level and includes the addition of a second floor.

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed development is for extension and alteration of an existing building wholly in the foreshore area, but will not result in the footprint of the building extending further into the foreshore area.

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*

- *pollution or siltation of the waterway, or*
- *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
- *an adverse effect on drainage patterns, or*
- *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is consistent with the objectives of the C3 Environmental Management zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form | Requirement | Proposed | % Variation* | Complies |
|------------|-------------|----------|--------------|----------|
|------------|-------------|----------|--------------|----------|

| Control | | | | |
|---------------------|--|-------------------------------|-----------------------------|-----------|
| Front building line | 6.5m (South) | >60m | - | Yes |
| Rear building line | Foreshore Building Line (North) | Below Foreshore Building Line | - | No |
| Side building line | 2.5m (West) | 15.8m | - | Yes |
| | 1m (East) | 1.08m | - | Yes |
| Building envelope | 3.5m (West) | Within envelope | - | Yes |
| | 3.5m (East) | Within envelope | - | Yes |
| Landscaped area | Maximum Area Not Landscaped (230m ²) | 242.3m ² | 5.35% (12.3m ²) | No |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.8 Lower Western Foreshores and Scotland Island Locality | Yes | Yes |
| B1.3 Heritage Conservation - General | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B3.7 Estuarine Hazard - Low density residential | Yes | Yes |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community | Yes | Yes |
| B4.16 Seagrass Conservation | Yes | Yes |
| B4.19 Estuarine Habitat | Yes | Yes |
| B5.13 Development on Waterfront Land | Yes | Yes |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition - Site Fencing and Security | Yes | Yes |
| B8.5 Construction and Demolition - Works in the Public Domain | Yes | Yes |
| B8.6 Construction and Demolition - Traffic Management Plan | 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 |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| C1.23 Eaves | Yes | Yes |
| D8.1 Character as viewed from a public place | Yes | Yes |
| D8.2 Scenic protection - General | Yes | Yes |
| D8.3 Building colours and materials | Yes | Yes |
| D8.5 Front building line | Yes | Yes |
| D8.6 Side and rear building line | No | Yes |
| D8.8 Building envelope | Yes | Yes |
| D8.9 Landscaped Area | No | Yes |
| D8.11 Construction, Retaining walls, terracing and undercroft areas | Yes | Yes |
| D8.13 Stormwater overflow | Yes | Yes |
| D8.14 Parking management | Yes | Yes |
| D8.15 Site disturbance | Yes | Yes |
| D15.12 Development seaward of mean high water mark | Yes | Yes |

Detailed Assessment

D8.6 Side and rear building line

The proposed rear setback is below the Foreshore Building Line. A detailed assessment has been conducted under Clause 7.8 Limited development on foreshore area of Pittwater Local Environmental Plan 2014 contained within this report. Therefore, no further assessment is required under Clause D8.6 Side and rear building line of Pittwater 21 Development Control Plan, as the Foreshore Building Line takes precedence over this control.

D8.9 Landscaped Area

Description of non-compliance

The control requires a maximum of 230m² of site area not provided as landscaped area. The site is 2538m², thereby requiring landscaped area of 2308m² (90.94%).

The proposed development provides a total of 2155m² (84.90%), presenting a variation of 6.63% (153m²).

The existing site obtains a numerical non-compliance with the landscaped area requirement, with an existing area of 2152.7m² (84.82%). Therefore, the proposal result in a minor reduction of landscaped area of 2.3m².

Under Clause D8.9 Landscaped Area of Pittwater 21 Development Control Plan (P 21 DCP), the following may be permitted on the landscaped proportion of the site:

- i) impervious areas less than 1 metre in width (e.g. pathways and the like);*
- ii) for single dwellings on land zoned E3 Environmental Management, up to 6% of the total site*

As such, the site obtains 141.2m² (5.6%) of pathways, and outdoor recreational purpose that would bring the total landscaped area to 2296.2 (90.47%), that is slightly below the required landscaped area.

Furthermore, the variations under Clause D8.9 of P 21 DCP state the following: *On sites larger than 1000 square metres, the maximum area not provided for landscaping may be increased up to 23% of the site, upon application to Council. In such instances it must be demonstrated that development is kept in scale with the Locality, that the natural features of the site are preserved, and that the supply of water and the treatment of wastewater is sufficient for the size of the proposed development, without adverse environmental impact.*

Therefore, the required landscaped area based on 23% not landscaping, results in 77% required for landscaped area, and as such the proposal provides 84.90% that is more than the required. The proposal demonstrates consistency with the scale within the Lower Western Foreshores Locality, natural features of the site preserved, and the adequate supply for water and treatment of wastewater as clarified by Council's Environmental Health Officer.

Notwithstanding, the proposal has been assessed against the outcomes of the control, and in this instance the proposed landscaped area is supportable.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying outcomes of the control as follows:

- ***To achieve the desired future character of the Locality.***

Comment:

The proposal is consistent with the desired future character of the Lower Western Foreshores Locality.

- ***The bulk and scale of the built form is minimised.***

Comment:

The proposal presents a minimal bulk and scale as demonstrated through the compliance with the building envelope control that aims to regulate appropriate bulk and scale.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.***

Comment:

The proposal presents a reasonable level of privacy, amenity, and solar access to the site and adjoining site.

- ***Vegetation is retained and enhanced within the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation including tree canopy.***

Comment:

The proposal does not result in the removal of any significant vegetation. The proposal is appropriately designed to ensure the appearance of the dwelling house is secondary to the existing landscaping, vegetation, and tree canopies.

- ***Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.***

Comment:

The proposal will retain appropriate stormwater runoff to prevent soil erosion, and siltation of natural drainage channels.

- ***To ensure the distribution of height and mass preserves, and enhances neighbourhood amenity and has regard to site characteristics and environmental constraints.***

Comment:

The proposal distributes height and mass appropriately, and the neighbourhood amenity is enhanced through the harmonious relationship to the site character and environmental constraints.

- ***To conserve significant natural features of the site and contribute to effective management of biodiversity.***

Comment:

As above, no significant vegetation is impacted, thereby conserving the natural vegetation and biodiversity within the site.

- ***The area of site disturbance is minimised.***

Comment:

The proposal results in a minor alteration to the ground floor for the purpose of a retaining wall, however the majority of the site is undisturbed as a result of the proposed development.

- ***Soft surface is maximised.***

Comment:

The soft surface of site is maximised to ensure appropriate areas are retained for landscaping purposes, recreation, and management of stormwater.

D15.12 Development seaward of mean high water mark

The proposal includes the replacement of the first floor roof whereby a portion of the roof is located below the Medium High Water Mark (MHWM).

The applicant has provided consent from the Department of Primary Industries (letter dated 19 April 2022), and Department of Planning and Environment (letter dated 06 June 2022) in relation to the replacement of the roof that overhangs below the MHWM. The letters have been included in the recommended Condition 1.

Notwithstanding, the proposal has been assessed against the outcomes of the control, and in this instance the proposal is supportable.

Merit consideration

- ***To ensure minimal adverse impact on the water quality hydrodynamics and estuarine habitat of Pittwater.***

Comment:

The proposed works located below the MHWM includes the replacement of an existing roof, and as such is distanced from the waterway. Therefore the proposed works will result in a

minimal adverse impact on the water quality hydrodynamics and estuarine habitat of Pittwater.

- ***To ensure new buildings are not susceptible to flooding.***

Comment:

The replacement of the roof is sited well below the ground level, and as such is not susceptible to flooding.

- **To ensure public access is maintained and provided for along the foreshore.**

Comment

The proposed works will not impact upon the existing public access along the foreshore.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$3,985 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$398,500.

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 2021;
- 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 DA2022/1527 for Alterations and additions to a dwelling house on land at Lot 1 DP 1132852, 18 - 20 Sturdee Lane, LOVETT BAY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|------------------------------|
| Drawing No. | Dated | Prepared By |
| Location, Site and Site Analysis - DA-01 | 9 March 2022 | James de Soyres & Associates |
| Demolition and Sediment Control Plan - DA-02 | 9 March 2022 | James de Soyres & Associates |
| Ground Floor Plan - DA-10 | 9 March 2022 | James de Soyres & Associates |
| Proposed House First Floor Plan - DA-12 | 9 March 2022 | James de Soyres & Associates |
| Proposed House Roof and Second Floor Plan - DA-14 | 9 March 2022 | James de Soyres & Associates |
| Proposed Roof Plan - DA-15 | 9 March 2022 | James de Soyres & Associates |
| North Elevation from Pittwater - DA-20 | 9 March 2022 | James de Soyres & Associates |
| South Elevation - DA-21 | 9 March 2022 | James de Soyres & Associates |
| West Elevation - DA-22 | 9 March 2022 | James de Soyres & Associates |
| | | |

| | | |
|------------------------|--------------|------------------------------|
| East Elevation - DA-23 | 9 March 2022 | James de Soyres & Associates |
| Section A-A - DA-30 | 9 March 2022 | James de Soyres & Associates |
| Section B-B - DA-31 | 9 March 2022 | James de Soyres & Associates |
| Section X-X - DA-32 | 9 March 2022 | James de Soyres & Associates |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|------------------|--|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Arborist Report | September 2021 | Bluegum Tree Care and Consultancy |
| BASIX Certificate (No.A404869_03) | 02 February 2022 | James de Soyres and Associates Pty Ltd |
| Bushfire Report | 27 August 2021 | Bush Fire Planning Services |
| DPE Consent Letter | 06 June 2022 | Department of Planning and Environment |
| DPI Consent Letter | 19 April 2022 | Department of Primary Industries |
| Photomontage and Exterior Finishes Schedule - DA-24 | 9 March 2022 | James de Soyres & Associates |
| Geotechnical Report | 27 August 2021 | Crozier Geotechnical 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 | 9 September 2021 | James de Soyres & Associates Pty Ltd |

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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

| Other Department, Authority or Service | EDMS Reference | Dated |
|---|-----------------------|--------------|
| | | |

| | | |
|----------------------------|---|-----------------|
| Aboriginal Heritage Office | Referral - Aboriginal Heritage Office - 18-20 Sturdee Lane Lovett Bay | 6 October 2022 |
| Ausgrid | Ausgrid Referral Response | 10 October 2022 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier 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.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) 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.
- (e) 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.
- (f) 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.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
- (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

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$3,985.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$398,500.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. 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 are required 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, and details demonstrating payment are to be submitted to the Certifier 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

7. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication *Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004)*. The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

8. **Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifier prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Principal Certifier prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

9. **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 referenced in Condition 1 of this consent 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 Certifier.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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 Certifier prior to the issue of the Construction Certificate.

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

11. **External Finishes to Roof**

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **Project Arborist**

a) A Project Arborist, with minimum AQF Level 5 in arboriculture, shall be engaged to provide tree protection measures in accordance with the recommendations of the Arboricultural Impact Assessment dated September 2021 prepared by Bluegum Treecare and Consultancy and Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection and ground protection.

b) The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works unless approved by the Project Arborist.

c) Existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist.

d) The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment dated September 2021 prepared by Bluegum Treecare and Consultancy.

e) All tree protection measures specified must:

- i) be in place before work commences on the site, and
- ii) be maintained in good condition during the construction period, and
- ii) remain in place for the duration of the construction works.

f) The Project Arborist shall provide certification to the Principal Certifier that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded including at commencement, during the works and at completion.

- Note:
- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
 - ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

13. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Protection of Landscape Features and Sites of Significance**

a) All natural landscape features including natural rock outcrops, natural vegetation, soil and watercourses are to remain undisturbed during demolition, excavation and construction works except where affected by works detailed on approved plans.

b) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

c) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal

Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

15. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.

- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with the Arboricultural Impact Assessment dated September 2021 prepared by Bluegum Treecare and Consultancy and Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
 - iv) 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,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by the Project Arborist on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with the Project Arborist including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
 - 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 Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

16. **Condition of Trees**

a) During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from the Project Arborist during the works.

b) In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

c) Any mitigating measures and recommendations required by the Arborist are to be implemented.

d) The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

17. **Wildlife Protection**

If construction activity associated with this development results in injury or displacement 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.

18. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by James de Soyres and Associates and recommended by Crozier in the Geotechnical Report prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

19. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

20. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

21. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

22. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

23. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate a report prepared by the Project Arborist shall be submitted to the Principal Certifier assessing the health and impact on all existing trees required to be retained including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

24. **Clearing for Asset Protection Zones**

Any clearing of vegetation for APZ maintenance is to prioritise removal of declared and environmental weeds before native vegetation is cleared for APZs. Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native vegetation and wildlife.

25. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

26. **Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction 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 the NSW Land Registry Services. Northern Beaches Council shall be nominated as the authority to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site

stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

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

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

28. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

29. **Waste Water System**

Prior to the issuing of an Occupation Certificate, a copy of a s68 (Local Government Act 1993) approval to operate the Waste Water System, and the waste water system must be activated and effectively operating to the satisfaction of the Principal Certifier.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

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

30. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

31. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

Signed



Stephanie Gelder, Planner

The application is determined on 05/11/2022, under the delegated authority of:



Adam Richardson, Manager Development Assessments