

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2592
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 88 DP 752017, 88 / 0 Eurabba Road DUFFYS FOREST NSW 2084
Proposed Development:	Construction of a dwelling house including swimming pool and a tennis court
Zoning:	Warringah LEP2011 - Land Zoned RU4 Primary Production Small Lots
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Yehan Koo Amy Wang
Applicant:	Hock Yeow Koo

Application Lodged:	14/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	26/01/2022 to 09/02/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 7.4%
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,973,206.00
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PROPOSED DEVELOPMENT IN DETAIL

This Development Application proposes a dwelling house and includes a tennis court and swimming pool to the rear of the proposed dwelling house. The tennis court will be surrounded with a 3m high black fence.

A condition will be added that this fencing constructed of cyclone fencing and/or similar materials to allow visibility and no artificial illumination of the tennis court to maintain amenity for adjoining and surrounding properties. Additionally conditions will be included for the Reduced Levels for the swimming pool and the tennis court to ensure consistency and amenity for adjoining properties.

The original application (DA2017/1127 - Demolition works and Construction of a dwelling house with

associated works approved 8 June 2018).

A Class 1 Appeal Lodge with Land & Environment Court of NSW (2018/00222061) on 10 August 2018

7 September 2018 - Court Conditions were issued which deleted Condition 12 Bushland Covenant and inserted Condition 47 Bushland Protection.

It is noted that Council's Biodiversity Officer with this current Development Application had no major issue(s) as follows:-

"It is noted that all proposed construction is located within cleared areas and/or areas approved for vegetation maintenance under previous applications, additionally as an approved APZ (LEC Case number: 2018/00222061) already exists over the portion of the site required to be an APZ for this Application Number: DA2021/2592 development proposal, the BOS is not triggered. Outside the approved APZ, all areas of the site are to be managed in accordance with the approved Biodiversity Management Plan (Cumberland Ecology 2018) required under the previous consent (LEC Order Case number: 2018/00222061), and no areas within the approved Conservation Area are to be modified under the 10/50 clearing eligibility, otherwise the application must enter the BOS.

As the application does not require the removal of prescribed trees or vegetation nor is it likely to impacts ton nearby biodiversity values, Council's Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls, subject to conditions.

The proposal is therefore supported."

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

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Development Control Plan - B1 Wall Heights

SITE DESCRIPTION

Property Description:	Lot 88 DP 752017 , 88 / 0 Eurabba Road DUFFYS FOREST NSW 2084
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north-eastern of Eurabba Road.</p> <p>The site is irregular in shape with a frontage of 81.375m along Eurabba Road and a depth of 268.45m along the northern boundary and 280.48m along the southern boundary and 80.5m along the eastern rear boundary. The site has a surveyed area of 22128.9m².</p> <p>The site is located within the RU4 Primary Production Small Lots zone and accommodates the land is cleared at the north eastern portion of the site which has horse training paddocks, sheds and gazebos for horses, equipment and feed. There is an open horse training enclosure (manege) with a sand base, fencing and a sealed access path into the adjoining property to the east. The cleared area which includes these improvements is approximately 105 metres long and 52 metres wide (5,460m²).</p> <p>The remainder of the site on has bushland on the lower half which supports a horse enclosure and an unsealed access driveway which has been constructed recently.</p> <p>The site slope from the rear to front with a slope of 7% grade, it is noted that the upper half of the site rises due to the previous fill placed on the site.</p> <p>The site is mapped under the Part E of the Warringah DCP (2011) as:</p> <ul style="list-style-type: none"> • Wildlife corridor (Section E4); • Threatened and High Conservation Habitat (Section E3); and • Native Vegetation (Section E5) <p>The site has also been mapped under the NSW Office of Environment and Heritage mapping of Sydney Metro Area Vegetation (2016) as supporting map Sydney Ironstone Bloodwood (<i>Corymbia gummifera</i>) - Silvertop Ash (<i>Eucalyptus sieberi</i>) forest in the south-western two thirds and adjoining the north-western boundary.</p> <p>This map unit is consistent with the Endangered Ecological Community Duffys Forest Ecological Community in the Sydney Basin Bio-region listed under the Threatened Species Conservation Act 1995.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low density rural residential development, some with horse training and riding facilities, with a golf course to the north-east.

The lots immediately south-east and north-west of the site are predominantly cleared with clusters of bushland. The Terrey Hills Golf and Country Club is a generally cleared and modified open space, and further to the north is the Kuring-gai Chase National Park, comprising approximate 15,000 hectares of bushland.

Map:



SITE HISTORY

The site has an extensive history of works which have been undertaken on the site by the former owner. The following has elapsed:-

Consent No. 74/57 issued by Council on 29 March, 1974, for mining and restoration/rehabilitation of the site.

Finished levels in relation to this Consent were reached in 1990.

Mr Davis commenced an illegal commercial crushing operation on the site in late 1991, for which Council commenced legal action.

In December 1992 Council resolved to take no further action as activities on the site had ceased.

Recyclable waste concrete material continued to be deposited on the site and in 1994 Wilshire Webb Solicitors were instructed to take legal action.

Land and Environment Court proceedings were commenced in April 1994 to obtain orders to prevent further material from being deposited on the land and to reinstate the land.

In August 1994 an interlocutory injunction was obtained to prevent further material being deposited on the land.

In August 1994 a Development Application was lodged for the reinstatement of the site and the erection of an attached dual occupancy.

In March 1995 **Consent No.95/109** was issued for earthworks for reinstatement of the site and for the dual occupancy.

Council's Class 4 Land and Environment Court proceedings were amended to require either the removal of all the waste concrete material from the land and associated landscaping or the carrying out of the earthworks approved in the Consent including the ancillary crushing activities.

Mr Davis requested Council in June 1995 to modify the consent, primarily in relation to the time frame imposed on the Consent.

The alleged unlawful works were against "Davis Earthmoving" whom were the previous owners of 116 Booralie Road and Lot 88 Eurraba Road.

DA2017/1127 - Demolition works and Construction of a dwelling house with associated works approved 8 June 2018

Class 1 Appeal Lodge with Land & Environment Court of NSW (2018/00222061) on 10 August 2018

The applicant was dissatisfied with Conditions 12 -16 of the above consent (DA2017/1127) issued above as follows:-

12. Bushland Covenant

Bushland is to be protected, conserved, rehabilitated and managed through the use of a Section 88E (Conveyancing Act 1919) Instrument in which Northern Beaches Council shall be named as the sole authority to release or modify the restriction.

All areas of Duffys Forest Endangered Ecological Community and *Epacris purpurascens* var. *purpurascens* habitat outside the nominated Asset Protection Zones is to be protected.

The instrument is to be written and registered on the title so that the owners are bound to manage and protect the area in perpetuity according to the Biodiversity Management Plan prepared for the approved development. This instrument is to be approved by Councils Bushland & Biodiversity section prior to lodgement with the NSW Department of Lands.

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

Reason: Management and protection of bushland. (DACNEC05)

13. Stockpiling of Material

Stockpiling of building material is not permitted within bushland/conservation areas.

Sediment and Erosion Control Plan - drawing no. PS01-B300 C is to be amended accordingly and the indicative stockpile removed from the Conservation Area.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: Management of threatened species (DACNECPCC1)

14. Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland protection measures are carried out according to the conditions of consent.

The Project Ecologist will provide certification that conditions/mitigation measures relating to the Biodiversity Management Plan prepared by Cumberland Ecology (dated March 2018) and Fauna Assessment prepared by Cumberland Ecology (dated October 2017) are carried out.

The Project Ecologist will ensure that all conditions relating to the biodiversity management of the property are fully implemented.

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: To ensure bushland management.

15. Landscaping

All plants used in the landscaping for this development must be local native species as per the species list for Duffys Forest Endangered Ecological Community or non-invasive exotic species.

No Grevillea or Banksia hybrids are to be used in the landscaping for this development.

Landscape Plan DWG No. LP.01/A (dated November 2017) is to be amended accordingly.

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

Reason: Biodiversity conservation and management

16. Implementation of Biodiversity Management Plan

All requirements in the Biodiversity Management Plan prepared by Cumberland Ecology (dated March 2018) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management."

7 September 2018 - Court Conditions were issued which deleted Condition 12 Bushland Covenant and inserted Condition 47 Bushland Protection.

CC2019/0142 Demolition works and Construction of a dwelling house with associated works
A Construction Certificate (P20180097) was issued by Vast Certification on 6 February 2019. To date, the clearing of trees and grading for the access driveway through the bushland has been completed. Construction of the house has not commenced.

**MOD2021/0746 - Section 4.56 Court Consent - Modification of Development Consent
DA2017/1127 granted for demolition**

Lodged with Council on 1 October 2021.

"The house remains a single dwelling for a single family in the same vein as what has already been approved. It retains the same approved concept of a three-level house, including abasement garage and bush fire refuge/rumpus level.

The house remains situated in the same location and on the totally open horse paddock portion of the site. The nearest neighbour's main dwelling house remains over 50m away.

The house is increased in size as is befitting a site that is 5.45 acres in size. There is no increase in height of the house. There is the addition of a pool and a tennis court. The tennis court is situated within the existing levelled horse show jumping and paddock area.

The entry foyer and house layout now achieve a dynamic spatial flow and integration to achieve higher vibrancy while befitting to the landform.

The main living areas are now better orientated for better family interaction and solar capture.

The bedrooms are now oriented to get more sunlight and cross ventilation with voids connecting the ground floor to the second floor bedrooms.

The amended design achieves better interrelationship of the various functional spaces in spatial juxtaposition."

The proposed modifications were considered too substantial for considerations under Section 4.56 Environmental Planning and Assessment Act 1979 and the applicant withdraw this application on 8 December 2021. This current development application is seeking consent for a similar proposal.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development	Warringah Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration	Comments
control plan	
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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>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>
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 Warringah 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 (prepared by ABPP, dated 20 December 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 26/01/2022 to 09/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 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 (Solid Fuel/Oil Heater)	<p>General Comments</p> <p>Plans indicate that a fireplace will be installed as part of the proposal. According to Section 68 PARTF(4) a domestic oil or solid fuel heating appliance require approval through Council. The proposal is supported, see conditions below.</p>
Environmental Health (unsewered lands)	<p>General Comments</p> <p>The proposed works will not alter the wastewater load for the on-site wastewater management system that was outlined in DA2017/1127. Adequate provisions were made to provide 300 m² of subsurface irrigation and an aerated treatment system.</p> <p>We support the application based on the wastewater report recommendations, similar consent conditions should be applied as were for the 2017 DA.</p>
Landscape Officer	<p>The application seeks consent for construction of a new dwelling.</p> <p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 RU4 Zone and the following Warringah Development Control Plan 2011 controls (but not limited to):</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation and E2 Prescribed

Internal Referral Body	Comments
	<p>Vegetation</p> <p>The plans indicate that no significant landscape features are affected by the proposed works noting previous approval for construction of the driveway through the site and requirements for Asset Protection Zone management.</p> <p>No objections regarding landscape issues subject to conditions.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for the construction of a single dwelling house, including an accompanying pool and tennis court. to an existing dwelling, including the construction of a new swimming pool, spa, deck and associated landscaping. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Biodiversity Conservation Regulation 2017 Warringah Development Control Plan (WDCP)</p> <ul style="list-style-type: none"> • Clause E2 Prescribed Vegetation • Clause E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat • Clause E4 Wildlife Corridors • Clause E5 Native Vegetation • Clause E6 Retaining unique environmental features <p>The site is located within the Department of Planning, Industry and Environment's (DPIE) Biodiversity Values Mapping, therefore any removal of native vegetation or prescribed impacts within mapped areas will trigger the Biodiversity Offset Scheme (BOS).</p> <p>It is noted that all proposed construction is located within cleared areas and/or areas approved for vegetation maintenance under previous applications, additionally as an approved APZ (LEC Case number: 2018/00222061) already exists over the portion of the site required to be an APZ for this development proposal, the BOS is not triggered. Outside the approved APZ, all areas of the site are to be managed in accordance with the approved Biodiversity Management Plan (Cumberland Ecology 2018) required under the previous consent (LEC Order Case number: 2018/00222061), and no areas within the approved Conservation Area are to modified under the 10/50 clearing eligibility, otherwise the application must enter the BOS.</p> <p>As the application does not require the removal of prescribed trees or vegetation nor is it likely to impacts ton nearby biodiversity values, Council's Bushland and Biodiversity referral team find the application</p>

Internal Referral Body	Comments
	to be consistent against relevant environmental controls, subject to conditions.
NECC (Development Engineering)	Applicant seeks approval for a new dwelling and tennis court for a rural property. There may be substantial trees affected for the proposed driveway access. No Development Engineering objection subject to conditions.
NECC (Riparian Lands and Creeks)	This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. No objections to approval.
NECC (Water Management)	This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. No objections to approval subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable and no conditions required.
NSW Rural Fire Service – local branch (s4.14 EPAA)	Supported subject to conditions and recommendations.
Aboriginal Heritage Office	<p><i>"Reference is made to the proposed development at the above area and Aboriginal heritage.</i></p> <p><i>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.</i></p> <p><i>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</i></p> <p><i>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."</i></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 44 - Koala Habitat Protection

The objectives of the SEPP are as follows:

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

Comment: The following comments was provided in the Fauna Assessment by Cumberland Ecology (dated October 2017):-

"The subject site is located within the former Warringah LGA to which SEPP44 applies. One Broad-leaved Scribbly Gum (Eucalyptus haemastoma) is present within the subject site and this species is listed as Koala (Phascolarctos cinereus) feed tree under SEPP44. No other Koala feed tree species, as listed under SEPP44 are present within the subject site. The vegetation on site is therefore not consistent with potential Koala habitat. No Koala scats or individuals were recorded during the survey. As no evidence of a breeding population of Koala is present, the subject site is not considered to be Core Koala Habitat under SEPP44."

Given the above it is considered that the proposal is compliant with the SEPP.

SEPP 55 - Remediation of Land

Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 871147S _03 dated 20 December 2021).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	40	51

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

SEPP (Infrastructure) 2007

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable and no conditions required.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.1m	7.1%	No

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
Part 6 Additional Local Provisions	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	9.1m
Percentage variation to requirement:	7.1%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the*

health and safety of their occupants,

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

"This provisions of section 4.6 of WLEP provide for a degree of flexibility in applying development standards and recognise the need to achieve better outcomes by allowing some flexibility in particular circumstances.

This application seeks favourable consideration by council on the basis that compliance is unreasonable and unnecessary in this circumstance.

The proposed dwelling is predominantly a height of approximately 7000mm. The elevated section of the dwelling comprises approximately 15m² of floor space. This very small component of the building represents the section exceeding the 8.5m building height."

The above variation to the building height is supported.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the RU4 Primary Production Small Lots zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP

2011 are:

(1) The objectives of this clause are as follows:

a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

"The predominant form of buildings within the golf estate to the north (The Greenway) is a contemporary two storey dwelling with heights approximating or greater than 8.5m. The building form observed in Eurabba Road is mixed but the dominant form is a contemporary two storey dwelling. The proposed dwelling, including the proposed building height, is compatible with surrounding and nearby buildings.

The scale of the proposed development is generally in keeping with, or less than, the immediately surrounding dwellings and related development and notwithstanding the technical non-compliance the proposed development achieves the intent of Objective 1(a).

The building height exceedance is not likely to result in any perceived disparity between the proposed dwelling and the majority of dwellings in the locality ."

Council concurs with the above statement.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

"The site of the proposed dwelling is screened by established vegetation on three sides and includes additional plantings on the south-east side as part of the proposed development. The proposed dwelling is situated generally equidistant from the north-west and south-east property boundaries and this achieves the maximum side setback. There is no loss of solar access to neighbours and negligible visual impact or loss of privacy due to existing vegetation and the proposed additional screening vegetation. Views from neighbouring properties follow the landfall to the south-west and the proposed dwelling will not intrude on those lines of sight at all.

The building height exceedance will not result in any meaningful visual impact on neighbours, including view or privacy. There is nil solar access impact as a result of the exceedance.

A diagram of the contour lines for the subject property and surrounding land is provided as a guide to view lines. It is noted that neighbours to the west have a view shed (to the south-east) generally consistent with subject property and the proposed dwelling will therefore not result in view loss.

Neighbours to the east have a view shed rotated slightly more to the south and this means that the proposed dwelling will not result in any loss of view relative to the principal fall line and view direction."

Council concurs with the above statement.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and

bush environments,

Comment:

"The dwelling has been sited on an existing cleared area of the lot and will not reduce the scenic quality of Warringah's coastal and bush environments. The driveway alignment has also been selected to reduce the loss of mature trees, as a means of maintaining the local scenic quality."

Council concurs with the above statement.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

"The proposed dwelling will not be visible from the nearest public places, being Eurabba Road. Furthermore, one of the primary design aims for the dwelling is to achieve a sufficient roof pitch to minimise the accumulation of leaves and vegetation debris for fire hazard mitigation. One of the performance criteria found within section 4.3.5 of RFS Planning for Bushfire Protection in relation to building design is "to minimise the risk of bushfire attack".

The RFS notes, in Planning for Bushfire Protection (p 42), that the design of a building can be of critical importance in terms of the potential for accumulation of debris and exposure of the building to bush fire attack."

Council concurs with the above statement.

Zone objectives

The underlying objectives of the RU4 Primary Production Small Lots zone are:

- *"To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To minimise the impact of development on long distance views of the area and on views to and from adjacent national parks and bushland.*
- *To maintain and enhance the natural landscape including landform and vegetation.*
- *To ensure low intensity of land use other than land uses that are primary industry enterprises.*
- *To maintain the rural and scenic character of the land."*

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

Comment: In consideration of whether an appropriate degree of flexibility in enforcing the building height control is justified in this particular circumstance, a review of the area of non-compliance has been undertaken.

Enforcing compliance with the building height control would have a minimal difference compared to the proposed in terms of solar access, privacy, views and the visual impact of the development.

Thus, in this circumstance, it is considered to there are sufficient environmental planning grounds to justify a degree of flexibility to the WLEP 2011 4.3 Height of Buildings development standard.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment: In the circumstances of the site conditions, the proposed building design creates a non-compliance with the 8.5m due to the proposed roof design and slope of the site in this location. The requested variation to the development standard does not cause any unreasonable or detrimental environmental or amenity impacts.

Therefore, the proposal is suitable to achieve the desired architectural outcome with flexibility and ensures no unreasonable impact on surrounding properties.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment: In the circumstances of the site topography and location of the proposed dwelling house, compliance with the 8.5m is unnecessary and unreasonable. The non-compliance is limited to the front (western) elements of the dwelling where the building steps on the site accommodate the slope. With the recommended conditions, there is no unreasonable impact on views, solar access or the amenity of adjacent land and or the public domain.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment: The applicant has provided a Statement of Environment Effects dated 8 January 2022 and Clause 4.6 - Request to vary a development standard, detailing the matters to be demonstrated for the variation to the height limit and addressing the objectives of the zone.

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the RU4 Primary Production Small Lots zone in the WLEP 2011.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020 issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.4m	2.8%	No
B5 Side Boundary Setbacks	10m (west)	29.3m (dwelling) 26.9m (tennis court)	N/A N/A	Yes Yes

	10m (east)	18m (dwelling) 18m (tennis court)	N/A N/A	Yes Yes
B7 Front Boundary Setbacks	20m	201.1m	N/A	Yes
B9 Rear Boundary Setbacks	10m	32m (dwelling) 11.7m (tennis court)	N/A N/A	Yes Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	30% (6627sqm)	89.2% (17916.1sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B1 Wall Heights	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D17 Tennis Courts	Yes	Yes

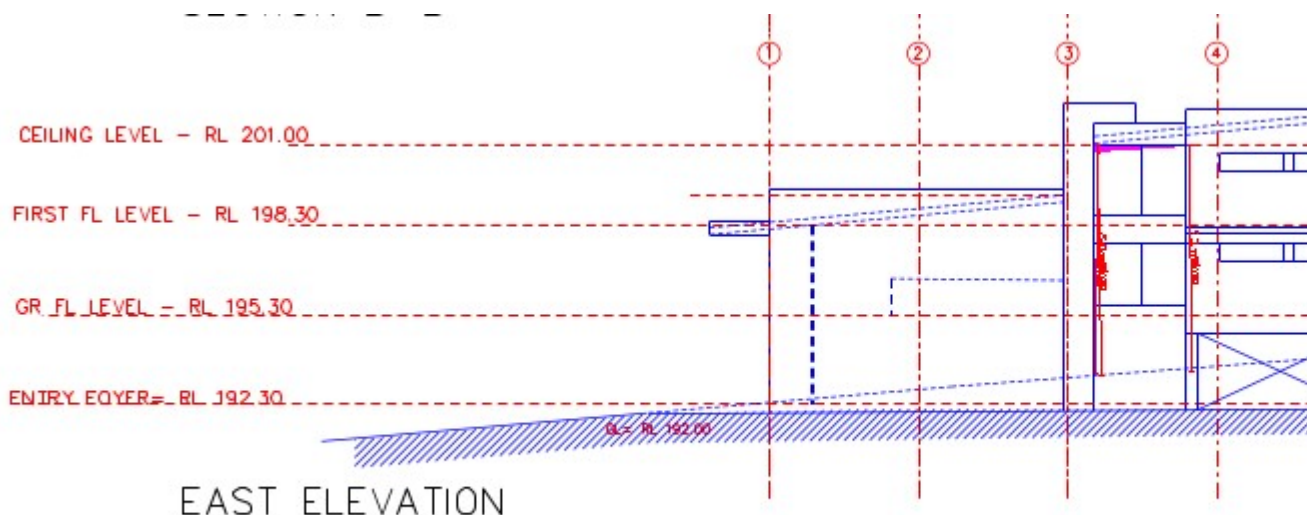
Clause	Compliance with Requirements	Consistency Aims/Objectives
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposed eastern elevation extends beyond the maximum wall height control by providing a wall height of 7.4m, resulting in a minor breach to the control.



Merit consideration:

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

- *To minimise the visual impact of development when viewed from adjoining properties, streets,*

waterways and land zoned for public recreation purposes.

Comment:

The area of non-compliance is minimal and restricted to the southern end of the eastern elevation with the majority of the eastern elevation within the maximum wall height. As such, the visual impact of the development is considered minor when viewed from adjoining properties and from the public domain.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

The dwelling will remain beneath the existing tree canopy level.

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

Comment:

The extent of non-compliance does not give rise to unreasonable impact on views to and from public and private properties with any existing views and/or vistas being maintained.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

As noted above, the wall height non-compliance is minor and will not result in unreasonable impact on adjoining or nearby properties by ensuring amenity is maintained.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The proposal is considered to respond to the sloping topography of the site by avoiding unnecessary excavation.

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

Comment:

The proposal incorporates a low profile roof form with a minimal pitch to ensure the visual impact is minimised.

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

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 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$19,732 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,973,206.

CONCLUSION

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

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

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

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

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

Accordingly Council as the consent authority grant Development Consent to DA2021/2592 for Construction of a dwelling house including swimming pool and a tennis court on land at Lot 88 DP 752017, 88 / 0 Eurabba Road, DUFFYS FOREST, 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
10201	November 2021	H.Y. Koo
10121-01/A	March 2021	H.Y. Koo
10122	December 2021	H.Y. Koo
10123	December 2021	H.Y. Koo
10124.A	December 2021	H.Y. Koo
10125.A	December 2021	H.Y. Koo
10126	December 2021	H.Y. Koo
10127	December 2021	H.Y. Koo
10130	December 2021	H.Y. Koo
10131	December 2021	H.Y. Koo
10132	December 2021	H.Y. Koo

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Protection Assessment	20 December 2021	ABPP
Biodiversity Letter	3 August 2021	Cumberland Ecology
BASIX Certificate (871147_03)	20 December 2021	Gardwell Consulting

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
Sheet 1 of 2	23 August 2021	Botanica

Sheet 2 of 2	23 August 2021	Botanica
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Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Demolition Plan Excavation & Fill Plan & Waste Management Plan	January 2022	Panmal Constructions

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
NSWRFS	Response NSWRFS Referral	6 February 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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling."

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

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

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

4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

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

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

Reason: Legislative requirement.

5. 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 a final 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

6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$19,732.06 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 2021. The monetary contribution is based on a development cost of \$1,973,206.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

7. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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 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**

8. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Eurabba Road.

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

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

9. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

10. **Landscaping**

All plants used in the landscaping for this development must be local native species as per the species list for Duffys Forest Endangered Ecological Community or non-invasive exotic species. No Grevillea or Banksia hybrids are to be used in the landscaping for this development.

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

Reason: Biodiversity conservation and management

11. **Permanent Delineation of Asset Protection Zones**

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the extent of the bush fire Asset Protection Zone must be fenced.

The fence shall conform to the specification for bush protection fencing consisting of 1150mm high galvanised hinge joint fencing (8/115/30) (Stocktite or similar) fixed to fence with 3x strands 3.15mm galvanised fencing wire. Posts are to be capped, 50mm round galvanised pipe at 3m centres. End posts are to be stayed with galvanised pipe stay every 15m. Inline stays are to be fixed to 50mm post. Posts are to be concreted into the ground. This fence is to be constructed prior to any construction works.

The installation of this fence to delineate the Asset Protection Zone is to be supervised by the Project Ecologist.

Alternate fence designs are to be approved by Councils Natural Environment and Climate Change - Biodiversity section in writing.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

Reason: Bushland Protection.

12. **Implementation of Biodiversity Management Plan**

All requirements in the Biodiversity Management Plan prepared by Cumberland Ecology (dated March 2018) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

13. **Amendments to the approved plans**

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

- Tennis court fencing is to be a maximum of 3m in height and be constructed of cyclone black fencing;
- Swimming pool coping level is RL 194.80; and
- Tennis Court is RL 195.00

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

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

14. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

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

Reason: To facilitate suitable vehicular access to private property.

15. **Approval to Install an On-site Sewage Management System**

Prior to the release of the Construction Certificate (CC), the applicant must receive a section 68 (Local Government Act 1993) 'Approval to Install an On-Site Sewage Management System' from Council.

The Approval to Install Application must contain a Wastewater Report showing; but not limited to:

1. 100 Meter buffer distance to Natural waterbodies (rivers, creeks, lakes, *etc.*);
2. 40 meter buffer distance to other waters (farm dams, intermittent streams, *etc.*);
3. Demonstrated compliance with AS1547:2012;
4. Demonstrated compliance with Department of Local Government, NSW Environment Protection Authority, NSW Health Department, NSW Department of Land and Water Conservation and the NSW Department of Urban Affairs and Planning (1998), *Environment and Health Protection* Guidelines - On-site Wastewater Management for Single

Households;

5. A design wastewater load of 1200 L/d;

6. A revised minimum effluent disposal area;

7. Indicate precise land application area(s) and reserve area(s). The minimum effluent application area should include a sufficient reserve to allow rotation of the dosing area to help recovery of soils and vegetation and to provide an alternative application area in case of system failure; and

8. Evidence of a NSW Health accredited system to be installed as per Section 41 of the Local Government (General) Regulation 2005.

Details demonstrating compliance are to be submitted to the Certifying Authority and Council.

Reason: To fulfil the requirements under Section 68 of the Local Government Act 1993

16. **Engagement of Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out.

The Project Ecologist will provide certification that conditions/mitigation measures relating to the Biodiversity Management Plan prepared by Cumberland Ecology (dated March 2018) and Fauna Assessment prepared by Cumberland Ecology (dated October 2017) are carried out.

The Project Ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

17. **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.

18. **External Finishes to Roof**

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

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

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.

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.

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.

21. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not indicated for removal on the approved plans, 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 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 an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- 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 an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture 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 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 Certifying Authority 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.

22. Condition of Trees

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 an Arborist with minimum AQF Level 5 in arboriculture during the works.

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.

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

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.

23. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

24. 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 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.

25. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

26. Property Boundary Levels

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To maintain the existing profile of the nature strip/road reserve.

27. Vehicle Crossings

The Applicant is to construct one vehicle crossing 6 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/10R and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

28. 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 Environment and Climate Change (DECC).

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 DECC.

Reason: Aboriginal Heritage Protection.

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

29. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

30. **Clearing for Asset Protection Zones**

Clearing of vegetation for APZ establishment must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

The 10/50 clearing eligibility is not to be used within the approved Conservation Area (outside approved APZ), as set out within the approved Biodiversity Management Plan (Cumberland Ecology 2018).

Written certification of compliance is to be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native vegetation and wildlife.

31. **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 Certifying Authority prior to issue of any Occupation Certificate.

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

32. **Installation and certification of solid/fuel burning heater**

The solid fuel heater must be certified to comply with Australian Standards 4012 and 4013.

Provide the Principal Certifying Authority certification that the solid fuel heater has been installed by an appropriately experienced and qualified person, in accordance with the relevant provisions of AS2918 – Domestic Solid Fuel Burning Appliances – Installation.

Reason: To ensure the installation is completed in a legislatively compliant manner.

33. **Approval to Operate On-site Sewage Management System**

Prior to the issuing of any interim / final occupation certificate, a s68 (Local Government Act

1993) Approval to Operate an On-site Wastewater Management System must be obtained through application to Council. The approval verifies that the on-site sewage management systems has been installed as per the Approval to Install On-site Sewage Management System issued by Council.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that effluent is managed according to the prescribed health criteria.

34. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

35. **House / Building Number**

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

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

Reason: Proper identification of buildings.

36. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

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

37. **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.

38. **Maintenance of Stormwater Treatment Measures - Minor**

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.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

39. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dB(A) above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

40. **Operation of solid fuel burning heaters**

The owner/operator must take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures must include:

- Using dry seasoned hardwood
- Storing wood in a dry well-ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean

- Checking the chimney at different stages of the fire to see if there is any smoke
- Maintenance according to the manufacturer's specifications

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

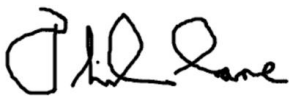
41. **Tennis court (artificial illumination)**

No artificial illumination to be used or incorporated for the tennis court.

Reason: To maintain amenity to adjoining and surrounding properties.

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

Signed



Phil Lane, Principal Planner

The application is determined on 16/03/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments