

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0968
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 5 DP 25653, 41 Coasters Retreat COASTERS RETREAT NSW 2108
Proposed Development:	Construction of a dwelling house including an inclinor
Zoning:	E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Nichola Danielle Midgley Graham John Midgley
Applicant:	Graham John Midgley

Application Lodged:	01/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	09/07/2021 to 23/07/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,321,641.00
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PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for site preparation works and the construction of a part one / part two storey detached dwelling house with various decks and an inclinor. The house is to be finished in natural-appearance materials with associated landscaping.

Herein this report the works are described as the 'development'.

ASSESSMENT INTRODUCTION

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

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

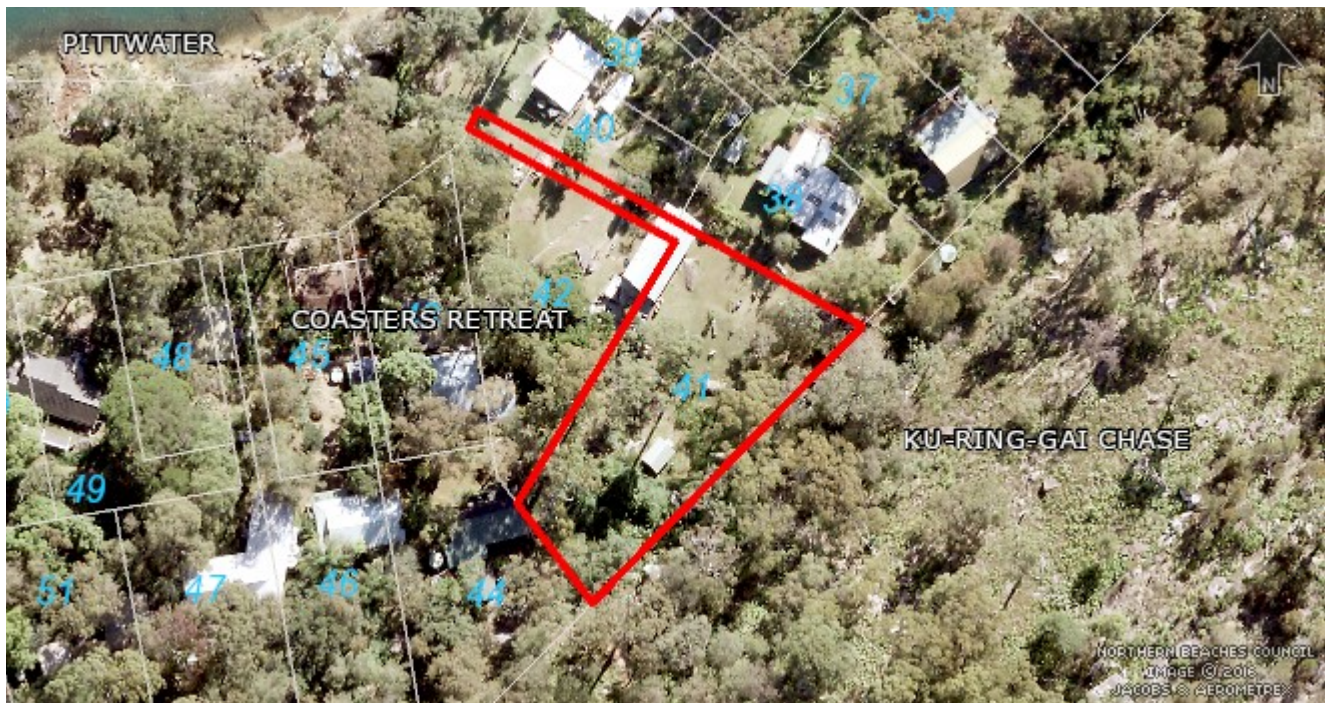
SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater 21 Development Control Plan - D13.9 Landscaped Area

SITE DESCRIPTION

Property Description:	Lot 5 DP 25653 , 41 Coasters Retreat COASTERS RETREAT NSW 2108
Detailed Site Description:	<p>The subject site is legally described as Lot 5 DP 25653 and is known as 41 Coasters Retreat, Coasters Retreat.</p> <p>The site falls within the E3 Environmental Management zone pursuant to the Pittwater Local Environmental Plan 2014, and in the Upper Western Foreshores Locality pursuant to the Pittwater 21 Development Control Plan 2014.</p> <p>The site is the 'axe' of a battleaxe arrangement and achieves a maximum depth of 85m by a width of 74m, equating to an overall surveyed area of 2,230 square metres. The frontage of the site (at the 'handle') fronts onto a portion of Ku-ring-gai chase and the Pittwater waterway.</p> <p>The site is presently vacant of structures with the exception of a 21 square metre shed.</p> <p>The site has significant rocks throughout, mainly floaters, and approximately 21 trees. Topographically the site inclines from front to rear (north to south) by approximately 35 metres. The access handle into the site inclines approximate 15m via a gradual slope.</p> <p>Surrounding developments consist of detached dwelling houses of varying age, size and construction.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been vacant for an extended period of time.

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 control plan	Pittwater 21 Development Control Plan 2014 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 Matters for Consideration'	Comments
	<p><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>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan 2014 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 Building Code & Bushfire Hazard Solutions Pty Limited, dated 07 May 2021). The report recommended an alternative solution to comply with Planning for Bush Fire Protection.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/07/2021 to 23/07/2021 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Ross Grey Du Vernet	73 Stuart Street MANLY NSW 2095

Concern was raised from a neighbour that the location of the inclinor may impact on the acoustic amenity of their adjacent home. The submission also raised concern that lighting in the inclinor may impact their amenity.

The inclinor is positioned in a compliant location that is not considered to readily cause excessive acoustic impacts or light-spill into neighbouring properties. A condition is imposed in the recommendations of this consent requiring the inclinor to not generate noise exceeding 60dBA measured from the nearest property boundary. For context, 60dBA is commonly referred to as 'average conversation volume'.

Subject to this condition, the proposal is acceptable.

REFERRALS

Internal Referral Body	Comments
Environmental Health (unsewered lands)	<p>General Comments</p> <p>DA2021/0968 for 41 Coasters Retreat Coasters Retreat NSW 2108 includes installation of a new dwelling with a AWTs Fukiclean Ce 10500 EX system and subsurface distribution installed to manage waste water located as indicated in Drawing no H101 - Floor plans</p>

Internal Referral Body	Comments
	<p>and roof plan dated May 2021. Environmental Health would approve the system as identified within the plans and reports pending installation and having approval to operate the system as per the subject conditions.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Environmental Health (unsewered lands)	<p>The proposal includes installation of a new dwelling with a AWTs Fukiclean Ce 10500 EX system and subsurface distribution installed to manage waste water located as indicated in Drawing no H101 - Floor plans and roof plan dated May 2021. Environmental Health would approve the system as identified within the plans and reports pending installation and having approval to operate the system as per the subject conditions.</p>
Landscape Officer	<p>The application seeks consent for construction of a new dwelling, inclinator and associated landscape works,.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan zone E3 Environmental Management, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D13 Upper Western Foreshores Locality, and part D13.15 Coasters Retreat <p>The objectives of the land zone E3 Environmental Management shall be met including to: protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values; provide for a limited range of development that does not have an adverse effect on those values; provide for residential development of a low density and scale integrated with the landform and landscape, and not visually prominent; encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors, and ensure the continued viability of ecological communities and threatened species.</p> <p>The Arborist's Report prepared by Naturally Trees is noted. The Report indicates that three Category A trees and one Category Z tree are to be removed to accommodate the proposed dwelling. Seventeen other Category A/AA trees identified in the report are to be retained.</p> <p>The proposed inclinator is located on the existing access handle between the northern property boundary and the proposed dwelling. The access handle currently accommodates stair access and is clear of significant vegetation.</p> <p>The landscape plan provided indicates protection of native vegetation and removal of weeds across the site.</p>

Internal Referral Body	Comments
	<p>As the site is located on Bushfire Prone land, RFS requirements for Asset Protection Zones apply to the site, impacting on location of trees relative to a dwelling and across the site in general.</p> <p>The location of the dwelling adjacent to the inclinator and largely over cleared land is not objected to , notwithstanding the required tree removal.</p> <p>The site contains scattered rock outcrops. The building design indicates that rock outcrops can be retained and conditions requiring protection of natural features can be included.</p> <p>In consideration of the above, no objections are raised to approval with regard to landscape issues, subject to conditions as recommended. I would defer to comments of Bushland and Biodiversity regarding ecological impacts.</p>
NECC (Bushland and Biodiversity)	<p>Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:</p> <ul style="list-style-type: none"> Coastal Management SEPP 2018 cl. 13 Development on land within the coastal environment area <p>The proposed development seeks to construct a new two-storey dwelling and associated facilities as well as a new inclinator access rail to facilitate ease of access to the new property.</p> <p>The Arboricultural Impact Assessment (Naturally Trees, May 2021) submitted with the application identifies that four (4) native trees will require removal for the construction of the dwelling. An additional 17 native trees will be retained within the property. Four (4) native trees are required to be planted within the property to compensate for the loss of native canopy and foraging values to local native and threatened wildlife. Species selection should be representative of those species removed (eg. 1 x <i>Eucalyptus</i> sp., 2 x <i>Allocasuarina</i> sp. and 1 x <i>Angphora</i> sp.).</p> <p>Council's Biodiversity referrals team are satisfied that the proposed development complies with the provision listed above, subject to these conditions of consent.</p>
NECC (Coast and Catchments)	<p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>On internal assessment the application satisfies the requirements under clauses 13, 14 and 15 of the CM SEPP. There the application is</p>

Internal Referral Body	Comments
	supported without conditions.
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>This site is in The Basin , and is located more broadly within the Pittwater estuary. The development must not significantly impact the biophysical, hydrological or ecological integrity of these locations, or the quantity and quality of surface and ground water flows that they receive. Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>This application, subject to conditions, is recommended for approval as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of the cited areas if conditions are adhered to.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed residential development, including the inclinor, is sited outside of the medium flood risk precinct. Therefore there are no applicable flood related development controls.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who raised no objections to the development.
NSW Rural Fire Service – local branch (s4.14 EPAA)	The proposal was referred to the NSW Rural Fire Service who raised no objections to the development, subject to conditions as recommended.
Aboriginal Heritage Office	<p><i>An Aboriginal Cultural Heritage and Archaeological Advice was prepared in September 2021 by Artefact Heritage.</i></p> <p><i>The Aboriginal Heritage Office agrees with the conclusions and recommendations outlined in the report (p.9):</i></p> <ol style="list-style-type: none"> <i>1. Due diligence has been exercised and there is considered to be no risk of harm to Aboriginal objects through the proposed work. This includes an insignificant potential for harm to unidentified material;</i> <i>2. No specific measures are required for the proposed work.</i> <i>3. No further Aboriginal cultural heritage archaeological assessment is warranted;</i> <i>4. This documentation should be retained for five years following any development work and can form the basis of a defence against prosecution in the event of unanticipated harm.</i> <i>5. In the event that any Aboriginal objects are identified at any time, work should stop and further advice should be sought.</i>

External Referral Body	Comments
	<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 an Unexpected Finds protocol be followed. 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 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1184759S dated 07 June 2021).

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

Commitment	Required Target	Proposed
Water	40	76
Thermal Comfort	Pass	Pass
Energy	50	98

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections to the development.

SEPP (Coastal Management) 2018

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

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The development is not considered to cause an adverse impact on the criterion specified above.

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

Comment:

The consent authority may be satisfied that the development is designed, sited and shall be managed to avoid an adverse impact referred to in subclause (1) as above.

14 Development on land within the coastal use area

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

Comment:

The development of private property shall not prejudice access, enjoyment or the usability of the coastal area.

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10m as the slope is in excess of 30%	8.6m	-	Yes

Notwithstanding the above, an assessment of the building height against the underlying objectives of the control can be found later in this report.

Compliance Assessment

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

Detailed Assessment

4.3 Height of buildings

The proposed development is non-compliant with the 8.5m maximum building height prescribed by clause 4.3(2) of PLEP 2014 as portions of the building roof reach a maximum height of between 8.6m and 8.7m measured from existing ground level.

The applicant seeks to rely upon a variation prescribed by clause 4.3(2D) of the PLEP 2014, which provides that the building may reach up to 10m in height, subject to consistency with certain criteria. One of the relevant criteria is to ensure that the objectives of the clause are achieved. The objectives of the height of buildings development standard are considered as follows:

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

Comment: The Desired Character pursuant to clause A4.13 Upper Western Foreshores Locality of the P 21 DCP describes, in part, development that has minimal impact on the natural topography of the land and is situated within a landscaped setting to minimise bulk and scale.

The proposed house has been designed to have minimal excavation (generally limited to footings only) and is, in part, elevated on a lightweight post and beam structure. The portion of the building which exceeds the prescribed 8.5m height of buildings control is the elevated Bed 1 which is single storey with an open structure beneath it. That structure is elevated to provide a level floor plan. The elevated nature of the structure permits the growth of vegetation beneath and allows for views through.

It is considered that the overall lightweight and modest design of the home is consistent with the desired character of the locality.

- *to ensure that buildings are compatible with the height and scale of surrounding and nearby*

development.

Comment: The subject site is battleaxe in its configuration and is currently vacant of structures with the exception of a small shed. The proposed house does achieve a ridge height higher than its neighbours, however it is also positioned further southwards than those houses and on a different topography. The height difference between properties is not significant and the height of the development remains lesser than existing trees. Overall the height of the building is compatible with the height and scale of surrounding and nearby development.

- *to minimise any overshadowing of neighbouring properties.*

Comment: The subject house generally sits southwards of all neighbouring houses and thus does not result in any unreasonable overshadowing of neighbouring properties. The majority of homes in the immediate vicinity enjoy a northerly aspect, only interrupted by vegetation.

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

Comment: The development is not considered to result in any loss of views.

- *to encourage buildings that are designed to respond sensitively to the natural topography.*

Comment: The architecture of the proposal is considered to respond sensitively to the natural topography of the land. The house is lightweight in structure requiring minimal excavation.

- *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comment: The development does not necessitate any significant tree removal or ground works and is situated well away from known Aboriginal heritage sites. The house would not readily be visible from the Pittwater waterway, with any views being obscured by the selected material palette. Overall the building is considered to sit well within the landscape, notwithstanding its contravention to the 8.5 building height control.

The remainder of the criteria prescribed by clause 4.3(2D) of PLEP 2014 are considered, as follows:

- *the consent authority is satisfied that the portion of building above the maximum height shown for that land on the Height of Buildings Map is minor.*

Comment: The extent of variation proposed is between 8.6m and 8.7m and thus represents a maximum 2.35% variation to the control requirements. Such variation is deemed to be "minor".

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

Comment: The building footprint is situated on a slope of 17.64 degrees.

- *the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

Comment: As described above, the building minimises the need for cut and fill and respects the topography of the natural land form. To achieve compliance with the height of buildings control the applicant could have elected to excavate 200mm into the ground, which likely would not be objected to, however elevating the structure is deemed to be a superior outcome aesthetically

and for the environment.

The proposed development is consistent with the criteria of clause 4.3(2D) of PLEP 2014 and the application of the 10m variation is supported. As such, the proposed development is consistent with the maximum building height prescribed for the site.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Front boundary - approx. 55m To rear of 42 Coasters Retreat - 10m Inclinor - 6.5m	- - -	Yes Yes Yes
Rear building line	(southeast) 6.5m	House - 12m Deck - 8.5m	- -	Yes Yes
Side building line	(southwest) 2.5m	36.5m	-	Yes
	(northeast) 1m	House - 5.2 - 8.7m Inclinor - 1m	- -	Yes Yes
Building envelope	(southwest) 3.5m	No encroachment	-	Yes
	(northeast) 3.5m	No encroachment	-	Yes
Landscaped area	Maximum area <u>not</u> provided as landscaped area - 230m ²	New dwelling - 216m ² Existing shed - 21m ² Total - 237m ²	3%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.13 Upper Western Foreshores Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
D13.1 Character as viewed from a public place	Yes	Yes
D13.2 Scenic protection - General	Yes	Yes
D13.3 Building colours and materials	Yes	Yes
D13.5 Front building line	Yes	Yes
D13.6 Side and rear building line	Yes	Yes
D13.8 Building envelope	Yes	Yes
D13.9 Landscaped Area	No	Yes
D13.11 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D13.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D13.13 Companion animals	Yes	Yes
D13.16 Stormwater overflow	Yes	Yes
D13.17 Parking management	Yes	Yes
D13.18 Site disturbance	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	Yes	Yes

Detailed Assessment

D13.9 Landscaped Area

Description of Non-Compliance

Clause D13.9 of the P 21 DCP requires that the maximum area not provided as landscaping be 230 square metres. The existing dwelling inclusive of decking measures 216 square metres and the existing shed measures 21 square metres, thus the proposal provides a total area not as a landscaping of 237 square metres, or a 3% variation to the control.

Merit Consideration

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

- *Achieve the desired future character of the Locality.*
Comment: The proposal retains the significant landscape and natural features of the site whilst having a reasonably minimal impact to the land. The proposal is deemed to meet the desired character of the locality.
- *The bulk and scale of the built form is minimised.*
Comment: The proposal is for a part one / part two storey dwelling house which is consistent with other homes in the locality. The building is not excessive in proportions and provides sufficient curtilage to be screened by landscaping.
- *A reasonable level of amenity and solar access is provided and maintained.*
Comment: The development is not considered to result in any unreasonable impacts to the amenity of adjoining land, and sufficient solar access is provided and maintained.
- *Vegetation is retained and enhanced to visually reduce the built form.*
Comment: Whilst the proposal necessitates the removal of four trees, it does maintain the majority of landscaping on the site. Sufficient vegetation exists to visually reduce the built form.
- *Conservation of natural vegetation and biodiversity.*
Comment: The site is currently vacant and thus any form of development is likely to have an impact on natural vegetation, including tree removal. The proposal is considered to be acceptable in its impact and proportions and sufficiently conserves the natural environment.
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*
Comment: The home is largely elevated and does not result in any excessive stormwater runoff over and above the existing site.
- *To preserve and enhance the rural and bushland character of the area.*
Comment: Achieved.
- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*
Comment: The site has appropriate landscaped areas to allow for the infiltration of water into the ground. Conditions are imposed on the recommendations of this consent to ensure that the stormwater disposal system is compliant with the relevant standards.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P 21 DCP 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

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 \$13,216 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,321,641.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0968 for Construction of a dwelling house including an inclinor on land at Lot 5 DP 25653, 41 Coasters Retreat, COASTERS RETREAT, 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
A101	29 April 2021	Corner Stone Structures
A102	29 April 2021	Corner Stone Structures
A103	29 April 2021	Corner Stone Structures
A104	29 April 2021	Corner Stone Structures
A105	29 April 2021	Corner Stone Structures
A106	29 April 2021	Corner Stone Structures
A107	29 April 2021	Corner Stone Structures
A108	29 April 2021	Corner Stone Structures
A109	29 April 2021	Corner Stone Structures
A110	29 April 2021	Corner Stone Structures
A111	29 April 2021	Corner Stone Structures
A112	29 April 2021	Corner Stone Structures
A113	29 April 2021	Corner Stone Structures
A117	29 April 2021	Corner Stone Structures

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Aboriginal Cultural Heritage and Archaeological Advice (Due Diligence)	September 2021	Associates Archaeology and Heritage
Arboricultural Impact Appraisal and Method Statement (rev. A)	06 May 2021	Naturally Trees
BASIX Certificate no. 1184759S	07 June 2021	Graham Midgley
Bushfire Assessment Report (ref:201569)	07 May 2021	Building Code & Bushfire Hazard Solutions Pty Ltd
Geotechnical Investigations (ref:J2808)	14 May 2021	White Geotechnical Group

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
A118	29 April 2021	Corner Stone Structures

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
NSW Rural Fire Service	NSW RFS Referral Response	26 July 2021

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

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

3. **Prescribed Conditions**

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

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of 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

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$13,216.41 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 \$1,321,641.00.

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.

6. **Security Bond**

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

7. **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.

8. **Stormwater Drainage Disposal**

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

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

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

Compliance with this condition must not result in variations to the approved development or

additional tree removal.

Reason: To ensure satisfactory management of stormwater.

9. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

10. **Compliance with Standards**

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

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

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

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

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

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

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

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

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

12. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

13. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. **Tree Removal Within the Property**

a) This consent approves the removal of the following trees within the property as recommended in the Arboricultural Impact Appraisal and Method Statement dated 6 May 2021 prepared by Naturally Trees:

- i) T20 Eucalyptus paniculata; T21 Allocasuarina torulosa; T22 Allocasuarina torulosa; T23 Angophora floribunda

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised building works.

15. **Impacts to Protected Native Wildlife**

Habitat for native wildlife including the four (4) native trees proposed for removal are to be inspected for native wildlife prior to removal during a pre-clearing survey conducted by a qualified ecologist. If native wildlife is found within habitat to be removed, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be provided to the Principal Certifying Authority.

Reason: To protect native wildlife.

16. **Dead or Injured Wildlife**

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

Reason: To protect native wildlife.

17. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

18. **Temporary Protection Fencing – Exclusion Zones**

Prior to the commencement of any works onsite, temporary mesh construction fencing is to be erected surrounding areas of retained native vegetation on the site as mapped in the approved Arboricultural Impact Assessment (Naturally Trees, May 2021).

Details demonstrating compliance must be prepared by the Ecologist and submitted to the Principal Certifying Authority prior to any commencement.

Reason: To protect native vegetation.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. **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.

20. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with the Arboricultural Impact Appraisal and Method Statement dated 6 May 2021 prepared by Naturally Trees and Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by 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.

21. **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.

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

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Glen Haig and Partners 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.

23. **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.

24. **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.

25. Waste Management During Development

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

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

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

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

26. Landscape Completion

a) Landscaping is to be implemented in accordance with the approved Landscape Plan

b) Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, ecologist, landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

27. Replacement of Canopy Trees

At least four (4) locally native canopy trees are to be planted on site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and should be representative of those species removed (1 x *Eucalyptus* sp., 2 x *Allocasuarina* sp. and 1 x *Angophora* sp.).

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

28. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) 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.

29. **Stormwater Drainage Disposal Certification**

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

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

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

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

30. **Waste Management Confirmation**

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

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

31. **Waste Water System**

Prior to the issuing of any interim / final occupation certificate, a copy of a s68 (Local Government Act 1993) approval to operate the Waste Water System, and the waste water system must be activated and effectively operating to the satisfaction of the Principal Certifying Authority.

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

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

32. **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.

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

33. **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.

34. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

35. **Replacement of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

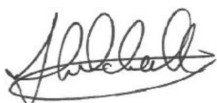
36. **Inclinor Motor Noise**

The inclinor motor shall not produce noise levels that exceed 60dBA above the background noise when measured one metre from any adjoining premises.

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

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

Signed



Adam Mitchell, Principal Planner

The application is determined on 22/09/2021, under the delegated authority of:



Lashta Haidari, Manager Development Assessments